

1                   A bill to be entitled  
2           An act relating to condominium associations; amending  
3           s. 718.111, F.S.; revising criminal penalties relating  
4           to the acceptance of things or services of value or  
5           kickbacks; revising the documents required to be  
6           included with accounting records; requiring an  
7           association to maintain official records in a  
8           specified manner and format; revising requirements for  
9           the creation of a rebuttable presumption relating to  
10          the provision of records; authorizing an association  
11          to direct certain persons to the association's website  
12          to fulfill certain obligations relating to the  
13          inspection of records; requiring an association to  
14          provide a checklist and sworn affidavit to persons  
15          requesting to inspect records; requiring the  
16          association to maintain a copy of the checklist for a  
17          specified period of time; creating a rebuttable  
18          presumption for an association that provides such  
19          checklist and sworn affidavit; providing criminal  
20          penalties for certain violations relating to official  
21          association records; defining the term "repeatedly";  
22          requiring certain associations to post copies of  
23          certain documents on their websites by a specified  
24          date; revising criminal penalties relating to the use  
25          of association debit cards; defining the term "lawful

26 obligation of the association"; creating s. 718.129,  
 27 F.S.; providing criminal penalties for fraudulent  
 28 voting activities related to association elections;  
 29 amending s. 718.501, F.S.; revising the jurisdiction  
 30 of the Division of Florida Condominiums, Timeshares,  
 31 and Mobile Homes of the Department of Business and  
 32 Professional Regulation with regard to investigating  
 33 certain complaints; defining the term "financial  
 34 issue"; authorizing the division to make certain  
 35 rules; providing an effective date.

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Paragraphs (a) and (d) of subsection (1),  
 40 paragraphs (a), (b), (c), and (g) of subsection (12), and  
 41 paragraph (b) of subsection (15) of section 718.111, Florida  
 42 Statutes, are amended to read:

43 718.111 The association.—

44 (1) CORPORATE ENTITY.—

45 (a) The operation of the condominium shall be by the  
 46 association, which must be a Florida corporation for profit or a  
 47 Florida corporation not for profit. However, any association  
 48 which was in existence on January 1, 1977, need not be  
 49 incorporated. The owners of units shall be shareholders or  
 50 members of the association. The officers and directors of the

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51 association have a fiduciary relationship to the unit owners. It  
52 is the intent of the Legislature that nothing in this paragraph  
53 shall be construed as providing for or removing a requirement of  
54 a fiduciary relationship between any manager employed by the  
55 association and the unit owners. An officer, director, or  
56 manager may not solicit, offer to accept, or accept any thing or  
57 service of value or kickback for which consideration has not  
58 been provided for his or her own benefit or that of his or her  
59 immediate family, from any person providing or proposing to  
60 provide goods or services to the association. Any such officer,  
61 director, or manager who knowingly so solicits, offers to  
62 accept, or accepts any thing or service of value or kickback  
63 commits a felony of the third degree, punishable as provided in  
64 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil  
65 penalty pursuant to s. 718.501(1)(d) and, if applicable, a  
66 criminal penalty as provided in paragraph (d). However, this  
67 paragraph does not prohibit an officer, director, or manager  
68 from accepting services or items received in connection with  
69 trade fairs or education programs. An association may operate  
70 more than one condominium.

71 (d) As required by s. 617.0830, an officer, director, or  
72 agent shall discharge his or her duties in good faith, with the  
73 care an ordinarily prudent person in a like position would  
74 exercise under similar circumstances, and in a manner he or she  
75 reasonably believes to be in the interests of the association.

76 | An officer, director, or agent shall be liable for monetary  
77 | damages as provided in s. 617.0834 if such officer, director, or  
78 | agent breached or failed to perform his or her duties and the  
79 | breach of, or failure to perform, his or her duties constitutes  
80 | a violation of criminal law as provided in s. 617.0834;  
81 | constitutes a transaction from which the officer or director  
82 | derived an improper personal benefit, either directly or  
83 | indirectly; or constitutes recklessness or an act or omission  
84 | that was in bad faith, with malicious purpose, or in a manner  
85 | exhibiting wanton and willful disregard of human rights, safety,  
86 | or property. ~~Forgery of a ballot envelope or voting certificate~~  
87 | ~~used in a condominium association election is punishable as~~  
88 | ~~provided in s. 831.01, the theft or embezzlement of funds of a~~  
89 | ~~condominium association is punishable as provided in s. 812.014,~~  
90 | ~~and the destruction of or the refusal to allow inspection or~~  
91 | ~~copying of an official record of a condominium association that~~  
92 | ~~is accessible to unit owners within the time periods required by~~  
93 | ~~general law in furtherance of any crime is punishable as~~  
94 | ~~tampering with physical evidence as provided in s. 918.13 or as~~  
95 | ~~obstruction of justice as provided in chapter 843.~~ An officer or  
96 | director charged by information or indictment with a crime  
97 | referenced in this paragraph must be removed from office, and  
98 | the vacancy shall be filled as provided in s. 718.112(2)(d)2.  
99 | until the end of the officer's or director's period of  
100 | suspension or the end of his or her term of office, whichever

101 occurs first. If a criminal charge is pending against the  
102 officer or director, he or she may not be appointed or elected  
103 to a position as an officer or a director of any association and  
104 may not have access to the official records of any association,  
105 except pursuant to a court order. However, if the charges are  
106 resolved without a finding of guilt, the officer or director  
107 must be reinstated for the remainder of his or her term of  
108 office, if any.

