

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to condominium associations; amending
3 s. 194.011, F.S.; providing that certain associations
4 may continue to represent, prosecute, or defend unit
5 owners in certain proceedings; providing
6 applicability; amending s. 194.181, F.S.; revising the
7 parties considered to be the defendant in a tax suit;
8 requiring condominium and cooperative associations to
9 provide unit owners with certain notice and
10 information under certain circumstances; providing
11 requirements for such notice; specifying that a unit
12 owner who does not respond to the notice will be
13 represented in the response or answer filed by the
14 association; amending s. 718.111, F.S.; revising
15 criminal penalties relating to the acceptance of
16 things or services of value or kickbacks; authorizing
17 a condominium association to take certain actions
18 relating to ad valorem taxes assessed on units for
19 commonly used facilities or common elements; providing
20 applicability; revising the documents required to be
21 included with accounting records; requiring an
22 association to maintain official records in a
23 specified manner; revising requirements for the
24 creation of a rebuttable presumption relating to the
25 provision of records; authorizing an association to
26 direct certain persons to the association's website to
27 fulfill certain obligations relating to the inspection
28 of records; requiring an association to provide an
29 itemized list and a sworn affidavit to persons

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30 requesting to inspect records; requiring the
31 association to maintain the itemized list for a
32 specified period of time; creating a rebuttable
33 presumption for an association that provides such
34 itemized list and sworn affidavit; providing criminal
35 penalties for certain violations relating to official
36 association records; defining the term "repeatedly";
37 requiring certain associations to post copies of
38 certain documents on their websites by a specified
39 date; revising criminal penalties relating to the use
40 of association debit cards; defining the term "lawful
41 obligation of the association"; creating s. 718.1285,
42 F.S.; providing criminal penalties for fraudulent
43 voting activities related to association elections;
44 amending s. 718.501, F.S.; revising the jurisdiction
45 of the Division of Florida Condominiums, Timeshares,
46 and Mobile Homes of the Department of Business and
47 Professional Regulation with regard to investigating
48 complaints; defining the term "financial issue";
49 providing an effective date.

50
51 Be It Enacted by the Legislature of the State of Florida:

52
53 Section 1. Paragraph (e) of subsection (3) of section
54 194.011, Florida Statutes, is amended to read:

55 194.011 Assessment notice; objections to assessments.—

56 (3) A petition to the value adjustment board must be in
57 substantially the form prescribed by the department.

58 Notwithstanding s. 195.022, a county officer may not refuse to

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59 accept a form provided by the department for this purpose if the
60 taxpayer chooses to use it. A petition to the value adjustment
61 board must be signed by the taxpayer or be accompanied at the
62 time of filing by the taxpayer's written authorization or power
63 of attorney, unless the person filing the petition is listed in
64 s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a
65 petition with a value adjustment board without the taxpayer's
66 signature or written authorization by certifying under penalty
67 of perjury that he or she has authorization to file the petition
68 on behalf of the taxpayer. If a taxpayer notifies the value
69 adjustment board that a petition has been filed for the
70 taxpayer's property without his or her consent, the value
71 adjustment board may require the person filing the petition to
72 provide written authorization from the taxpayer authorizing the
73 person to proceed with the appeal before a hearing is held. If
74 the value adjustment board finds that a person listed in s.
75 194.034(1)(a) willfully and knowingly filed a petition that was
76 not authorized by the taxpayer, the value adjustment board shall
77 require such person to provide the taxpayer's written
78 authorization for representation to the value adjustment board
79 clerk before any petition filed by that person is heard, for 1
80 year after imposition of such requirement by the value
81 adjustment board. A power of attorney or written authorization
82 is valid for 1 assessment year, and a new power of attorney or
83 written authorization by the taxpayer is required for each
84 subsequent assessment year. A petition shall also describe the
85 property by parcel number and shall be filed as follows:

86 (e)1. A condominium association as described in chapter
87 718, a cooperative association as described in chapter 719, or a

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88 any homeowners' association as defined in s. 723.075, with
89 approval of its board of administration or directors, may file
90 with the value adjustment board a single joint petition on
91 behalf of any association members who own units or parcels of
92 property which the property appraiser determines are
93 substantially similar with respect to location, proximity to
94 amenities, number of rooms, living area, and condition. The
95 condominium association, cooperative association, or homeowners'
96 association ~~as defined in s. 723.075~~ shall provide the unit or
97 parcel owners with notice of its intent to petition the value
98 adjustment board and shall provide at least 20 days for a unit
99 or parcel owner to elect, in writing, that his or her unit or
100 parcel not be included in the petition.

101 2. A condominium association as described in chapter 718,
102 or a cooperative association as described in chapter 719, which
103 has filed a single joint petition under this subsection may
104 continue to represent, prosecute, or defend the unit owners
105 through any related subsequent proceeding in any tribunal,
106 including judicial review under part II of this chapter and any
107 appeals. This subparagraph is intended to clarify existing law
108 and applies to cases pending on October 1, 2021, or filed
109 thereafter.

110 Section 2. Subsection (2) of section 194.181, Florida
111 Statutes, is amended to read:

112 194.181 Parties to a tax suit.—

113 (2) (a) In any case brought by a ~~the~~ taxpayer or a
114 condominium or cooperative association, as described in chapters
115 718 and 719, respectively, on behalf of some or all unit owners
116 to contest ~~contesting~~ the assessment of any property, the county

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117 property appraiser is the ~~shall be~~ party defendant.

