

By Senator Pizzo

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1 A bill to be entitled
2 An act relating to condominium associations; amending
3 s. 194.181, F.S.; revising the parties considered to
4 be the defendants in a tax suit; requiring condominium
5 and cooperative associations to provide unit owners
6 with certain notice and information under certain
7 circumstances; providing requirements for such notice;
8 amending s. 718.111, F.S.; revising criminal penalties
9 relating to the acceptance of things or services of
10 value or kickbacks; revising the documents required to
11 be included with accounting records; requiring an
12 association to maintain official records in a
13 specified manner; revising requirements for the
14 creation of a rebuttable presumption relating to the
15 provision of records; authorizing an association to
16 direct certain persons to the association's website to
17 fulfill certain obligations relating to the inspection
18 of records; requiring an association to provide an
19 itemized list and a sworn affidavit to persons
20 requesting to inspect records; requiring the
21 association to maintain the itemized list for a
22 specified period of time; creating a rebuttable
23 presumption for an association that provides such
24 itemized list and sworn affidavit; providing criminal
25 penalties for certain violations relating to official
26 association records; defining the term "repeatedly";
27 requiring certain associations to post copies of
28 certain documents on their websites by a specified
29 date; revising criminal penalties relating to the use

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30 of association debit cards; defining the term "lawful
31 obligation of the association"; creating s. 718.1285,
32 F.S.; specifying acts that comprise fraudulent voting
33 activities relating to association elections;
34 providing criminal penalties; amending s. 718.501,
35 F.S.; revising the jurisdiction of the Division of
36 Florida Condominiums, Timeshares, and Mobile Homes of
37 the Department of Business and Professional Regulation
38 with regard to investigating complaints; defining the
39 term "financial issue"; authorizing the division to
40 adopt rules; providing an effective date.

41
42 Be It Enacted by the Legislature of the State of Florida:

43
44 Section 1. Paragraph (c) of subsection (2) of section
45 194.181, Florida Statutes, is amended to read:

46 194.181 Parties to a tax suit.—

47 (2)(c)1. In any case brought by the property appraiser
48 under s. 194.036(1)(a) or (b) relating to a value adjustment
49 board decision on a single joint petition filed by a condominium
50 or cooperative association under s. 194.011(3), the association
51 and all unit owners included in the single joint petition are
52 the party defendants ~~the association is the only required party~~
53 ~~defendant. The individual unit or parcel owners are not required~~
54 ~~to be named as parties.~~

55 2. The condominium or cooperative association must provide
56 unit or parcel owners with notice of the property appraiser's
57 complaint and advise the unit or parcel owners that they may
58 elect to:

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59 a. Retain their own counsel to defend the appeal for their
60 units or parcels;

61 b. Choose not to defend the appeal; or

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

64 3. The notice required in subparagraph 2. must be
65 electronically transmitted, hand delivered, or sent by certified
66 mail, return receipt requested, to unit owners ~~except that such~~
67 ~~notice may be electronically transmitted to a unit or parcel~~
68 ~~owner who has expressly consented in writing to receiving such~~
69 ~~notices through electronic transmission~~. Additionally, the
70 notice must be posted conspicuously on the condominium or
71 cooperative property, if applicable, in the same manner as
72 notices of board meetings under ss. 718.112(2) and 719.106(1).
73 The association must provide at least 14 days for a unit or
74 parcel owner to respond to the notice. Any unit or parcel owner
75 who does not respond to the association's notice will be
76 represented by the association.

77 4. If requested by a unit or parcel owner, the tax
78 collector shall accept payment of the estimated amount in
79 controversy, as determined by the tax collector, as to that unit
80 or parcel, whereupon the unit or parcel shall be released from
81 any lis pendens and the unit or parcel owner may elect to remain
82 in or be dismissed from the action.

83 Section 2. Paragraphs (a) and (d) of subsection (1),
84 paragraphs (a), (b), (c), and (g) of subsection (12), and
85 paragraph (b) of subsection (15) of section 718.111, Florida
86 Statutes, are amended to read:

87 718.111 The association.—

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88 (1) CORPORATE ENTITY.—

89 (a) The operation of the condominium shall be by the
90 association, which must be a Florida corporation for profit or a
91 Florida corporation not for profit. However, any association
92 which was in existence on January 1, 1977, need not be
93 incorporated. The owners of units shall be shareholders or
94 members of the association. The officers and directors of the
95 association have a fiduciary relationship to the unit owners. It
96 is the intent of the Legislature that nothing in this paragraph
97 shall be construed as providing for or removing a requirement of
98 a fiduciary relationship between any manager employed by the
99 association and the unit owners. An officer, director, or
100 manager may not solicit, offer to accept, or accept any thing or
101 service of value or kickback for which consideration has not
102 been provided for his or her own benefit or that of his or her
103 immediate family, from any person providing or proposing to
104 provide goods or services to the association. Any such officer,
105 director, or manager who knowingly so solicits, offers to
106 accept, or accepts any thing or service of value or kickback
107 commits a felony of the third degree, punishable as provided in
108 s. 775.082, s. 775.083, or s. 775.084, and is subject to a civil
109 penalty pursuant to s. 718.501(1) (d) and, if applicable, a
110 criminal penalty as provided in paragraph (d). However, this
111 paragraph does not prohibit an officer, director, or manager
112 from accepting services or items received in connection with
113 trade fairs or education programs. An association may operate
114 more than one condominium.