109 (12) OFFICIAL RECORDS.—

110 (a) From the inception of the association, the association  
111 shall maintain each of the following items, if applicable, which  
112 constitutes the official records of the association:

113 1. A copy of the plans, permits, warranties, and other  
114 items provided by the developer pursuant to s. 718.301(4).

115 2. A photocopy of the recorded declaration of condominium  
116 of each condominium operated by the association and each  
117 amendment to each declaration.

118 3. A photocopy of the recorded bylaws of the association  
119 and each amendment to the bylaws.

120 4. A certified copy of the articles of incorporation of  
121 the association, or other documents creating the association,  
122 and each amendment thereto.

123 5. A copy of the current rules of the association.

124 6. A book or books that contain the minutes of all  
125 meetings of the association, the board of administration, and

126 the unit owners.

127 7. A current roster of all unit owners and their mailing  
128 addresses, unit identifications, voting certifications, and, if  
129 known, telephone numbers. The association shall also maintain  
130 the e-mail addresses and facsimile numbers of unit owners  
131 consenting to receive notice by electronic transmission. The e-  
132 mail addresses and facsimile numbers are not accessible to unit  
133 owners if consent to receive notice by electronic transmission  
134 is not provided in accordance with sub-subparagraph (c)5.e.  
135 ~~(e)3.e.~~ However, the association is not liable for an  
136 inadvertent disclosure of the e-mail address or facsimile number  
137 for receiving electronic transmission of notices.

138 8. All current insurance policies of the association and  
139 condominiums operated by the association.

140 9. A current copy of any management agreement, lease, or  
141 other contract to which the association is a party or under  
142 which the association or the unit owners have an obligation or  
143 responsibility.

144 10. Bills of sale or transfer for all property owned by  
145 the association.

146 11. Accounting records for the association and separate  
147 accounting records for each condominium that the association  
148 operates. Any person who knowingly or intentionally defaces or  
149 destroys such records, or who knowingly or intentionally fails  
150 to create or maintain such records, with the intent of causing

151 | harm to the association or one or more of its members, is  
152 | personally subject to a civil penalty pursuant to s.  
153 | 718.501(1)(d). The accounting records must include, but are not  
154 | limited to:

- 155 |       a. Accurate, itemized, and detailed records of all  
156 | receipts and expenditures.
- 157 |       b. A current account and a monthly, bimonthly, or  
158 | quarterly statement of the account for each unit designating the  
159 | name of the unit owner, the due date and amount of each  
160 | assessment, the amount paid on the account, and the balance due.
- 161 |       c. All audits, reviews, accounting statements, and  
162 | financial reports of the association or condominium.
- 163 |       d. All contracts for work to be performed. Bids for work  
164 | to be performed are also considered official records and must be  
165 | maintained by the association.
- 166 |       e. All bank statements, canceled checks, and credit card  
167 | statements.
- 168 |       f. All invoices, transaction receipts, deposit slips, or  
169 | other underlying documentation that substantiates any receipt or  
170 | expenditure of funds by the association.

171 |       12. Ballots, sign-in sheets, voting proxies, and all other  
172 | papers and electronic records relating to voting by unit owners,  
173 | which must be maintained for 1 year from the date of the  
174 | election, vote, or meeting to which the document relates,  
175 | notwithstanding paragraph (b).

176 13. All rental records if the association is acting as  
 177 agent for the rental of condominium units.

178 14. A copy of the current question and answer sheet as  
 179 described in s. 718.504.

180 15. All other written records of the association not  
 181 specifically included in the foregoing which are related to the  
 182 operation of the association.

183 16. A copy of the inspection report as described in s.  
 184 718.301(4)(p).

185 17. Bids for materials, equipment, or services.

186 (b) The official records specified in subparagraphs (a)1.-  
 187 6. must be permanently maintained from the inception of the  
 188 association. All other official records must be maintained  
 189 within the state for at least 7 years, unless otherwise provided  
 190 by general law. All official records must be maintained in a  
 191 manner and format prescribed by division rule so that the  
 192 records are easily accessible for inspection. The records of the  
 193 association shall be made available to a unit owner within 45  
 194 miles of the condominium property or within the county in which  
 195 the condominium property is located within 10 working days after  
 196 receipt of a written request by the board or its designee.  
 197 However, such distance requirement does not apply to an  
 198 association governing a timeshare condominium. This paragraph  
 199 may be complied with by having a copy of the official records of  
 200 the association available for inspection or copying on the



201 condominium property or association property, or the association  
202 may offer the option of making the records available to a unit  
203 owner electronically via the Internet or by allowing the records  
204 to be viewed in electronic format on a computer screen and  
205 printed upon request. The association is not responsible for the  
206 use or misuse of the information provided to an association  
207 member or his or her authorized representative pursuant to the  
208 compliance requirements of this chapter unless the association  
209 has an affirmative duty not to disclose such information  
210 pursuant to this chapter.