118 (b) Except as provided in paragraph (c), in any case
119 brought by the property appraiser under ~~pursuant to~~ s.
120 194.036(1) (a) or (b), the taxpayer is the ~~shall be~~ party
121 defendant.

122 (c) In any case brought by the property appraiser under s.
123 194.036(1) (a) or (b) concerning a value adjustment board
124 decision on a single joint petition filed by a condominium or
125 cooperative association under s. 194.011(3), the association and
126 all unit owners included in the single joint petition are the
127 party defendants. In such cases:

128 1. The condominium or cooperative association must provide
129 unit owners with notice of its intent to respond to or answer
130 the property appraiser's complaint and advise them that they may
131 elect to:

132 a. Retain their own counsel to defend the appeal;

133 b. Not defend the appeal; or

134 c. Be represented together with other unit owners in the
135 response or answer filed by the association.

136 2. The notice required in subparagraph 1. must be mailed,
137 delivered, or electronically transmitted to unit owners and
138 posted conspicuously on the condominium or cooperative property
139 in the same manner as is required for notice of board meetings
140 under s. 718.112(2) or s. 719.106(1), as applicable. Any unit
141 owner who does not respond to the association's notice will be
142 represented in the response or answer filed by the association.

143 (d) In any case brought by the property appraiser under
144 ~~pursuant to~~ s. 194.036(1) (c), the value adjustment board is the
145 ~~shall be~~ party defendant.

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146 Section 3. Paragraphs (a) and (d) of subsection (1),
147 subsection (3), paragraphs (a), (b), (c), and (g) of subsection
148 (12), and paragraph (b) of subsection (15) of section 718.111,
149 Florida Statutes, are amended to read:

150 718.111 The association.—

151 (1) CORPORATE ENTITY.—

152 (a) The operation of the condominium shall be by the
153 association, which must be a Florida corporation for profit or a
154 Florida corporation not for profit. However, any association
155 which was in existence on January 1, 1977, need not be
156 incorporated. The owners of units shall be shareholders or
157 members of the association. The officers and directors of the
158 association have a fiduciary relationship to the unit owners. It
159 is the intent of the Legislature that nothing in this paragraph
160 shall be construed as providing for or removing a requirement of
161 a fiduciary relationship between any manager employed by the
162 association and the unit owners. An officer, director, or
163 manager may not solicit, offer to accept, or accept any thing or
164 service of value or kickback for which consideration has not
165 been provided for his or her own benefit or that of his or her
166 immediate family, from any person providing or proposing to
167 provide goods or services to the association. Any such officer,
168 director, or manager who knowingly so solicits, offers to
169 accept, or accepts any thing or service of value or kickback
170 commits a felony of the third degree, punishable as provided in
171 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil
172 penalty pursuant to s. 718.501(1) (d) and, ~~if applicable, a~~
173 ~~criminal penalty as provided in paragraph (d).~~ However, this
174 paragraph does not prohibit an officer, director, or manager

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175 from accepting services or items received in connection with
176 trade fairs or education programs. An association may operate
177 more than one condominium.

178 (d) As required by s. 617.0830, an officer, director, or
179 agent shall discharge his or her duties in good faith, with the
180 care an ordinarily prudent person in a like position would
181 exercise under similar circumstances, and in a manner he or she
182 reasonably believes to be in the interests of the association.
183 An officer, director, or agent shall be liable for monetary
184 damages as provided in s. 617.0834 if such officer, director, or
185 agent breached or failed to perform his or her duties and the
186 breach of, or failure to perform, his or her duties constitutes
187 a violation of criminal law as provided in s. 617.0834;
188 constitutes a transaction from which the officer or director
189 derived an improper personal benefit, either directly or
190 indirectly; or constitutes recklessness or an act or omission
191 that was in bad faith, with malicious purpose, or in a manner
192 exhibiting wanton and willful disregard of human rights, safety,
193 or property. ~~Forgery of a ballot envelope or voting certificate~~
194 ~~used in a condominium association election is punishable as~~
195 ~~provided in s. 831.01, the theft or embezzlement of funds of a~~
196 ~~condominium association is punishable as provided in s. 812.014,~~
197 ~~and the destruction of or the refusal to allow inspection or~~
198 ~~copying of an official record of a condominium association that~~
199 ~~is accessible to unit owners within the time periods required by~~
200 ~~general law in furtherance of any crime is punishable as~~
201 ~~tampering with physical evidence as provided in s. 918.13 or as~~
202 ~~obstruction of justice as provided in chapter 843.~~ An officer or
203 director charged by information or indictment with a crime

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204 referenced in this paragraph must be removed from office, and
205 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
206 until the end of the officer's or director's period of
207 suspension or the end of his or her term of office, whichever
208 occurs first. If a criminal charge is pending against the
209 officer or director, he or she may not be appointed or elected
210 to a position as an officer or a director of any association and
211 may not have access to the official records of any association,
212 except pursuant to a court order. However, if the charges are
213 resolved without a finding of guilt, the officer or director
214 must be reinstated for the remainder of his or her term of
215 office, if any.

216 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
217 SUE, AND BE SUED; CONFLICT OF INTEREST.—

218 (a) The association may contract, sue, or be sued with
219 respect to the exercise or nonexercise of its powers. For these
220 purposes, the powers of the association include, but are not
221 limited to, the maintenance, management, and operation of the
222 condominium property.