115 (d) As required by s. 617.0830, an officer, director, or
116 agent shall discharge his or her duties in good faith, with the

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117 care an ordinarily prudent person in a like position would
118 exercise under similar circumstances, and in a manner he or she
119 reasonably believes to be in the interests of the association.
120 An officer, director, or agent shall be liable for monetary
121 damages as provided in s. 617.0834 if such officer, director, or
122 agent breached or failed to perform his or her duties and the
123 breach of, or failure to perform, his or her duties constitutes
124 a violation of criminal law as provided in s. 617.0834;
125 constitutes a transaction from which the officer or director
126 derived an improper personal benefit, either directly or
127 indirectly; or constitutes recklessness or an act or omission
128 that was in bad faith, with malicious purpose, or in a manner
129 exhibiting wanton and willful disregard of human rights, safety,
130 or property. ~~Forgery of a ballot envelope or voting certificate
131 used in a condominium association election is punishable as
132 provided in s. 831.01, the theft or embezzlement of funds of a
133 condominium association is punishable as provided in s. 812.014,
134 and the destruction of or the refusal to allow inspection or
135 copying of an official record of a condominium association that
136 is accessible to unit owners within the time periods required by
137 general law in furtherance of any crime is punishable as
138 tampering with physical evidence as provided in s. 918.13 or as
139 obstruction of justice as provided in chapter 843.~~ An officer or
140 director charged by information or indictment with a crime
141 referenced in this paragraph must be removed from office, and
142 the vacancy shall be filled as provided in s. 718.112(2)(d)2.
143 until the end of the officer's or director's period of
144 suspension or the end of his or her term of office, whichever
145 occurs first. If a criminal charge is pending against the

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146 officer or director, he or she may not be appointed or elected
147 to a position as an officer or a director of any association and
148 may not have access to the official records of any association,
149 except pursuant to a court order. However, if the charges are
150 resolved without a finding of guilt, the officer or director
151 must be reinstated for the remainder of his or her term of
152 office, if any.

153 (12) OFFICIAL RECORDS.—

154 (a) From the inception of the association, the association
155 shall maintain each of the following items, if applicable, which
156 constitutes the official records of the association:

157 1. A copy of the plans, permits, warranties, and other
158 items provided by the developer under s. 718.301(4).

159 2. A photocopy of the recorded declaration of condominium
160 of each condominium operated by the association and each
161 amendment to each declaration.

162 3. A photocopy of the recorded bylaws of the association
163 and each amendment to the bylaws.

164 4. A certified copy of the articles of incorporation of the
165 association, or other documents creating the association, and
166 each amendment thereto.

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

168 6. A book or books that contain the minutes of all meetings
169 of the association, the board of administration, and the unit
170 owners.

171 7. A current roster of all unit owners and their mailing
172 addresses, unit identifications, voting certifications, and, if
173 known, telephone numbers. The association shall also maintain
174 the e-mail addresses and facsimile numbers of unit owners

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175 consenting to receive notice by electronic transmission. The e-
176 mail addresses and facsimile numbers are not accessible to unit
177 owners if consent to receive notice by electronic transmission
178 is not provided in accordance with sub-subparagraph (c)5.e.
179 ~~(c)3.e.~~ However, the association is not liable for an
180 inadvertent disclosure of the e-mail address or facsimile number
181 for receiving electronic transmission of notices.

182 8. All current insurance policies of the association and
183 condominiums operated by the association.

184 9. A current copy of any management agreement, lease, or
185 other contract to which the association is a party or under
186 which the association or the unit owners have an obligation or
187 responsibility.

188 10. Bills of sale or transfer for all property owned by the
189 association.

190 11. Accounting records for the association and separate
191 accounting records for each condominium that the association
192 operates. Any person who knowingly or intentionally defaces or
193 destroys such records, or who knowingly or intentionally fails
194 to create or maintain such records, with the intent of causing
195 harm to the association or one or more of its members, is
196 personally subject to a civil penalty pursuant to s.

197 718.501(1)(d). The accounting records must include, but are not
198 limited to:

199 a. Accurate, itemized, and detailed records of all receipts
200 and expenditures.

201 b. A current account and a monthly, bimonthly, or quarterly
202 statement of the account for each unit designating the name of
203 the unit owner, the due date and amount of each assessment, the

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204 amount paid on the account, and the balance due.