211 (c)1.a. The official records of the association are open  
212 to inspection by any association member or the authorized  
213 representative of such member at all reasonable times. The right  
214 to inspect the records includes the right to make or obtain  
215 copies, at the reasonable expense, if any, of the member or  
216 authorized representative of such member. A renter of a unit has  
217 a right to inspect and copy the association's bylaws and rules.  
218 The association may adopt reasonable rules regarding the  
219 frequency, time, location, notice, and manner of record  
220 inspections and copying. The failure of an association to  
221 provide the records within 10 working days after receipt of a  
222 written request that complies with the association's document  
223 inspection rule creates a rebuttable presumption that the  
224 association willfully failed to comply with this paragraph. A  
225 unit owner who is denied access to official records is entitled

226 to the actual damages or minimum damages for the association's  
227 willful failure to comply. Minimum damages are \$50 per calendar  
228 day for up to 10 days, beginning on the 11th working day after  
229 receipt of the written request that complies with the  
230 association's document inspection rule. The failure to permit  
231 inspection entitles any person prevailing in an enforcement  
232 action to recover reasonable attorney fees from the person in  
233 control of the records who, directly or indirectly, knowingly  
234 denied access to the records. If the requested records are  
235 posted on an association's website, the association may fulfill  
236 its obligations as provided under this paragraph by directing to  
237 the website all persons authorized to request access to official  
238 records pursuant to this paragraph.

239 b. In response to a statutorily compliant written request  
240 to inspect records, the association must simultaneously provide  
241 a checklist to the requestor of all records made available for  
242 inspection and copying and a sworn affidavit in which the person  
243 facilitating or handling the association's compliance with the  
244 request attests to the veracity of the checklist provided to the  
245 requestor. The checklist must also identify any of the  
246 association's official records that were not made available to  
247 the requestor. An association must maintain a copy of the  
248 checklist provided under this sub-subparagraph for at least 7  
249 years. An association providing a checklist and affidavit  
250 pursuant to this sub-subparagraph creates a rebuttable

251 presumption that the association has complied with this  
252 paragraph.

253 2. Any director or member of the board or association or a  
254 community association manager who knowingly, willfully, and  
255 repeatedly violates subparagraph 1. commits a misdemeanor of the  
256 second degree, punishable as provided in s. 775.082 or s.  
257 775.083. For purposes of this subparagraph, the term  
258 "repeatedly" means two or more violations within a 12-month  
259 period.

260 3.2. Any person who willfully and knowingly ~~or~~  
261 ~~intentionally~~ defaces or destroys accounting records that are  
262 required by this chapter to be maintained during the period for  
263 which such records are required to be maintained, or who  
264 knowingly or intentionally fails to create or maintain  
265 accounting records that are required to be created or  
266 maintained, with the intent of causing harm to the association  
267 or one or more of its members, commits a misdemeanor of the  
268 first degree, punishable as provided in s. 775.082 or s. 775.083  
269 ~~is personally subject to a civil penalty pursuant to s.~~  
270 ~~718.501(1)(d).~~

271 4. Any person who willfully and knowingly refuses to  
272 release or otherwise produce association records with the intent  
273 to avoid or escape detection, arrest, trial, or punishment for  
274 the commission of a crime, or to assist another person with such  
275 avoidance or escape, commits a felony of the third degree,

276 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

277 |       ~~5.3-~~ The association shall maintain an adequate number of  
278 | copies of the declaration, articles of incorporation, bylaws,  
279 | and rules, and all amendments to each of the foregoing, as well  
280 | as the question and answer sheet as described in s. 718.504 and  
281 | year-end financial information required under this section, on  
282 | the condominium property to ensure their availability to unit  
283 | owners and prospective purchasers, and may charge its actual  
284 | costs for preparing and furnishing these documents to those  
285 | requesting the documents. An association shall allow a member or  
286 | his or her authorized representative to use a portable device,  
287 | including a smartphone, tablet, portable scanner, or any other  
288 | technology capable of scanning or taking photographs, to make an  
289 | electronic copy of the official records in lieu of the  
290 | association's providing the member or his or her authorized  
291 | representative with a copy of such records. The association may  
292 | not charge a member or his or her authorized representative for  
293 | the use of a portable device. Notwithstanding this paragraph,  
294 | the following records are not accessible to unit owners:

295 |       a. Any record protected by the lawyer-client privilege as  
296 | described in s. 90.502 and any record protected by the work-  
297 | product privilege, including a record prepared by an association  
298 | attorney or prepared at the attorney's express direction, which  
299 | reflects a mental impression, conclusion, litigation strategy,  
300 | or legal theory of the attorney or the association, and which

301 was prepared exclusively for civil or criminal litigation or for  
302 adversarial administrative proceedings, or which was prepared in  
303 anticipation of such litigation or proceedings until the  
304 conclusion of the litigation or proceedings.