223 (b) After control of the association is obtained by unit
224 owners other than the developer, the association may:

225 1. Institute, maintain, settle, or appeal actions or
226 hearings in its name on behalf of all unit owners concerning
227 matters of common interest to most or all unit owners,
228 including, but not limited to, the common elements; the roof and
229 structural components of a building or other improvements;
230 mechanical, electrical, and plumbing elements serving an
231 improvement or a building; and representations of the developer
232 pertaining to any existing or proposed commonly used facilities;

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233 2. Protest ~~and protesting~~ ad valorem taxes on commonly used
234 facilities and on units; ~~and may~~

235 3. Defend actions pertaining to ad valorem taxation of
236 commonly used facilities or units or pertaining to ~~in~~ eminent
237 domain; or

238 4. Bring inverse condemnation actions.

239 (c) If the association has the authority to maintain a
240 class action, the association may be joined in an action as
241 representative of that class with reference to litigation and
242 disputes involving the matters for which the association could
243 bring a class action.

244 (d) The association, in its own name or on behalf of some
245 or all unit owners, may institute, file, protest, maintain, or
246 defend any administrative challenge, lawsuit, appeal, or other
247 challenge to ad valorem taxes assessed on units for commonly
248 used facilities or common elements. The affected association
249 members are not necessary or indispensable parties to such
250 actions. This paragraph is intended to clarify existing law and
251 applies to cases pending on October 1, 2021, or filed
252 thereafter.

253 (e) Nothing herein limits any statutory or common-law right
254 of any individual unit owner or class of unit owners to bring
255 any action without participation by the association which may
256 otherwise be available.

257 (f) An association may not hire an attorney who represents
258 the management company of the association.

259 (12) OFFICIAL RECORDS.—

260 (a) From the inception of the association, the association
261 shall maintain each of the following items, if applicable, which

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262 constitutes the official records of the association:

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

265 2. A photocopy of the recorded declaration of condominium
266 of each condominium operated by the association and each
267 amendment to each declaration.

268 3. A photocopy of the recorded bylaws of the association
269 and each amendment to the bylaws.

270 4. A certified copy of the articles of incorporation of the
271 association, or other documents creating the association, and
272 each amendment thereto.

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

274 6. A book or books that contain the minutes of all meetings
275 of the association, the board of administration, and the unit
276 owners.

277 7. A current roster of all unit owners and their mailing
278 addresses, unit identifications, voting certifications, and, if
279 known, telephone numbers. The association shall also maintain
280 the e-mail addresses and facsimile numbers of unit owners
281 consenting to receive notice by electronic transmission. The e-
282 mail addresses and facsimile numbers are not accessible to unit
283 owners if consent to receive notice by electronic transmission
284 is not provided in accordance with sub-subparagraph (c)5.e.
285 ~~(e)3.e.~~ However, the association is not liable for an
286 inadvertent disclosure of the e-mail address or facsimile number
287 for receiving electronic transmission of notices.

288 8. All current insurance policies of the association and
289 condominiums operated by the association.

290 9. A current copy of any management agreement, lease, or

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291 other contract to which the association is a party or under
292 which the association or the unit owners have an obligation or
293 responsibility.

294 10. Bills of sale or transfer for all property owned by the
295 association.

296 11. Accounting records for the association and separate
297 accounting records for each condominium that the association
298 operates. Any person who knowingly or intentionally defaces or
299 destroys such records, or who knowingly or intentionally fails
300 to create or maintain such records, with the intent of causing
301 harm to the association or one or more of its members, is
302 personally subject to a civil penalty pursuant to s.

303 718.501(1)(d). The accounting records must include, but are not
304 limited to:

305 a. Accurate, itemized, and detailed records of all receipts
306 and expenditures.

307 b. A current account and a monthly, bimonthly, or quarterly
308 statement of the account for each unit designating the name of
309 the unit owner, the due date and amount of each assessment, the
310 amount paid on the account, and the balance due.

311 c. All audits, reviews, accounting statements, and
312 financial reports of the association or condominium.

313 d. All contracts for work to be performed. Bids for work to
314 be performed are also considered official records and must be
315 maintained by the association.

316 e. All bank statements, canceled checks, and credit card
317 statements.

318 f. All invoices, transaction receipts, deposit slips, or
319 other underlying documentation that substantiates any receipt or

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320 expenditure of funds by the association.

321 12. Ballots, sign-in sheets, voting proxies, and all other
322 papers and electronic records relating to voting by unit owners,
323 which must be maintained for 1 year from the date of the
324 election, vote, or meeting to which the document relates,
325 notwithstanding paragraph (b).

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

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

330 15. All other written records of the association not
331 specifically included in the foregoing which are related to the
332 operation of the association.

333 16. A copy of the inspection report as described in s.
334 718.301(4)(p).

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

336 (b) The official records specified in subparagraphs (a)1.-
337 6. must be permanently maintained from the inception of the
338 association. All other official records must be maintained
339 within the state for at least 7 years, unless otherwise provided
340 by general law. All official records must be maintained in a
341 manner and format prescribed by division rule so that they are
342 easily accessible for inspection. The records of the association
343 shall be made available to a unit owner within 45 miles of the
344 condominium property or within the county in which the
345 condominium property is located within 10 working days after
346 receipt of a written request by the board or its designee.
347 However, such distance requirement does not apply to an
348 association governing a timeshare condominium. This paragraph

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349 may be complied with by having a copy of the official records of
350 the association available for inspection or copying on the
351 condominium property or association property, or the association
352 may offer the option of making the records available to a unit
353 owner electronically via the Internet or by allowing the records
354 to be viewed in electronic format on a computer screen and
355 printed upon request. The association is not responsible for the
356 use or misuse of the information provided to an association
357 member or his or her authorized representative pursuant to the
358 compliance requirements of this chapter unless the association
359 has an affirmative duty not to disclose such information
360 pursuant to this chapter.