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

207 d. All contracts for work to be performed. Bids for work to
208 be performed are also considered official records and must be
209 maintained by the association for at least 1 year after receipt
210 of the bid.

211 e. All bank statements, canceled checks, and credit card
212 statements.

213 f. All invoices, transaction receipts, deposit slips, or
214 other underlying documentation that substantiates any receipt or
215 expenditure of funds by the association.

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

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

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

225 15. A copy of the inspection report as described in s.
226 718.301(4)(p).

227 16. Bids for materials, equipment, or services.

228 17. All affirmative acknowledgments made pursuant to s.
229 718.121(4)(c).

230 18. All other written records of the association not
231 specifically included in the foregoing which are related to the
232 operation of the association.

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233 (b) The official records specified in subparagraphs (a)1.-
234 6. must be permanently maintained from the inception of the
235 association. Bids for work to be performed or for materials,
236 equipment, or services must be maintained for at least 1 year
237 after receipt of the bid. All other official records must be
238 maintained within the state for at least 7 years, unless
239 otherwise provided by general law. All official records must be
240 maintained in a manner and format prescribed by division rule so
241 that they are easily accessible for inspection. The records of
242 the association shall be made available to a unit owner within
243 45 miles of the condominium property or within the county in
244 which the condominium property is located within 10 working days
245 after receipt of a written request by the board or its designee.
246 However, such distance requirement does not apply to an
247 association governing a timeshare condominium. This paragraph
248 may be complied with by having a copy of the official records of
249 the association available for inspection or copying on the
250 condominium property or association property, or the association
251 may offer the option of making the records available to a unit
252 owner electronically via the Internet or by allowing the records
253 to be viewed in electronic format on a computer screen and
254 printed upon request. The association is not responsible for the
255 use or misuse of the information provided to an association
256 member or his or her authorized representative in compliance
257 with this chapter unless the association has an affirmative duty
258 not to disclose such information under this chapter.

259 (c)1.a. The official records of the association are open to
260 inspection by any association member or the authorized
261 representative of such member at all reasonable times. The right

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262 to inspect the records includes the right to make or obtain
263 copies, at the reasonable expense, if any, of the member or
264 authorized representative of such member. A renter of a unit has
265 a right to inspect and copy only the declaration of condominium
266 and the association's bylaws and rules. The association may
267 adopt reasonable rules regarding the frequency, time, location,
268 notice, and manner of record inspections and copying but may not
269 require a member to demonstrate any purpose or state any reason
270 for the inspection. The failure of an association to provide the
271 records within 10 working days after receipt of a written
272 request that complies with the association's document inspection
273 rule creates a rebuttable presumption that the association
274 willfully failed to comply with this paragraph. A unit owner who
275 is denied access to official records is entitled to the actual
276 damages or minimum damages for the association's willful failure
277 to comply. Minimum damages are \$50 per calendar day for up to 10
278 days, beginning on the 11th working day after receipt of the
279 written request that complies with the association's document
280 inspection rule. The failure to permit inspection entitles any
281 person prevailing in an enforcement action to recover reasonable
282 attorney fees from the person in control of the records who,
283 directly or indirectly, knowingly denied access to the records.
284 If the requested records are posted on an association's website,
285 the association may fulfill its obligations as provided under
286 this paragraph by directing to the website all persons
287 authorized to request access to official records pursuant to
288 this paragraph.

289 b. In response to a statutorily compliant written request
290 to inspect records, the association must simultaneously provide

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291 an itemized list to the requestor of all records made available
292 for inspection and copying and a sworn affidavit in which the
293 person facilitating or handling the association's compliance
294 with the request attests to the veracity of the itemized list
295 provided to the requestor. The itemized list must also identify
296 any of the association's official records that were not made
297 available to the requestor. An association must maintain an
298 itemized list provided under this sub-subparagraph for 7 years.
299 The delivery by an association of an itemized list and affidavit
300 pursuant to this sub-subparagraph creates a rebuttable
301 presumption that the association has complied with this
302 paragraph.

303 2. Any director or member of the board or association or a
304 community association manager who knowingly, willfully, and
305 repeatedly violates subparagraph 1. commits a misdemeanor of the
306 second degree, punishable as provided in s. 775.082 or s.
307 775.083. For purposes of this subparagraph, the term
308 "repeatedly" means two or more violations within a 12-month
309 period.