305 b. Information obtained by an association in connection  
306 with the approval of the lease, sale, or other transfer of a  
307 unit.

308 c. Personnel records of association or management company  
309 employees, including, but not limited to, disciplinary, payroll,  
310 health, and insurance records. For purposes of this sub-  
311 subparagraph, the term "personnel records" does not include  
312 written employment agreements with an association employee or  
313 management company, or budgetary or financial records that  
314 indicate the compensation paid to an association employee.

315 d. Medical records of unit owners.

316 e. Social security numbers, driver license numbers, credit  
317 card numbers, e-mail addresses, telephone numbers, facsimile  
318 numbers, emergency contact information, addresses of a unit  
319 owner other than as provided to fulfill the association's notice  
320 requirements, and other personal identifying information of any  
321 person, excluding the person's name, unit designation, mailing  
322 address, property address, and any address, e-mail address, or  
323 facsimile number provided to the association to fulfill the  
324 association's notice requirements. Notwithstanding the  
325 restrictions in this sub-subparagraph, an association may print

326 and distribute to parcel owners a directory containing the name,  
327 parcel address, and all telephone numbers of each parcel owner.  
328 However, an owner may exclude his or her telephone numbers from  
329 the directory by so requesting in writing to the association. An  
330 owner may consent in writing to the disclosure of other contact  
331 information described in this sub-subparagraph. The association  
332 is not liable for the inadvertent disclosure of information that  
333 is protected under this sub-subparagraph if the information is  
334 included in an official record of the association and is  
335 voluntarily provided by an owner and not requested by the  
336 association.

337 f. Electronic security measures that are used by the  
338 association to safeguard data, including passwords.

339 g. The software and operating system used by the  
340 association which allow the manipulation of data, even if the  
341 owner owns a copy of the same software used by the association.  
342 The data is part of the official records of the association.

343 (g)1. By January 1, 2022 ~~2019~~, an association managing a  
344 condominium with 25 ~~150~~ or more units which does not contain  
345 timeshare units shall post digital copies of the documents  
346 specified in subparagraph 2. on its website.

347 a. The association's website must be:

348 (I) An independent website or web portal wholly owned and  
349 operated by the association; or

350 (II) A website or web portal operated by a third-party

351 provider with whom the association owns, leases, rents, or  
352 otherwise obtains the right to operate a web page, subpage, web  
353 portal, or collection of subpages or web portals dedicated to  
354 the association's activities and on which required notices,  
355 records, and documents may be posted by the association.

356 b. The association's website must be accessible through  
357 the Internet and must contain a subpage, web portal, or other  
358 protected electronic location that is inaccessible to the  
359 general public and accessible only to unit owners and employees  
360 of the association.

361 c. Upon a unit owner's written request, the association  
362 must provide the unit owner with a username and password and  
363 access to the protected sections of the association's website  
364 that contain any notices, records, or documents that must be  
365 electronically provided.

366 2. A current copy of the following documents must be  
367 posted in digital format on the association's website:

368 a. The recorded declaration of condominium of each  
369 condominium operated by the association and each amendment to  
370 each declaration.

371 b. The recorded bylaws of the association and each  
372 amendment to the bylaws.

373 c. The articles of incorporation of the association, or  
374 other documents creating the association, and each amendment  
375 thereto. The copy posted pursuant to this sub-subparagraph must

376 | be a copy of the articles of incorporation filed with the  
377 | Department of State.

378 |       d. The rules of the association.

379 |       e. A list of all executory contracts or documents to which  
380 | the association is a party or under which the association or the  
381 | unit owners have an obligation or responsibility and, after  
382 | bidding for the related materials, equipment, or services has  
383 | closed, a list of bids received by the association within the  
384 | past year. Summaries of bids for materials, equipment, or  
385 | services which exceed \$500 must be maintained on the website for  
386 | 1 year. In lieu of summaries, complete copies of the bids may be  
387 | posted.

388 |       f. The annual budget required by s. 718.112(2)(f) and any  
389 | proposed budget to be considered at the annual meeting.

390 |       g. The financial report required by subsection (13) and  
391 | any monthly income or expense statement to be considered at a  
392 | meeting.

393 |       h. The certification of each director required by s.  
394 | 718.112(2)(d)4.b.

395 |       i. All contracts or transactions between the association  
396 | and any director, officer, corporation, firm, or association  
397 | that is not an affiliated condominium association or any other  
398 | entity in which an association director is also a director or  
399 | officer and financially interested.

400 |       j. Any contract or document regarding a conflict of



401 interest or possible conflict of interest as provided in ss.  
402 468.436(2)(b)6. and 718.3027(3).

403 k. The notice of any unit owner meeting and the agenda for  
404 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
405 days before the meeting. The notice must be posted in plain view  
406 on the front page of the website, or on a separate subpage of  
407 the website labeled "Notices" which is conspicuously visible and  
408 linked from the front page. The association must also post on  
409 its website any document to be considered and voted on by the  
410 owners during the meeting or any document listed on the agenda  
411 at least 7 days before the meeting at which the document or the  
412 information within the document will be considered.