361 (c)1.a. The official records of the association are open to
362 inspection by any association member or the authorized
363 representative of such member at all reasonable times. The right
364 to inspect the records includes the right to make or obtain
365 copies, at the reasonable expense, if any, of the member or
366 authorized representative of such member. A renter of a unit has
367 a right to inspect and copy the association's bylaws and rules.
368 The association may adopt reasonable rules regarding the
369 frequency, time, location, notice, and manner of record
370 inspections and copying. The failure of an association to
371 provide the records within 10 working days after receipt of a
372 written request that complies with the association's document
373 inspection rule creates a rebuttable presumption that the
374 association willfully failed to comply with this paragraph. A
375 unit owner who is denied access to official records is entitled
376 to the actual damages or minimum damages for the association's
377 willful failure to comply. Minimum damages are \$50 per calendar

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378 day for up to 10 days, beginning on the 11th working day after
379 receipt of the written request that complies with the
380 association's document inspection rule. The failure to permit
381 inspection entitles any person prevailing in an enforcement
382 action to recover reasonable attorney fees from the person in
383 control of the records who, directly or indirectly, knowingly
384 denied access to the records. If the requested records are
385 posted on an association's website, the association may fulfill
386 its obligations as provided under this paragraph by directing to
387 the website all persons authorized to request access to official
388 records pursuant to this paragraph.

389 b. In response to a statutorily compliant written request
390 to inspect records, the association must simultaneously provide
391 an itemized list to the requestor of all records made available
392 for inspection and copying and a sworn affidavit in which the
393 person facilitating or handling the association's compliance
394 with the request attests to the veracity of the itemized list
395 provided to the requestor. The itemized list must also identify
396 any of the association's official records that were not made
397 available to the requestor. An association must maintain an
398 itemized list provided under this sub-subparagraph for 7 years.
399 The delivery by an association of an itemized list and affidavit
400 pursuant to this sub-subparagraph creates a rebuttable
401 presumption that the association has complied with this
402 paragraph.

403 2. Any director or member of the board or association or a
404 community association manager who knowingly, willfully, and
405 repeatedly violates subparagraph 1. commits a misdemeanor of the
406 second degree, punishable as provided in s. 775.082 or s.

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407 775.083. For purposes of this subparagraph, the term
408 "repeatedly" means two or more violations within a 12-month
409 period.

410 ~~3.2.~~ Any person who knowingly or intentionally defaces or
411 destroys accounting records that are required by this chapter to
412 be maintained during the period for which such records are
413 required to be maintained, or who knowingly or intentionally
414 fails to create or maintain accounting records that are required
415 to be created or maintained, with the intent of causing harm to
416 the association or one or more of its members, commits a
417 misdemeanor of the first degree, punishable as provided in s.
418 775.082 or s. 775.083 ~~is personally subject to a civil penalty~~
419 ~~pursuant to s. 718.501(1)(d).~~

420 4. Any person who willfully and knowingly refuses to
421 release or otherwise produce association records with the intent
422 to avoid or escape detection, arrest, trial, or punishment for
423 the commission of a crime, or to assist another person with such
424 avoidance or escape, commits a felony of the third degree,
425 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

426 ~~5.3.~~ The association shall maintain an adequate number of
427 copies of the declaration, articles of incorporation, bylaws,
428 and rules, and all amendments to each of the foregoing, as well
429 as the question and answer sheet as described in s. 718.504 and
430 year-end financial information required under this section, on
431 the condominium property to ensure their availability to unit
432 owners and prospective purchasers, and may charge its actual
433 costs for preparing and furnishing these documents to those
434 requesting the documents. An association shall allow a member or
435 his or her authorized representative to use a portable device,

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436 including a smartphone, tablet, portable scanner, or any other
437 technology capable of scanning or taking photographs, to make an
438 electronic copy of the official records in lieu of the
439 association's providing the member or his or her authorized
440 representative with a copy of such records. The association may
441 not charge a member or his or her authorized representative for
442 the use of a portable device. Notwithstanding this paragraph,
443 the following records are not accessible to unit owners:

444 a. Any record protected by the lawyer-client privilege as
445 described in s. 90.502 and any record protected by the work-
446 product privilege, including a record prepared by an association
447 attorney or prepared at the attorney's express direction, which
448 reflects a mental impression, conclusion, litigation strategy,
449 or legal theory of the attorney or the association, and which
450 was prepared exclusively for civil or criminal litigation or for
451 adversarial administrative proceedings, or which was prepared in
452 anticipation of such litigation or proceedings until the
453 conclusion of the litigation or proceedings.

454 b. Information obtained by an association in connection
455 with the approval of the lease, sale, or other transfer of a
456 unit.

457 c. Personnel records of association or management company
458 employees, including, but not limited to, disciplinary, payroll,
459 health, and insurance records. For purposes of this sub-
460 subparagraph, the term "personnel records" does not include
461 written employment agreements with an association employee or
462 management company, or budgetary or financial records that
463 indicate the compensation paid to an association employee.

464 d. Medical records of unit owners.