310 3.2. Any person who knowingly or intentionally defaces or
311 destroys accounting records that are required by this chapter to
312 be maintained during the period for which such records are
313 required to be maintained, or who knowingly or intentionally
314 fails to create or maintain accounting records that are required
315 to be created or maintained, with the intent of causing harm to
316 the association or one or more of its members, commits a
317 misdemeanor of the first degree, punishable as provided in s.
318 775.082 or s. 775.083 ~~is personally subject to a civil penalty~~
319 ~~pursuant to s. 718.501(1)(d).~~

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320 4. Any person who willfully and knowingly refuses to
321 release or otherwise produce association records with the intent
322 to avoid or escape detection, arrest, trial, or punishment for
323 the commission of a crime, or to assist another person with such
324 avoidance or escape, commits a felony of the third degree,
325 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

326 ~~5.3.~~ The association shall maintain an adequate number of
327 copies of the declaration, articles of incorporation, bylaws,
328 and rules, and all amendments to each of the foregoing, as well
329 as the question and answer sheet as described in s. 718.504 and
330 year-end financial information required under this section, on
331 the condominium property to ensure their availability to unit
332 owners and prospective purchasers, and may charge its actual
333 costs for preparing and furnishing these documents to those
334 requesting the documents. An association shall allow a member or
335 his or her authorized representative to use a portable device,
336 including a smartphone, tablet, portable scanner, or any other
337 technology capable of scanning or taking photographs, to make an
338 electronic copy of the official records in lieu of the
339 association's providing the member or his or her authorized
340 representative with a copy of such records. The association may
341 not charge a member or his or her authorized representative for
342 the use of a portable device. Notwithstanding this paragraph,
343 the following records are not accessible to unit owners:

344 a. Any record protected by the lawyer-client privilege as
345 described in s. 90.502 and any record protected by the work-
346 product privilege, including a record prepared by an association
347 attorney or prepared at the attorney's express direction, which
348 reflects a mental impression, conclusion, litigation strategy,

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349 or legal theory of the attorney or the association, and which
350 was prepared exclusively for civil or criminal litigation or for
351 adversarial administrative proceedings, or which was prepared in
352 anticipation of such litigation or proceedings until the
353 conclusion of the litigation or proceedings.

354 b. Information obtained by an association in connection
355 with the approval of the lease, sale, or other transfer of a
356 unit.

357 c. Personnel records of association or management company
358 employees, including, but not limited to, disciplinary, payroll,
359 health, and insurance records. For purposes of this sub-
360 subparagraph, the term "personnel records" does not include
361 written employment agreements with an association employee or
362 management company, or budgetary or financial records that
363 indicate the compensation paid to an association employee.

364 d. Medical records of unit owners.

365 e. Social security numbers, driver license numbers, credit
366 card numbers, e-mail addresses, telephone numbers, facsimile
367 numbers, emergency contact information, addresses of a unit
368 owner other than as provided to fulfill the association's notice
369 requirements, and other personal identifying information of any
370 person, excluding the person's name, unit designation, mailing
371 address, property address, and any address, e-mail address, or
372 facsimile number provided to the association to fulfill the
373 association's notice requirements. Notwithstanding the
374 restrictions in this sub-subparagraph, an association may print
375 and distribute to unit owners a directory containing the name,
376 unit address, and all telephone numbers of each unit owner.
377 However, an owner may exclude his or her telephone numbers from

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378 the directory by so requesting in writing to the association. An
379 owner may consent in writing to the disclosure of other contact
380 information described in this sub-subparagraph. The association
381 is not liable for the inadvertent disclosure of information that
382 is protected under this sub-subparagraph if the information is
383 included in an official record of the association and is
384 voluntarily provided by an owner and not requested by the
385 association.

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

388 g. The software and operating system used by the
389 association which allow the manipulation of data, even if the
390 owner owns a copy of the same software used by the association.
391 The data is part of the official records of the association.

392 h. All affirmative acknowledgments made pursuant to s.
393 718.121(4)(c).

394 (g)1. By January 1, 2024 ~~2019~~, an association managing a
395 condominium with 25 ~~150~~ or more units which does not contain
396 timeshare units shall post digital copies of the documents
397 specified in subparagraph 2. on its website or make such
398 documents available through an application that can be
399 downloaded on a mobile device.

400 a. The association's website or application must be:

401 (I) An independent website, application, or web portal
402 wholly owned and operated by the association; or

403 (II) A website, application, or web portal operated by a
404 third-party provider with whom the association owns, leases,
405 rents, or otherwise obtains the right to operate a web page,
406 subpage, web portal, collection of subpages or web portals, or

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407 an application which is dedicated to the association's
408 activities and on which required notices, records, and documents
409 may be posted or made available by the association.

410 b. The association's website or application must be
411 accessible through the Internet and must contain a subpage, web
412 portal, or other protected electronic location that is
413 inaccessible to the general public and accessible only to unit
414 owners and employees of the association.

415 c. Upon a unit owner's written request, the association
416 must provide the unit owner with a username and password and
417 access to the protected sections of the association's website or
418 application which contain any notices, records, or documents
419 that must be electronically provided.

420 2. A current copy of the following documents must be posted
421 in digital format on the association's website or application:

422 a. The recorded declaration of condominium of each
423 condominium operated by the association and each amendment to
424 each declaration.

425 b. The recorded bylaws of the association and each
426 amendment to the bylaws.