413 1. Notice of any board meeting, the agenda, and any other  
414 document required for the meeting as required by s.  
415 718.112(2)(c), which must be posted no later than the date  
416 required for notice pursuant to s. 718.112(2)(c).

417 3. The association shall ensure that the information and  
418 records described in paragraph (c), which are not allowed to be  
419 accessible to unit owners, are not posted on the association's  
420 website. If protected information or information restricted from  
421 being accessible to unit owners is included in documents that  
422 are required to be posted on the association's website, the  
423 association shall ensure the information is redacted before  
424 posting the documents online. Notwithstanding the foregoing, the  
425 association or its agent is not liable for disclosing

426 information that is protected or restricted pursuant to this  
427 paragraph unless such disclosure was made with a knowing or  
428 intentional disregard of the protected or restricted nature of  
429 such information.

430 4. The failure of the association to post information  
431 required under subparagraph 2. is not in and of itself  
432 sufficient to invalidate any action or decision of the  
433 association's board or its committees.

434 5. By January 1, 2022, an association managing 25 or more  
435 units, not including timeshare units, shall post on its website  
436 digital copies of all official records subject to inspection by  
437 tenants or unit owners or their authorized representatives.

438 (15) DEBIT CARDS.—

439 (b) A person who uses ~~Use of~~ a debit card issued in the  
440 name of the association, or billed directly to the association,  
441 for any expense that is not a lawful obligation of the  
442 association commits theft under s. 812.014. For the purposes of  
443 this paragraph, a "lawful obligation of the association" means  
444 an obligation that has been properly preapproved by the board  
445 and is reflected in the meeting minutes or the written budget  
446 ~~may be prosecuted as credit card fraud pursuant to s. 817.61.~~

447 Section 2. Section 718.129, Florida Statutes, is created  
448 to read:

449 718.129 Fraudulent voting activities related to  
450 association elections; penalties.—

451 (1) Each of the following acts is a fraudulent voting  
452 activity related to association elections and constitutes a  
453 felony of the third degree, punishable as provided in s.  
454 775.082, s. 775.083, or s. 775.084:

455 (a) Willfully and falsely swearing or affirming any oath  
456 or affirmation, or willfully procuring another person to swear  
457 or affirm falsely to an oath or affirmation, in connection with  
458 or arising out of voting or elections.

459 (b) Perpetrating or attempting to perpetrate, or aiding in  
460 the perpetration of, any fraud in connection with any vote cast,  
461 to be cast, or attempted to be cast.

462 (c) Preventing an elector from voting, or preventing an  
463 elector from voting as the elector intended, by fraudulently  
464 changing or attempting to change a ballot, ballot envelope,  
465 vote, or voting certificate of the elector.

466 (d) Using bribery, menace, threat, or any other corruption  
467 to attempt, directly or indirectly, to influence, deceive, or  
468 deter any elector in voting.

469 (e) Directly or indirectly giving or promising anything of  
470 value to another person with the intent to buy the vote of that  
471 person or another person or to corruptly influence that person  
472 or another person in casting his or her vote. However, this  
473 paragraph does not apply to the serving of food to be consumed  
474 at an election rally or meeting or to any item of nominal value  
475 which is used as an election advertisement, including a campaign

476 message designed to be worn by a person.

477 (f) Directly or indirectly using or threatening to use  
478 force, violence, or intimidation or any tactic of coercion or  
479 intimidation to induce or compel an individual to vote or  
480 refrain from voting in an election or on any particular ballot  
481 measure.

482 (2) Each of the following acts constitutes a felony of the  
483 third degree, punishable as provided in s. 775.082, s. 775.083,  
484 or s. 775.084:

485 (a) Knowingly aiding, abetting, or advising a person in  
486 the commission of a fraudulent voting activity related to  
487 association elections.

488 (b) Agreeing, conspiring, combining, or confederating with  
489 at least one other person to commit a fraudulent voting activity  
490 related to association elections.

491 (c) Having knowledge of a fraudulent voting activity  
492 related to association elections and giving any aid to the  
493 offender with intent that the offender avoid or escape  
494 detection, arrest, trial, or punishment. This paragraph does not  
495 apply to a licensed attorney giving legal advice to a client.

496 Section 3. Subsection (1) of section 718.501, Florida  
497 Statutes, is amended to read:

498 718.501 Authority, responsibility, and duties of Division  
499 of Florida Condominiums, Timeshares, and Mobile Homes.—

500 (1) The division may enforce and ensure compliance with

501 ~~the provisions of~~ this chapter and rules relating to the  
502 development, construction, sale, lease, ownership, operation,  
503 and management of residential condominium units. In performing  
504 its duties, the division has complete jurisdiction to  
505 investigate complaints and enforce compliance with respect to  
506 associations that are still under developer control or the  
507 control of a bulk assignee or bulk buyer pursuant to part VII of  
508 this chapter and complaints against developers, bulk assignees,  
509 or bulk buyers involving improper turnover or failure to  
510 turnover, pursuant to s. 718.301. However, after turnover has  
511 occurred, the division has jurisdiction to investigate  
512 complaints related only to financial issues, elections,  
513 maintenance of official records, and unit owner access to  
514 association records pursuant to s. 718.111(12). As used in this  
515 subsection, the term "financial issue" means an issue related to  
516 operating budgets; reserve schedules; accounting records under  
517 s. 718.111(12)(a)11.; notices of meetings and meeting minutes  
518 for budget- or financial statement-related meetings; any  
519 assessments for common expenses, fees, or fines; commingling of  
520 funds; and any other records necessary to determine the revenues  
521 and expenses of the association. The division may adopt rules to  
522 further define the term "financial issue."

