

By Senator Garcia

36-01002-26

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A bill to be entitled
An act relating to homeowners' associations; creating
s. 720.3024, F.S.; creating the Office of the
Homeowners' Association Ombudsman within the Division
of Florida Condominiums, Timeshares, and Mobile Homes
of the Department of Business and Professional
Regulation; providing for funding of the office;
directing the Governor to appoint the ombudsman;
requiring that the ombudsman be an attorney admitted
to practice before the Florida Supreme Court;
prohibiting the ombudsman, officers, or full-time
employees of the office from holding certain
positions, engaging in certain activities, or
receiving certain remuneration; providing for the
principal location of the ombudsman's office;
authorizing the ombudsman to establish branch offices
upon the concurrence of the Governor; specifying the
powers and duties of the ombudsman; providing a
process for monitoring homeowners' association
elections; providing for the appointment of an
election monitor to attend an annual meeting of parcel
owners and to conduct the election of directors;
requiring that an association subject to election
monitoring pay all costs associated with the process;
requiring the division to adopt rules; creating s.
720.3025, F.S.; providing the duties of the division
relating to the development, construction, sale,
lease, ownership, operation, and management of
residential parcels and complaints; providing that the

36-01002-26

2026906__

division has complete jurisdiction to investigate complaints and enforce compliance over associations still under developer control; specifying the jurisdiction of the division to review records and investigate complaints after turnover; authorizing the division to conduct necessary investigations within or outside this state with specified analysts to make certain determinations or to aid in the enforcement of rules or forms; authorizing the division to require or authorize any person to file a statement in writing under oath for such investigations; authorizing specified employees of the division to take certain actions reasonably calculated to lead to the discovery of material evidence; authorizing the division to apply to the circuit court for an order compelling compliance of such actions; authorizing the division to institute enforcement proceeding in its own name against certain persons; specifying the actions the division may take and penalties the division may impose in such proceedings; defining the term "willfully and knowingly"; requiring the division to provide officers or board members an opportunity to voluntarily comply within a specified timeframe before being subject to civil penalties; specifying the manner in which penalties may be imposed; prohibiting such penalties from exceeding a specified sum; requiring the division to adopt rules regarding penalty guidelines; specifying the criteria for such guidelines; requiring that all amounts recovered be

36-01002-26

2026906__

deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund; requiring the division to order a developer who fails to pay the civil penalties to cease and desist from further operation until the civil penalties are paid or to pursue enforcement of the penalties in court; requiring the division to pursue enforcement in a court of competent jurisdiction if an association fails to pay its civil penalties; specifying when the cease and desist order or the order from the court imposing such penalties becomes effective; specifying where such action must be brought; requiring the division to issue a subpoena to require production of certain records if a parcel owner presents the division with proof that the parcel owner has not received a copy of the official records after the parcel owner requested access to official records in writing by certified mail within a specified timeframe; requiring the division to provide the parcel owner access to such records without charge; authorizing the division to seek additional civil penalties; specifying the monetary range of such penalties; authorizing the court to award certain costs and fees to the prevailing party; authorizing the division to issue citations and adopt rules; requiring the division to provide training and educational programs for homeowners' association board members and parcel owners; authorizing that such

36-01002-26

2026906__

training and education may be web-based electronic media or live training and seminars in various locations; authorizing the division to review and approve the education and training programs and maintain a current list available to board members and parcel owners of approved programs and providers; requiring the division to provide the division-approved provider with the template certificate for issuance directly to the association's board of directors who have satisfactorily completed certain required education and training; requiring the division to adopt rules; requiring the division to maintain a toll-free telephone number accessible to parcel owners; requiring the division to conduct an inquiry if a complaint is made, with due regard for the interests of the affected party; requiring the division to acknowledge the complaint and include in such acknowledgment certain information within a specified timeframe; requiring the division to conduct its investigation within a specified timeframe; providing that failure to complete its investigation within the specified timeframe does not prevent the division from continuing its investigation if reasonable cause exists to believe that a violation has occurred; requiring the division to notify the complainant on a monthly basis and report certain information; authorizing the division to adopt rules; providing that certain persons of homeowners' associations and community association firms have an

36-01002-26

2026906__

ongoing duty to reasonably cooperate with the division in such investigations; requiring the division to refer to local law enforcement authorities any person who it has reason to believe is impeding its investigation or is engaging in certain criminal activity; authorizing certain division employees or employees of the Office of the Homeowners' Association Ombudsman to attend and observe any meeting of the board of administration or any parcel owner meeting if such meetings are open to members of the association for a specified purpose; authorizing the division to contract with agencies in this state or other jurisdictions to perform its investigative functions; authorizing the division to accept grants-in-aid from any source; requiring the division to cooperate with similar agencies in other jurisdictions for a specified purpose; providing the criteria that the division considers notice to a developer to be complete; authorizing the division to issue a notice to show cause; requiring that a notice to show cause provide for a hearing upon written request; authorizing the division to request access to an association's website or application to investigate complaints regarding access to the association's official records; authorizing the division to adopt rules; requiring the directors of an association to certify that each director has completed the written certification and educational certificate requirements; providing applicability; requiring all

36-01002-26

2026906__

homeowners' associations to create and maintain an online account with the division; requiring all homeowners' associations to provide specified information to the division by a specified date; requiring that such information be updated within a specified timeframe; authorizing the division to require homeowners' associations to provide certain information to the division; specifying the information to be provided to the division; providing an effective date.