427 c. The articles of incorporation of the association, or
428 other documents creating the association, and each amendment to
429 the articles of incorporation or other documents. The copy
430 posted pursuant to this sub-subparagraph must be a copy of the
431 articles of incorporation filed with the Department of State.

432 d. The rules of the association.

433 e. A list of all executory contracts or documents to which
434 the association is a party or under which the association or the
435 unit owners have an obligation or responsibility and, after

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436 bidding for the related materials, equipment, or services has
437 closed, a list of bids received by the association within the
438 past year. Summaries of bids for materials, equipment, or
439 services which exceed \$500 must be maintained on the website or
440 application for 1 year. In lieu of summaries, complete copies of
441 the bids may be posted.

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

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

447 h. The certification of each director required by s.
448 718.112(2)(d)4.b.

449 i. All contracts or transactions between the association
450 and any director, officer, corporation, firm, or association
451 that is not an affiliated condominium association or any other
452 entity in which an association director is also a director or
453 officer and financially interested.

454 j. Any contract or document regarding a conflict of
455 interest or possible conflict of interest as provided in ss.
456 468.436(2)(b)6. and 718.3027(3).

457 k. The notice of any unit owner meeting and the agenda for
458 the meeting, as required by s. 718.112(2)(d)3., no later than 14
459 days before the meeting. The notice must be posted in plain view
460 on the front page of the website or application, or on a
461 separate subpage of the website or application labeled "Notices"
462 which is conspicuously visible and linked from the front page.
463 The association must also post on its website or application any
464 document to be considered and voted on by the owners during the

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465 meeting or any document listed on the agenda at least 7 days
466 before the meeting at which the document or the information
467 within the document will be considered.

468 1. Notice of any board meeting, the agenda, and any other
469 document required for the meeting as required by s.
470 718.112(2)(c), which must be posted no later than the date
471 required for notice under s. 718.112(2)(c).

472 3. The association shall ensure that the information and
473 records described in paragraph (c), which are not allowed to be
474 accessible to unit owners, are not posted on the association's
475 website or application. If protected information or information
476 restricted from being accessible to unit owners is included in
477 documents that are required to be posted on the association's
478 website or application, the association shall ensure the
479 information is redacted before posting the documents.
480 Notwithstanding the foregoing, the association or its agent is
481 not liable for disclosing information that is protected or
482 restricted under this paragraph unless such disclosure was made
483 with a knowing or intentional disregard of the protected or
484 restricted nature of such information.

485 4. The failure of the association to post information
486 required under subparagraph 2. is not in and of itself
487 sufficient to invalidate any action or decision of the
488 association's board or its committees.

489 5. By January 1, 2024, an association managing 25 or more
490 units, not including timeshare units, shall post on its website
491 digital copies of all official records subject to inspection by
492 tenants or unit owners or their authorized representatives.

493 (15) DEBIT CARDS.-

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

502 Section 3. Section 718.1285, Florida Statutes, is created
503 to read:

504 718.1285 Fraudulent voting activities related to
505 association elections; penalties.—

506 (1) Each of the following acts is a fraudulent voting
507 activity related to association elections and constitutes a
508 felony of the third degree, punishable as provided in s.
509 775.082, s. 775.083, or s. 775.084:

510 (a) Willfully and falsely swearing or affirming any oath or
511 affirmation, or willfully procuring another person to swear or
512 affirm falsely to an oath or affirmation, in connection with or
513 arising out of voting or elections.

514 (b) Perpetrating or attempting to perpetrate, or aiding in
515 the perpetration of, any fraud in connection with any vote cast,
516 to be cast, or attempted to be cast.

517 (c) Preventing an elector from voting, or preventing an
518 elector from voting as the elector intended, by fraudulently
519 changing or attempting to change a ballot, ballot envelope,
520 vote, or voting certificate of the elector.

521 (d) Using bribery, menace, threat, or any other corruption
522 to attempt, directly or indirectly, to influence, deceive, or

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523 deter any elector in voting.

524 (e) Directly or indirectly giving or promising anything of
525 value to another person with the intent to buy the vote of that
526 person or another person or to corruptly influence that person
527 or another person in casting his or her vote. However, this
528 paragraph does not apply to the serving of food to be consumed
529 at an election rally or meeting or to any item of nominal value
530 which is used as an election advertisement, including a campaign
531 message designed to be worn by a person.

532 (f) Directly or indirectly using or threatening to use
533 force, violence, or intimidation or any tactic of coercion or
534 intimidation to induce or compel an individual to vote or
535 refrain from voting in an election or on any particular ballot
536 measure.

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

540 (a) Knowingly aiding, abetting, or advising a person in the
541 commission of a fraudulent voting activity related to
542 association elections.