523 (a)1. The division may make necessary public or private  
524 investigations within or outside this state to determine whether  
525 any person has violated this chapter or any rule or order

526 hereunder, to aid in the enforcement of this chapter, or to aid  
527 in the adoption of rules or forms.

528 2. The division may submit any official written report,  
529 worksheet, or other related paper, or a duly certified copy  
530 thereof, compiled, prepared, drafted, or otherwise made by and  
531 duly authenticated by a financial examiner or analyst to be  
532 admitted as competent evidence in any hearing in which the  
533 financial examiner or analyst is available for cross-examination  
534 and attests under oath that such documents were prepared as a  
535 result of an examination or inspection conducted pursuant to  
536 this chapter.

537 (b) The division may require or permit any person to file  
538 a statement in writing, under oath or otherwise, as the division  
539 determines, as to the facts and circumstances concerning a  
540 matter to be investigated.

541 (c) For the purpose of any investigation under this  
542 chapter, the division director or any officer or employee  
543 designated by the division director may administer oaths or  
544 affirmations, subpoena witnesses and compel their attendance,  
545 take evidence, and require the production of any matter which is  
546 relevant to the investigation, including the existence,  
547 description, nature, custody, condition, and location of any  
548 books, documents, or other tangible things and the identity and  
549 location of persons having knowledge of relevant facts or any  
550 other matter reasonably calculated to lead to the discovery of

551 material evidence. Upon the failure by a person to obey a  
552 subpoena or to answer questions propounded by the investigating  
553 officer and upon reasonable notice to all affected persons, the  
554 division may apply to the circuit court for an order compelling  
555 compliance.

556 (d) Notwithstanding any remedies available to unit owners  
557 and associations, if the division has reasonable cause to  
558 believe that a violation of any provision of this chapter or  
559 related rule has occurred, the division may institute  
560 enforcement proceedings in its own name against any developer,  
561 bulk assignee, bulk buyer, association, officer, or member of  
562 the board of administration, or its assignees or agents, as  
563 follows:

564 1. The division may permit a person whose conduct or  
565 actions may be under investigation to waive formal proceedings  
566 and enter into a consent proceeding whereby orders, rules, or  
567 letters of censure or warning, whether formal or informal, may  
568 be entered against the person.

569 2. The division may issue an order requiring the  
570 developer, bulk assignee, bulk buyer, association, developer-  
571 designated officer, or developer-designated member of the board  
572 of administration, developer-designated assignees or agents,  
573 bulk assignee-designated assignees or agents, bulk buyer-  
574 designated assignees or agents, community association manager,  
575 or community association management firm to cease and desist

576 from the unlawful practice and take such affirmative action as  
577 in the judgment of the division carry out the purposes of this  
578 chapter. If the division finds that a developer, bulk assignee,  
579 bulk buyer, association, officer, or member of the board of  
580 administration, or its assignees or agents, is violating or is  
581 about to violate any provision of this chapter, any rule adopted  
582 or order issued by the division, or any written agreement  
583 entered into with the division, and presents an immediate danger  
584 to the public requiring an immediate final order, it may issue  
585 an emergency cease and desist order reciting with particularity  
586 the facts underlying such findings. The emergency cease and  
587 desist order is effective for 90 days. If the division begins  
588 nonemergency cease and desist proceedings, the emergency cease  
589 and desist order remains effective until the conclusion of the  
590 proceedings under ss. 120.569 and 120.57.

591 3. If a developer, bulk assignee, or bulk buyer, fails to  
592 pay any restitution determined by the division to be owed, plus  
593 any accrued interest at the highest rate permitted by law,  
594 within 30 days after expiration of any appellate time period of  
595 a final order requiring payment of restitution or the conclusion  
596 of any appeal thereof, whichever is later, the division must  
597 bring an action in circuit or county court on behalf of any  
598 association, class of unit owners, lessees, or purchasers for  
599 restitution, declaratory relief, injunctive relief, or any other  
600 available remedy. The division may also temporarily revoke its



601 acceptance of the filing for the developer to which the  
602 restitution relates until payment of restitution is made.

603 4. The division may petition the court for appointment of  
604 a receiver or conservator. If appointed, the receiver or  
605 conservator may take action to implement the court order to  
606 ensure the performance of the order and to remedy any breach  
607 thereof. In addition to all other means provided by law for the  
608 enforcement of an injunction or temporary restraining order, the  
609 circuit court may impound or sequester the property of a party  
610 defendant, including books, papers, documents, and related  
611 records, and allow the examination and use of the property by  
612 the division and a court-appointed receiver or conservator.