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465 e. Social security numbers, driver license numbers, credit
466 card numbers, e-mail addresses, telephone numbers, facsimile
467 numbers, emergency contact information, addresses of a unit
468 owner other than as provided to fulfill the association's notice
469 requirements, and other personal identifying information of any
470 person, excluding the person's name, unit designation, mailing
471 address, property address, and any address, e-mail address, or
472 facsimile number provided to the association to fulfill the
473 association's notice requirements. Notwithstanding the
474 restrictions in this sub-subparagraph, an association may print
475 and distribute to parcel owners a directory containing the name,
476 parcel address, and all telephone numbers of each parcel owner.
477 However, an owner may exclude his or her telephone numbers from
478 the directory by so requesting in writing to the association. An
479 owner may consent in writing to the disclosure of other contact
480 information described in this sub-subparagraph. The association
481 is not liable for the inadvertent disclosure of information that
482 is protected under this sub-subparagraph if the information is
483 included in an official record of the association and is
484 voluntarily provided by an owner and not requested by the
485 association.

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

488 g. The software and operating system used by the
489 association which allow the manipulation of data, even if the
490 owner owns a copy of the same software used by the association.
491 The data is part of the official records of the association.

492 (g)1. By January 1, 2023 ~~2019~~, an association managing a
493 condominium with 25 ~~150~~ or more units which does not contain

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494 timeshare units shall post digital copies of the documents
495 specified in subparagraph 2. on its website.

496 a. The association's website must be:

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

499 (II) A website or web portal operated by a third-party
500 provider with whom the association owns, leases, rents, or
501 otherwise obtains the right to operate a web page, subpage, web
502 portal, or collection of subpages or web portals dedicated to
503 the association's activities and on which required notices,
504 records, and documents may be posted by the association.

505 b. The association's website must be accessible through the
506 Internet and must contain a subpage, web portal, or other
507 protected electronic location that is inaccessible to the
508 general public and accessible only to unit owners and employees
509 of the association.

510 c. Upon a unit owner's written request, the association
511 must provide the unit owner with a username and password and
512 access to the protected sections of the association's website
513 that contain any notices, records, or documents that must be
514 electronically provided.

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

517 a. The recorded declaration of condominium of each
518 condominium operated by the association and each amendment to
519 each declaration.

520 b. The recorded bylaws of the association and each
521 amendment to the bylaws.

522 c. The articles of incorporation of the association, or

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523 other documents creating the association, and each amendment
524 thereto. The copy posted pursuant to this sub-subparagraph must
525 be a copy of the articles of incorporation filed with the
526 Department of State.

527 d. The rules of the association.

528 e. A list of all executory contracts or documents to which
529 the association is a party or under which the association or the
530 unit owners have an obligation or responsibility and, after
531 bidding for the related materials, equipment, or services has
532 closed, a list of bids received by the association within the
533 past year. Summaries of bids for materials, equipment, or
534 services which exceed \$500 must be maintained on the website for
535 1 year. In lieu of summaries, complete copies of the bids may be
536 posted.

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

539 g. The financial report required by subsection (13) and any
540 monthly income or expense statement to be considered at a
541 meeting.

542 h. The certification of each director required by s.
543 718.112(2)(d)4.b.

544 i. All contracts or transactions between the association
545 and any director, officer, corporation, firm, or association
546 that is not an affiliated condominium association or any other
547 entity in which an association director is also a director or
548 officer and financially interested.

549 j. Any contract or document regarding a conflict of
550 interest or possible conflict of interest as provided in ss.
551 468.436(2)(b)6. and 718.3027(3).

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552 k. The notice of any unit owner meeting and the agenda for
553 the meeting, as required by s. 718.112(2)(d)3., no later than 14
554 days before the meeting. The notice must be posted in plain view
555 on the front page of the website, or on a separate subpage of
556 the website labeled "Notices" which is conspicuously visible and
557 linked from the front page. The association must also post on
558 its website any document to be considered and voted on by the
559 owners during the meeting or any document listed on the agenda
560 at least 7 days before the meeting at which the document or the
561 information within the document will be considered.

562 1. Notice of any board meeting, the agenda, and any other
563 document required for the meeting as required by s.
564 718.112(2)(c), which must be posted no later than the date
565 required for notice pursuant to s. 718.112(2)(c).

566 3. The association shall ensure that the information and
567 records described in paragraph (c), which are not allowed to be
568 accessible to unit owners, are not posted on the association's
569 website. If protected information or information restricted from
570 being accessible to unit owners is included in documents that
571 are required to be posted on the association's website, the
572 association shall ensure the information is redacted before
573 posting the documents online. Notwithstanding the foregoing, the
574 association or its agent is not liable for disclosing
575 information that is protected or restricted pursuant to this
576 paragraph unless such disclosure was made with a knowing or
577 intentional disregard of the protected or restricted nature of
578 such information.

579 4. The failure of the association to post information
580 required under subparagraph 2. is not in and of itself

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581 sufficient to invalidate any action or decision of the
582 association's board or its committees.

583 5. By January 1, 2023, an association managing 25 or more
584 units, not including timeshare units, shall post on its website
585 digital copies of all official records subject to inspection by
586 tenants or unit owners or their authorized representatives.

587 (15) DEBIT CARDS.—

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

596 Section 4. Section 718.1285, Florida Statutes, is created
597 to read:

598 718.1285 Fraudulent voting activities related to
599 association elections; penalties.—

600 (1) Each of the following acts is a fraudulent voting
601 activity related to association elections and constitutes a
602 felony of the third degree, punishable as provided in s.
603 775.082, s. 775.083, or s. 775.084:

604 (a) Willfully and falsely swearing or affirming any oath or
605 affirmation, or willfully procuring another person to swear or
606 affirm falsely to an oath or affirmation, in connection with or
607 arising out of voting or elections.