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

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

551 Section 4. Subsection (1) of section 718.501, Florida

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552 Statutes, is amended to read:

553 718.501 Authority, responsibility, and duties of Division
554 of Florida Condominiums, Timeshares, and Mobile Homes.—

555 (1) The division may enforce and ensure compliance with
556 this chapter and rules relating to the development,
557 construction, sale, lease, ownership, operation, and management
558 of residential condominium units. In performing its duties, the
559 division has complete jurisdiction to investigate complaints and
560 enforce compliance with respect to associations that are still
561 under developer control or the control of a bulk assignee or
562 bulk buyer pursuant to part VII of this chapter and complaints
563 against developers, bulk assignees, or bulk buyers involving
564 improper turnover or failure to turnover, pursuant to s.

565 718.301. However, after turnover has occurred, the division has
566 jurisdiction to investigate complaints related only to financial
567 issues, elections, and the maintenance of and unit owner access
568 to association records under s. 718.111(12). As used in this
569 subsection, the term "financial issue" means an issue related to
570 operating budgets; reserve schedules; accounting records under
571 s. 718.111(12) (a)11.; notices of meetings and meeting minutes
572 for budget or financial statement-related meetings; any
573 assessment for common expenses, fees, or fines; commingling of
574 funds; and any other records necessary to determine the revenues
575 and expenses of the association. The division may adopt rules to
576 further specify what is included within the meaning of the term.

577 (a)1. The division may make necessary public or private
578 investigations within or outside this state to determine whether
579 any person has violated this chapter or any rule or order
580 hereunder, to aid in the enforcement of this chapter, or to aid

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581 in the adoption of rules or forms.

582 2. The division may submit any official written report,
583 worksheet, or other related paper, or a duly certified copy
584 thereof, compiled, prepared, drafted, or otherwise made by and
585 duly authenticated by a financial examiner or analyst to be
586 admitted as competent evidence in any hearing in which the
587 financial examiner or analyst is available for cross-examination
588 and attests under oath that such documents were prepared as a
589 result of an examination or inspection conducted pursuant to
590 this chapter.

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

595 (c) For the purpose of any investigation under this
596 chapter, the division director or any officer or employee
597 designated by the division director may administer oaths or
598 affirmations, subpoena witnesses and compel their attendance,
599 take evidence, and require the production of any matter which is
600 relevant to the investigation, including the existence,
601 description, nature, custody, condition, and location of any
602 books, documents, or other tangible things and the identity and
603 location of persons having knowledge of relevant facts or any
604 other matter reasonably calculated to lead to the discovery of
605 material evidence. Upon the failure by a person to obey a
606 subpoena or to answer questions propounded by the investigating
607 officer and upon reasonable notice to all affected persons, the
608 division may apply to the circuit court for an order compelling
609 compliance.

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610 (d) Notwithstanding any remedies available to unit owners
611 and associations, if the division has reasonable cause to
612 believe that a violation of any provision of this chapter or
613 related rule has occurred, the division may institute
614 enforcement proceedings in its own name against any developer,
615 bulk assignee, bulk buyer, association, officer, or member of
616 the board of administration, or its assignees or agents, as
617 follows:

618 1. The division may permit a person whose conduct or
619 actions may be under investigation to waive formal proceedings
620 and enter into a consent proceeding whereby orders, rules, or
621 letters of censure or warning, whether formal or informal, may
622 be entered against the person.

623 2. The division may issue an order requiring the developer,
624 bulk assignee, bulk buyer, association, developer-designated
625 officer, or developer-designated member of the board of
626 administration, developer-designated assignees or agents, bulk
627 assignee-designated assignees or agents, bulk buyer-designated
628 assignees or agents, community association manager, or community
629 association management firm to cease and desist from the
630 unlawful practice and take such affirmative action as in the
631 judgment of the division carry out the purposes of this chapter.
632 If the division finds that a developer, bulk assignee, bulk
633 buyer, association, officer, or member of the board of
634 administration, or its assignees or agents, is violating or is
635 about to violate any provision of this chapter, any rule adopted
636 or order issued by the division, or any written agreement
637 entered into with the division, and presents an immediate danger
638 to the public requiring an immediate final order, it may issue

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639 an emergency cease and desist order reciting with particularity
640 the facts underlying such findings. The emergency cease and
641 desist order is effective for 90 days. If the division begins
642 nonemergency cease and desist proceedings, the emergency cease
643 and desist order remains effective until the conclusion of the
644 proceedings under ss. 120.569 and 120.57.

645 3. If a developer, bulk assignee, or bulk buyer fails to
646 pay any restitution determined by the division to be owed, plus
647 any accrued interest at the highest rate permitted by law,
648 within 30 days after expiration of any appellate time period of
649 a final order requiring payment of restitution or the conclusion
650 of any appeal thereof, whichever is later, the division must
651 bring an action in circuit or county court on behalf of any
652 association, class of unit owners, lessees, or purchasers for
653 restitution, declaratory relief, injunctive relief, or any other
654 available remedy. The division may also temporarily revoke its
655 acceptance of the filing for the developer to which the
656 restitution relates until payment of restitution is made.