613 5. The division may apply to the circuit court for an  
614 order of restitution whereby the defendant in an action brought  
615 pursuant to subparagraph 4. is ordered to make restitution of  
616 those sums shown by the division to have been obtained by the  
617 defendant in violation of this chapter. At the option of the  
618 court, such restitution is payable to the conservator or  
619 receiver appointed pursuant to subparagraph 4. or directly to  
620 the persons whose funds or assets were obtained in violation of  
621 this chapter.

622 6. The division may impose a civil penalty against a  
623 developer, bulk assignee, or bulk buyer, or association, or its  
624 assignee or agent, for any violation of this chapter or related  
625 rule. The division may impose a civil penalty individually

626 | against an officer or board member who willfully and knowingly  
627 | violates a provision of this chapter, adopted rule, or a final  
628 | order of the division; may order the removal of such individual  
629 | as an officer or from the board of administration or as an  
630 | officer of the association; and may prohibit such individual  
631 | from serving as an officer or on the board of a community  
632 | association for a period of time. The term "willfully and  
633 | knowingly" means that the division informed the officer or board  
634 | member that his or her action or intended action violates this  
635 | chapter, a rule adopted under this chapter, or a final order of  
636 | the division and that the officer or board member refused to  
637 | comply with the requirements of this chapter, a rule adopted  
638 | under this chapter, or a final order of the division. The  
639 | division, before initiating formal agency action under chapter  
640 | 120, must afford the officer or board member an opportunity to  
641 | voluntarily comply, and an officer or board member who complies  
642 | within 10 days is not subject to a civil penalty. A penalty may  
643 | be imposed on the basis of each day of continuing violation, but  
644 | the penalty for any offense may not exceed \$5,000. By January 1,  
645 | 1998, the division shall adopt, by rule, penalty guidelines  
646 | applicable to possible violations or to categories of violations  
647 | of this chapter or rules adopted by the division. The guidelines  
648 | must specify a meaningful range of civil penalties for each such  
649 | violation of the statute and rules and must be based upon the  
650 | harm caused by the violation, the repetition of the violation,

651 and upon such other factors deemed relevant by the division. For  
652 example, the division may consider whether the violations were  
653 committed by a developer, bulk assignee, or bulk buyer, or  
654 owner-controlled association, the size of the association, and  
655 other factors. The guidelines must designate the possible  
656 mitigating or aggravating circumstances that justify a departure  
657 from the range of penalties provided by the rules. It is the  
658 legislative intent that minor violations be distinguished from  
659 those which endanger the health, safety, or welfare of the  
660 condominium residents or other persons and that such guidelines  
661 provide reasonable and meaningful notice to the public of likely  
662 penalties that may be imposed for proscribed conduct. This  
663 subsection does not limit the ability of the division to  
664 informally dispose of administrative actions or complaints by  
665 stipulation, agreed settlement, or consent order. All amounts  
666 collected shall be deposited with the Chief Financial Officer to  
667 the credit of the Division of Florida Condominiums, Timeshares,  
668 and Mobile Homes Trust Fund. If a developer, bulk assignee, or  
669 bulk buyer fails to pay the civil penalty and the amount deemed  
670 to be owed to the association, the division shall issue an order  
671 directing that such developer, bulk assignee, or bulk buyer  
672 cease and desist from further operation until such time as the  
673 civil penalty is paid or may pursue enforcement of the penalty  
674 in a court of competent jurisdiction. If an association fails to  
675 pay the civil penalty, the division shall pursue enforcement in

676 a court of competent jurisdiction, and the order imposing the  
677 civil penalty or the cease and desist order is not effective  
678 until 20 days after the date of such order. Any action commenced  
679 by the division shall be brought in the county in which the  
680 division has its executive offices or in the county where the  
681 violation occurred.

682 7. If a unit owner presents the division with proof that  
683 the unit owner has requested access to official records in  
684 writing by certified mail, and that after 10 days the unit owner  
685 again made the same request for access to official records in  
686 writing by certified mail, and that more than 10 days has  
687 elapsed since the second request and the association has still  
688 failed or refused to provide access to official records as  
689 required by this chapter, the division shall issue a subpoena  
690 requiring production of the requested records where the records  
691 are kept pursuant to s. 718.112.

692 8. In addition to subparagraph 6., the division may seek  
693 the imposition of a civil penalty through the circuit court for  
694 any violation for which the division may issue a notice to show  
695 cause under paragraph (r). The civil penalty shall be at least  
696 \$500 but no more than \$5,000 for each violation. The court may  
697 also award to the prevailing party court costs and reasonable  
698 attorney ~~attorney's~~ fees and, if the division prevails, may also  
699 award reasonable costs of investigation.

700 (e) The division may prepare and disseminate a prospectus

701 and other information to assist prospective owners, purchasers,  
702 lessees, and developers of residential condominiums in assessing  
703 the rights, privileges, and duties pertaining thereto.

704 (f) The division may adopt rules to administer and enforce  
705 the provisions of this chapter.