608 (b) Perpetrating or attempting to perpetrate, or aiding in
609 the perpetration of, any fraud in connection with any vote cast,

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610 to be cast, or attempted to be cast.

611 (c) Preventing an elector from voting, or preventing an
612 elector from voting as the elector intended, by fraudulently
613 changing or attempting to change a ballot, ballot envelope,
614 vote, or voting certificate of the elector.

615 (d) Using bribery, menace, threat, or any other corruption
616 to attempt, directly or indirectly, to influence, deceive, or
617 deter any elector in voting.

618 (e) Directly or indirectly giving or promising anything of
619 value to another person with the intent to buy the vote of that
620 person or another person or to corruptly influence that person
621 or another person in casting his or her vote. However, this
622 paragraph does not apply to the serving of food to be consumed
623 at an election rally or meeting or to any item of nominal value
624 which is used as an election advertisement, including a campaign
625 message designed to be worn by a person.

626 (f) Directly or indirectly using or threatening to use
627 force, violence, or intimidation or any tactic of coercion or
628 intimidation to induce or compel an individual to vote or
629 refrain from voting in an election or on any particular ballot
630 measure.

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

634 (a) Knowingly aiding, abetting, or advising a person in the
635 commission of a fraudulent voting activity related to
636 association elections.

637 (b) Agreeing, conspiring, combining, or confederating with
638 at least one other person to commit a fraudulent voting activity

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639 related to association elections.

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

645 Section 5. Subsection (1) of section 718.501, Florida
646 Statutes, is amended to read:

647 718.501 Authority, responsibility, and duties of Division
648 of Florida Condominiums, Timeshares, and Mobile Homes.—

649 (1) The division may enforce and ensure compliance with the
650 provisions of this chapter and rules relating to the
651 development, construction, sale, lease, ownership, operation,
652 and management of residential condominium units. In performing
653 its duties, the division has complete jurisdiction to
654 investigate complaints and enforce compliance with respect to
655 associations that are still under developer control or the
656 control of a bulk assignee or bulk buyer pursuant to part VII of
657 this chapter and complaints against developers, bulk assignees,
658 or bulk buyers involving improper turnover or failure to
659 turnover, pursuant to s. 718.301. However, after turnover has
660 occurred, the division has jurisdiction to investigate
661 complaints related only to financial issues, elections,
662 maintenance of official records, and unit owner access to
663 association records pursuant to s. 718.111(12). As used in this
664 subsection, the term "financial issue" means an issue related to
665 operating budgets; reserve schedules; financial records under s.
666 718.111(12) (a)11.; notices of meetings and meeting minutes for
667 budget or financial statement related meetings; any assessment

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668 for common expenses, fees, or fines; commingling of funds; and
669 any other records necessary to determine the revenues and
670 expenses of the association. The division may adopt rules to
671 further specify what is included within the meaning of the term.

672 (a)1. The division may make necessary public or private
673 investigations within or outside this state to determine whether
674 any person has violated this chapter or any rule or order
675 hereunder, to aid in the enforcement of this chapter, or to aid
676 in the adoption of rules or forms.

677 2. The division may submit any official written report,
678 worksheet, or other related paper, or a duly certified copy
679 thereof, compiled, prepared, drafted, or otherwise made by and
680 duly authenticated by a financial examiner or analyst to be
681 admitted as competent evidence in any hearing in which the
682 financial examiner or analyst is available for cross-examination
683 and attests under oath that such documents were prepared as a
684 result of an examination or inspection conducted pursuant to
685 this chapter.

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

690 (c) For the purpose of any investigation under this
691 chapter, the division director or any officer or employee
692 designated by the division director may administer oaths or
693 affirmations, subpoena witnesses and compel their attendance,
694 take evidence, and require the production of any matter which is
695 relevant to the investigation, including the existence,
696 description, nature, custody, condition, and location of any

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697 books, documents, or other tangible things and the identity and
698 location of persons having knowledge of relevant facts or any
699 other matter reasonably calculated to lead to the discovery of
700 material evidence. Upon the failure by a person to obey a
701 subpoena or to answer questions propounded by the investigating
702 officer and upon reasonable notice to all affected persons, the
703 division may apply to the circuit court for an order compelling
704 compliance.

705 (d) Notwithstanding any remedies available to unit owners
706 and associations, if the division has reasonable cause to
707 believe that a violation of any provision of this chapter or
708 related rule has occurred, the division may institute
709 enforcement proceedings in its own name against any developer,
710 bulk assignee, bulk buyer, association, officer, or member of
711 the board of administration, or its assignees or agents, as
712 follows:

713 1. The division may permit a person whose conduct or
714 actions may be under investigation to waive formal proceedings
715 and enter into a consent proceeding whereby orders, rules, or
716 letters of censure or warning, whether formal or informal, may
717 be entered against the person.