657 4. The division may petition the court for appointment of a
658 receiver or conservator. If appointed, the receiver or
659 conservator may take action to implement the court order to
660 ensure the performance of the order and to remedy any breach
661 thereof. In addition to all other means provided by law for the
662 enforcement of an injunction or temporary restraining order, the
663 circuit court may impound or sequester the property of a party
664 defendant, including books, papers, documents, and related
665 records, and allow the examination and use of the property by
666 the division and a court-appointed receiver or conservator.

667 5. The division may apply to the circuit court for an order

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668 of restitution whereby the defendant in an action brought under
669 subparagraph 4. is ordered to make restitution of those sums
670 shown by the division to have been obtained by the defendant in
671 violation of this chapter. At the option of the court, such
672 restitution is payable to the conservator or receiver appointed
673 under subparagraph 4. or directly to the persons whose funds or
674 assets were obtained in violation of this chapter.

675 6. The division may impose a civil penalty against a
676 developer, bulk assignee, or bulk buyer, or association, or its
677 assignee or agent, for any violation of this chapter or related
678 rule. The division may impose a civil penalty individually
679 against an officer or board member who willfully and knowingly
680 violates this chapter, an adopted rule, or a final order of the
681 division; may order the removal of such individual as an officer
682 or from the board of administration or as an officer of the
683 association; and may prohibit such individual from serving as an
684 officer or on the board of a community association for a period
685 of time. The term "willfully and knowingly" means that the
686 division informed the officer or board member that his or her
687 action or intended action violates this chapter, a rule adopted
688 under this chapter, or a final order of the division and that
689 the officer or board member refused to comply with the
690 requirements of this chapter, a rule adopted under this chapter,
691 or a final order of the division. The division, before
692 initiating formal agency action under chapter 120, must afford
693 the officer or board member an opportunity to voluntarily
694 comply, and an officer or board member who complies within 10
695 days is not subject to a civil penalty. A penalty may be imposed
696 on the basis of each day of continuing violation, but the

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697 penalty for any offense may not exceed \$5,000. The division
698 shall adopt, by rule, penalty guidelines applicable to possible
699 violations or to categories of violations of this chapter or
700 rules adopted by the division. The guidelines must specify a
701 meaningful range of civil penalties for each such violation of
702 the statute and rules and must be based upon the harm caused by
703 the violation, the repetition of the violation, and upon such
704 other factors deemed relevant by the division. For example, the
705 division may consider whether the violations were committed by a
706 developer, bulk assignee, or bulk buyer, or owner-controlled
707 association, the size of the association, and other factors. The
708 guidelines must designate the possible mitigating or aggravating
709 circumstances that justify a departure from the range of
710 penalties provided by the rules. It is the legislative intent
711 that minor violations be distinguished from those which endanger
712 the health, safety, or welfare of the condominium residents or
713 other persons and that such guidelines provide reasonable and
714 meaningful notice to the public of likely penalties that may be
715 imposed for proscribed conduct. This subsection does not limit
716 the ability of the division to informally dispose of
717 administrative actions or complaints by stipulation, agreed
718 settlement, or consent order. All amounts collected shall be
719 deposited with the Chief Financial Officer to the credit of the
720 Division of Florida Condominiums, Timeshares, and Mobile Homes
721 Trust Fund. If a developer, bulk assignee, or bulk buyer fails
722 to pay the civil penalty and the amount deemed to be owed to the
723 association, the division shall issue an order directing that
724 such developer, bulk assignee, or bulk buyer cease and desist
725 from further operation until such time as the civil penalty is

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726 paid or may pursue enforcement of the penalty in a court of
727 competent jurisdiction. If an association fails to pay the civil
728 penalty, the division shall pursue enforcement in a court of
729 competent jurisdiction, and the order imposing the civil penalty
730 or the cease and desist order is not effective until 20 days
731 after the date of such order. Any action commenced by the
732 division shall be brought in the county in which the division
733 has its executive offices or in the county where the violation
734 occurred.

735 7. If a unit owner presents the division with proof that
736 the unit owner has requested access to official records in
737 writing by certified mail, and that after 10 days the unit owner
738 again made the same request for access to official records in
739 writing by certified mail, and that more than 10 days has
740 elapsed since the second request and the association has still
741 failed or refused to provide access to official records as
742 required by this chapter, the division shall issue a subpoena
743 requiring production of the requested records where the records
744 are kept pursuant to s. 718.112.

745 8. In addition to subparagraph 6., the division may seek
746 the imposition of a civil penalty through the circuit court for
747 any violation for which the division may issue a notice to show
748 cause under paragraph (r). The civil penalty shall be at least
749 \$500 but no more than \$5,000 for each violation. The court may
750 also award to the prevailing party court costs and reasonable
751 attorney fees and, if the division prevails, may also award
752 reasonable costs of investigation.