706 (g) The division shall establish procedures for providing  
707 notice to an association and the developer, bulk assignee, or  
708 bulk buyer during the period in which the developer, bulk  
709 assignee, or bulk buyer controls the association if the division  
710 is considering the issuance of a declaratory statement with  
711 respect to the declaration of condominium or any related  
712 document governing such condominium community.

713 (h) The division shall furnish each association that pays  
714 the fees required by paragraph (2)(a) a copy of this chapter, as  
715 amended, and the rules adopted thereto on an annual basis.

716 (i) The division shall annually provide each association  
717 with a summary of declaratory statements and formal legal  
718 opinions relating to the operations of condominiums which were  
719 rendered by the division during the previous year.

720 (j) The division shall provide training and educational  
721 programs for condominium association board members and unit  
722 owners. The training may, in the division's discretion, include  
723 web-based electronic media, and live training and seminars in  
724 various locations throughout the state. The division may review  
725 and approve education and training programs for board members

726 and unit owners offered by providers and shall maintain a  
727 current list of approved programs and providers and make such  
728 list available to board members and unit owners in a reasonable  
729 and cost-effective manner.

730 (k) The division shall maintain a toll-free telephone  
731 number accessible to condominium unit owners.

732 (l) The division shall develop a program to certify both  
733 volunteer and paid mediators to provide mediation of condominium  
734 disputes. The division shall provide, upon request, a list of  
735 such mediators to any association, unit owner, or other  
736 participant in arbitration proceedings under s. 718.1255  
737 requesting a copy of the list. The division shall include on the  
738 list of volunteer mediators only the names of persons who have  
739 received at least 20 hours of training in mediation techniques  
740 or who have mediated at least 20 disputes. In order to become  
741 initially certified by the division, paid mediators must be  
742 certified by the Supreme Court to mediate court cases in county  
743 or circuit courts. However, the division may adopt, by rule,  
744 additional factors for the certification of paid mediators,  
745 which must be related to experience, education, or background.  
746 Any person initially certified as a paid mediator by the  
747 division must, in order to continue to be certified, comply with  
748 the factors or requirements adopted by rule.

749 (m) If a complaint is made, the division must conduct its  
750 inquiry with due regard for the interests of the affected

751 parties. Within 30 days after receipt of a complaint, the  
752 division shall acknowledge the complaint in writing and notify  
753 the complainant whether the complaint is within the jurisdiction  
754 of the division and whether additional information is needed by  
755 the division from the complainant. The division shall conduct  
756 its investigation and, within 90 days after receipt of the  
757 original complaint or of timely requested additional  
758 information, take action upon the complaint. However, the  
759 failure to complete the investigation within 90 days does not  
760 prevent the division from continuing the investigation,  
761 accepting or considering evidence obtained or received after 90  
762 days, or taking administrative action if reasonable cause exists  
763 to believe that a violation of this chapter or a rule has  
764 occurred. If an investigation is not completed within the time  
765 limits established in this paragraph, the division shall, on a  
766 monthly basis, notify the complainant in writing of the status  
767 of the investigation. When reporting its action to the  
768 complainant, the division shall inform the complainant of any  
769 right to a hearing pursuant to ss. 120.569 and 120.57.

770 (n) Condominium association directors, officers, and  
771 employees; condominium developers; bulk assignees, bulk buyers,  
772 and community association managers; and community association  
773 management firms have an ongoing duty to reasonably cooperate  
774 with the division in any investigation pursuant to this section.  
775 The division shall refer to local law enforcement authorities

776 any person whom the division believes has altered, destroyed,  
777 concealed, or removed any record, document, or thing required to  
778 be kept or maintained by this chapter with the purpose to impair  
779 its verity or availability in the department's investigation.

780 (o) The division may:

781 1. Contract with agencies in this state or other  
782 jurisdictions to perform investigative functions; or

783 2. Accept grants-in-aid from any source.

784 (p) The division shall cooperate with similar agencies in  
785 other jurisdictions to establish uniform filing procedures and  
786 forms, public offering statements, advertising standards, and  
787 rules and common administrative practices.

788 (q) The division shall consider notice to a developer,  
789 bulk assignee, or bulk buyer to be complete when it is delivered  
790 to the address of the developer, bulk assignee, or bulk buyer  
791 currently on file with the division.

792 (r) In addition to its enforcement authority, the division  
793 may issue a notice to show cause, which must provide for a  
794 hearing, upon written request, in accordance with chapter 120.

795 (s) The division shall submit to the Governor, the  
796 President of the Senate, the Speaker of the House of  
797 Representatives, and the chairs of the legislative  
798 appropriations committees an annual report that includes, but  
799 need not be limited to, the number of training programs provided  
800 for condominium association board members and unit owners, the



801 number of complaints received by type, the number and percent of  
802 complaints acknowledged in writing within 30 days and the number  
803 and percent of investigations acted upon within 90 days in  
804 accordance with paragraph (m), and the number of investigations  
805 exceeding the 90-day requirement. The annual report must also  
806 include an evaluation of the division's core business processes  
807 and make recommendations for improvements, including statutory  
808 changes. The report shall be submitted by September 30 following  
809 the end of the fiscal year.

810 Section 4. This act shall take effect October 1, 2020.