718 2. The division may issue an order requiring the developer,
719 bulk assignee, bulk buyer, association, developer-designated
720 officer, or developer-designated member of the board of
721 administration, developer-designated assignees or agents, bulk
722 assignee-designated assignees or agents, bulk buyer-designated
723 assignees or agents, community association manager, or community
724 association management firm to cease and desist from the
725 unlawful practice and take such affirmative action as in the

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726 judgment of the division carry out the purposes of this chapter.
727 If the division finds that a developer, bulk assignee, bulk
728 buyer, association, officer, or member of the board of
729 administration, or its assignees or agents, is violating or is
730 about to violate any provision of this chapter, any rule adopted
731 or order issued by the division, or any written agreement
732 entered into with the division, and presents an immediate danger
733 to the public requiring an immediate final order, it may issue
734 an emergency cease and desist order reciting with particularity
735 the facts underlying such findings. The emergency cease and
736 desist order is effective for 90 days. If the division begins
737 nonemergency cease and desist proceedings, the emergency cease
738 and desist order remains effective until the conclusion of the
739 proceedings under ss. 120.569 and 120.57.

740 3. If a developer, bulk assignee, or bulk buyer, fails to
741 pay any restitution determined by the division to be owed, plus
742 any accrued interest at the highest rate permitted by law,
743 within 30 days after expiration of any appellate time period of
744 a final order requiring payment of restitution or the conclusion
745 of any appeal thereof, whichever is later, the division must
746 bring an action in circuit or county court on behalf of any
747 association, class of unit owners, lessees, or purchasers for
748 restitution, declaratory relief, injunctive relief, or any other
749 available remedy. The division may also temporarily revoke its
750 acceptance of the filing for the developer to which the
751 restitution relates until payment of restitution is made.

752 4. The division may petition the court for appointment of a
753 receiver or conservator. If appointed, the receiver or
754 conservator may take action to implement the court order to

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755 ensure the performance of the order and to remedy any breach
756 thereof. In addition to all other means provided by law for the
757 enforcement of an injunction or temporary restraining order, the
758 circuit court may impound or sequester the property of a party
759 defendant, including books, papers, documents, and related
760 records, and allow the examination and use of the property by
761 the division and a court-appointed receiver or conservator.

762 5. The division may apply to the circuit court for an order
763 of restitution whereby the defendant in an action brought
764 pursuant to subparagraph 4. is ordered to make restitution of
765 those sums shown by the division to have been obtained by the
766 defendant in violation of this chapter. At the option of the
767 court, such restitution is payable to the conservator or
768 receiver appointed pursuant to subparagraph 4. or directly to
769 the persons whose funds or assets were obtained in violation of
770 this chapter.

771 6. The division may impose a civil penalty against a
772 developer, bulk assignee, or bulk buyer, or association, or its
773 assignee or agent, for any violation of this chapter or related
774 rule. The division may impose a civil penalty individually
775 against an officer or board member who willfully and knowingly
776 violates a provision of this chapter, adopted rule, or a final
777 order of the division; may order the removal of such individual
778 as an officer or from the board of administration or as an
779 officer of the association; and may prohibit such individual
780 from serving as an officer or on the board of a community
781 association for a period of time. The term "willfully and
782 knowingly" means that the division informed the officer or board
783 member that his or her action or intended action violates this

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784 chapter, a rule adopted under this chapter, or a final order of
785 the division and that the officer or board member refused to
786 comply with the requirements of this chapter, a rule adopted
787 under this chapter, or a final order of the division. The
788 division, before initiating formal agency action under chapter
789 120, must afford the officer or board member an opportunity to
790 voluntarily comply, and an officer or board member who complies
791 within 10 days is not subject to a civil penalty. A penalty may
792 be imposed on the basis of each day of continuing violation, but
793 the penalty for any offense may not exceed \$5,000. By January 1,
794 1998, the division shall adopt, by rule, penalty guidelines
795 applicable to possible violations or to categories of violations
796 of this chapter or rules adopted by the division. The guidelines
797 must specify a meaningful range of civil penalties for each such
798 violation of the statute and rules and must be based upon the
799 harm caused by the violation, the repetition of the violation,
800 and upon such other factors deemed relevant by the division. For
801 example, the division may consider whether the violations were
802 committed by a developer, bulk assignee, or bulk buyer, or
803 owner-controlled association, the size of the association, and
804 other factors. The guidelines must designate the possible
805 mitigating or aggravating circumstances that justify a departure
806 from the range of penalties provided by the rules. It is the
807 legislative intent that minor violations be distinguished from
808 those which endanger the health, safety, or welfare of the
809 condominium residents or other persons and that such guidelines
810 provide reasonable and meaningful notice to the public of likely
811 penalties that may be imposed for proscribed conduct. This
812 subsection does not limit the ability of the division to

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813 informally dispose of administrative actions or complaints by
814 stipulation, agreed settlement, or consent order. All amounts
815 collected shall be deposited with the Chief Financial Officer to
816 the credit of the Division of Florida Condominiums, Timeshares,
817 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
818 bulk buyer fails to pay the civil penalty and the amount deemed
819 to be owed to the association, the division shall issue an order
820 directing that such developer, bulk assignee, or bulk buyer
821 cease and desist from further operation until such time as the
822 civil penalty is paid or may pursue enforcement of the penalty
823 in a court of competent jurisdiction. If an association fails to
824 pay the civil penalty, the division shall pursue enforcement in
825 a court of competent jurisdiction, and the order imposing the
826 civil penalty or the cease and desist order is not effective
827 until 20 days after the date of such order. Any action commenced
828 by the division shall be brought in the county in which the
829 division has its executive offices or in the county where the
830 violation occurred.