753 (e) The division may prepare and disseminate a prospectus
754 and other information to assist prospective owners, purchasers,

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755 lessees, and developers of residential condominiums in assessing
756 the rights, privileges, and duties pertaining thereto.

757 (f) The division may adopt rules to administer and enforce
758 this chapter.

759 (g) The division shall establish procedures for providing
760 notice to an association and the developer, bulk assignee, or
761 bulk buyer during the period in which the developer, bulk
762 assignee, or bulk buyer controls the association if the division
763 is considering the issuance of a declaratory statement with
764 respect to the declaration of condominium or any related
765 document governing such condominium community.

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

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

773 (j) The division shall provide training and educational
774 programs for condominium association board members and unit
775 owners. The training may, in the division's discretion, include
776 web-based electronic media, and live training and seminars in
777 various locations throughout the state. The division may review
778 and approve education and training programs for board members
779 and unit owners offered by providers and shall maintain a
780 current list of approved programs and providers and make such
781 list available to board members and unit owners in a reasonable
782 and cost-effective manner.

783 (k) The division shall maintain a toll-free telephone

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784 number accessible to condominium unit owners.

785 (l) The division shall develop a program to certify both
786 volunteer and paid mediators to provide mediation of condominium
787 disputes. The division shall provide, upon request, a list of
788 such mediators to any association, unit owner, or other
789 participant in alternative dispute resolution proceedings under
790 s. 718.1255 requesting a copy of the list. The division shall
791 include on the list of volunteer mediators only the names of
792 persons who have received at least 20 hours of training in
793 mediation techniques or who have mediated at least 20 disputes.
794 In order to become initially certified by the division, paid
795 mediators must be certified by the Supreme Court to mediate
796 court cases in county or circuit courts. However, the division
797 may adopt, by rule, additional factors for the certification of
798 paid mediators, which must be related to experience, education,
799 or background. Any person initially certified as a paid mediator
800 by the division must, in order to continue to be certified,
801 comply with the factors or requirements adopted by rule.

802 (m) If a complaint is made, the division must conduct its
803 inquiry with due regard for the interests of the affected
804 parties. Within 30 days after receipt of a complaint, the
805 division shall acknowledge the complaint in writing and notify
806 the complainant whether the complaint is within the jurisdiction
807 of the division and whether additional information is needed by
808 the division from the complainant. The division shall conduct
809 its investigation and, within 90 days after receipt of the
810 original complaint or of timely requested additional
811 information, take action upon the complaint. However, the
812 failure to complete the investigation within 90 days does not

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813 prevent the division from continuing the investigation,
814 accepting or considering evidence obtained or received after 90
815 days, or taking administrative action if reasonable cause exists
816 to believe that a violation of this chapter or a rule has
817 occurred. If an investigation is not completed within the time
818 limits established in this paragraph, the division shall, on a
819 monthly basis, notify the complainant in writing of the status
820 of the investigation. When reporting its action to the
821 complainant, the division shall inform the complainant of any
822 right to a hearing under ss. 120.569 and 120.57. The division
823 may adopt rules regarding the submission of a complaint against
824 an association.

825 (n) Condominium association directors, officers, and
826 employees; condominium developers; bulk assignees, bulk buyers,
827 and community association managers; and community association
828 management firms have an ongoing duty to reasonably cooperate
829 with the division in any investigation under this section. The
830 division shall refer to local law enforcement authorities any
831 person whom the division believes has altered, destroyed,
832 concealed, or removed any record, document, or thing required to
833 be kept or maintained by this chapter with the purpose to impair
834 its verity or availability in the department's investigation.

835 (o) The division may:

- 836 1. Contract with agencies in this state or other
837 jurisdictions to perform investigative functions; or
838 2. Accept grants-in-aid from any source.

839 (p) The division shall cooperate with similar agencies in
840 other jurisdictions to establish uniform filing procedures and
841 forms, public offering statements, advertising standards, and

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842 rules and common administrative practices.

843 (q) The division shall consider notice to a developer, bulk
844 assignee, or bulk buyer to be complete when it is delivered to
845 the address of the developer, bulk assignee, or bulk buyer
846 currently on file with the division.

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

850 (s) The division shall submit to the Governor, the
851 President of the Senate, the Speaker of the House of
852 Representatives, and the chairs of the legislative
853 appropriations committees an annual report that includes, but
854 need not be limited to, the number of training programs provided
855 for condominium association board members and unit owners, the
856 number of complaints received by type, the number and percent of
857 complaints acknowledged in writing within 30 days and the number
858 and percent of investigations acted upon within 90 days in
859 accordance with paragraph (m), and the number of investigations
860 exceeding the 90-day requirement. The annual report must also
861 include an evaluation of the division's core business processes
862 and make recommendations for improvements, including statutory
863 changes. The report shall be submitted by September 30 following
864 the end of the fiscal year.

865 Section 5. This act shall take effect October 1, 2022.