831 7. If a unit owner presents the division with proof that
832 the unit owner has requested access to official records in
833 writing by certified mail, and that after 10 days the unit owner
834 again made the same request for access to official records in
835 writing by certified mail, and that more than 10 days has
836 elapsed since the second request and the association has still
837 failed or refused to provide access to official records as
838 required by this chapter, the division shall issue a subpoena
839 requiring production of the requested records where the records
840 are kept pursuant to s. 718.112.

841 8. In addition to subparagraph 6., the division may seek

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842 the imposition of a civil penalty through the circuit court for
843 any violation for which the division may issue a notice to show
844 cause under paragraph (r). The civil penalty shall be at least
845 \$500 but no more than \$5,000 for each violation. The court may
846 also award to the prevailing party court costs and reasonable
847 attorney ~~attorney's~~ fees and, if the division prevails, may also
848 award reasonable costs of investigation.

849 (e) The division may prepare and disseminate a prospectus
850 and other information to assist prospective owners, purchasers,
851 lessees, and developers of residential condominiums in assessing
852 the rights, privileges, and duties pertaining thereto.

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

855 (g) The division shall establish procedures for providing
856 notice to an association and the developer, bulk assignee, or
857 bulk buyer during the period in which the developer, bulk
858 assignee, or bulk buyer controls the association if the division
859 is considering the issuance of a declaratory statement with
860 respect to the declaration of condominium or any related
861 document governing such condominium community.

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

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

869 (j) The division shall provide training and educational
870 programs for condominium association board members and unit

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871 owners. The training may, in the division's discretion, include
872 web-based electronic media, and live training and seminars in
873 various locations throughout the state. The division may review
874 and approve education and training programs for board members
875 and unit owners offered by providers and shall maintain a
876 current list of approved programs and providers and make such
877 list available to board members and unit owners in a reasonable
878 and cost-effective manner.

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

881 (l) The division shall develop a program to certify both
882 volunteer and paid mediators to provide mediation of condominium
883 disputes. The division shall provide, upon request, a list of
884 such mediators to any association, unit owner, or other
885 participant in arbitration proceedings under s. 718.1255
886 requesting a copy of the list. The division shall include on the
887 list of volunteer mediators only the names of persons who have
888 received at least 20 hours of training in mediation techniques
889 or who have mediated at least 20 disputes. In order to become
890 initially certified by the division, paid mediators must be
891 certified by the Supreme Court to mediate court cases in county
892 or circuit courts. However, the division may adopt, by rule,
893 additional factors for the certification of paid mediators,
894 which must be related to experience, education, or background.
895 Any person initially certified as a paid mediator by the
896 division must, in order to continue to be certified, comply with
897 the factors or requirements adopted by rule.

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

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900 parties. Within 30 days after receipt of a complaint, the
901 division shall acknowledge the complaint in writing and notify
902 the complainant whether the complaint is within the jurisdiction
903 of the division and whether additional information is needed by
904 the division from the complainant. The division shall conduct
905 its investigation and, within 90 days after receipt of the
906 original complaint or of timely requested additional
907 information, take action upon the complaint. However, the
908 failure to complete the investigation within 90 days does not
909 prevent the division from continuing the investigation,
910 accepting or considering evidence obtained or received after 90
911 days, or taking administrative action if reasonable cause exists
912 to believe that a violation of this chapter or a rule has
913 occurred. If an investigation is not completed within the time
914 limits established in this paragraph, the division shall, on a
915 monthly basis, notify the complainant in writing of the status
916 of the investigation. When reporting its action to the
917 complainant, the division shall inform the complainant of any
918 right to a hearing pursuant to ss. 120.569 and 120.57.

919 (n) Condominium association directors, officers, and
920 employees; condominium developers; bulk assignees, bulk buyers,
921 and community association managers; and community association
922 management firms have an ongoing duty to reasonably cooperate
923 with the division in any investigation pursuant to this section.
924 The division shall refer to local law enforcement authorities
925 any person whom the division believes has altered, destroyed,
926 concealed, or removed any record, document, or thing required to
927 be kept or maintained by this chapter with the purpose to impair
928 its verity or availability in the department's investigation.

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929 (o) The division may:

930 1. Contract with agencies in this state or other

931 jurisdictions to perform investigative functions; or

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

933 (p) The division shall cooperate with similar agencies in

934 other jurisdictions to establish uniform filing procedures and

935 forms, public offering statements, advertising standards, and

936 rules and common administrative practices.

937 (q) The division shall consider notice to a developer, bulk

938 assignee, or bulk buyer to be complete when it is delivered to

939 the address of the developer, bulk assignee, or bulk buyer

940 currently on file with the division.

941 (r) In addition to its enforcement authority, the division

942 may issue a notice to show cause, which must provide for a

943 hearing, upon written request, in accordance with chapter 120.

944 (s) The division shall submit to the Governor, the

945 President of the Senate, the Speaker of the House of

946 Representatives, and the chairs of the legislative

947 appropriations committees an annual report that includes, but

948 need not be limited to, the number of training programs provided

949 for condominium association board members and unit owners, the

950 number of complaints received by type, the number and percent of

951 complaints acknowledged in writing within 30 days and the number

952 and percent of investigations acted upon within 90 days in

953 accordance with paragraph (m), and the number of investigations

954 exceeding the 90-day requirement. The annual report must also

955 include an evaluation of the division's core business processes

956 and make recommendations for improvements, including statutory

957 changes. The report shall be submitted by September 30 following

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958 the end of the fiscal year.

959 Section 6. This act shall take effect October 1, 2021.