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

Section 1. Section 720.3024, Florida Statutes, is created to read:

720.3024 Office of the Homeowners' Association Ombudsman.—

(1) ADMINISTRATION; APPOINTMENT; LOCATION.—

(a) There is created the Office of the Homeowners' Association Ombudsman to be located, for administrative purposes, within the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation. The functions of the office shall be funded by the General Appropriations Act.

(b) The Governor shall appoint the ombudsman. The ombudsman must be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Governor. The ombudsman, or an officer or a full-time employee of the ombudsman's office, may not actively engage in any other business or profession that directly or indirectly relates to or

36-01002-26

2026906__

175 conflicts with his or her work in the ombudsman's office; serve
176 as the representative or an executive, officer, or employee of
177 any political party, executive committee, or other governing
178 body of a political party; receive remuneration for activities
179 on behalf of any candidate for public office; or engage in
180 soliciting votes or other activities on behalf of a candidate
181 for public office. The ombudsman, an officer, or a full-time
182 employee of the ombudsman's office may not become a candidate
183 for election to public office unless he or she first resigns
184 from his or her office or employment.

185 (c) The ombudsman shall maintain his or her principal
186 office at a location convenient to the department, which will
187 enable the ombudsman to carry out expeditiously the duties and
188 functions of his or her office. The ombudsman may establish
189 branch offices elsewhere in this state upon the concurrence of
190 the Governor.

191 (2) POWERS AND DUTIES.—The ombudsman has the powers
192 necessary to carry out the duties of his or her office,
193 including, but not limited to:

194 (a) Having access to and use of all files and records of
195 the division.

196 (b) Employing professional and clerical staff as necessary
197 for the efficient operation of the office.

198 (c) Preparing and issuing reports and recommendations to
199 the Governor, the department, the President of the Senate, and
200 the Speaker of the House of Representatives on any matter or
201 subject within the jurisdiction of this chapter.

202 (d) Acting as a liaison between the department, parcel
203 owners, boards of directors, board members, community

36-01002-26

2026906__

association managers, and other affected parties. The ombudsman shall develop policies and procedures to assist parcel owners, boards of directors, board members, community association managers, and other affected parties in understanding their rights and responsibilities as set forth in this chapter and in the governing documents of their respective associations. The ombudsman shall coordinate and assist in the preparation and adoption of educational and reference materials and shall endeavor to coordinate with private or volunteer providers of such services so that the availability of such resources is made known to the largest possible audience.

(e) Monitoring and reviewing procedures and disputes concerning association elections or meetings, including, but not limited to, recommending that the division pursue enforcement action in any manner if there is reasonable cause to believe that election misconduct has occurred and reviewing secret ballots cast at a vote of the association.

(f) Making recommendations to the division for changes in rules and procedures for the filing, investigation, and resolution of complaints filed by parcel owners, associations, or managers.

(g) Providing resources to assist members of boards of directors and officers of associations to carry out their powers and duties consistent with this chapter and the governing documents of their respective associations.

(h) Encouraging and facilitating voluntary meetings between parcel owners, boards of directors, board members, community association managers, and other affected parties when the meetings may assist in resolving a dispute within a homeowners'

36-01002-26

2026906__

association before a person submits a dispute for a formal or administrative remedy. The ombudsman shall act as a neutral resource for the rights and responsibilities of parcel owners, associations, and board members.

(i) Assisting with the resolution of disputes between parcel owners and their association, or between parcel owners, if applicable.

(j) Appointing an election monitor.

(3) ELECTION MONITORING.—

(a) Fifteen percent of the total voting interests in a homeowners' association, or six parcel owners, whichever is greater, may petition the ombudsman to appoint an election monitor to attend the annual meeting of the parcel owners and conduct the election of directors.

(b) The ombudsman shall appoint a division employee, a person who specializes in homeowners' association election monitoring, or an attorney licensed to practice in this state as the election monitor.

(c) The association shall pay all costs associated with the election monitoring process.

(d) The division shall adopt rules establishing procedures for the appointment of election monitors and the scope of the monitor's role in the election process, and essential duties therein.

Section 2. Section 720.3025, Florida Statutes, is created to read:

720.3025 Authority, responsibility, and duties of Division of Florida Condominiums, Timeshares, and Mobile Homes.—

(1) The division may enforce and ensure compliance with

36-01002-26

2026906__

262 this chapter and rules relating to the development,
263 construction, sale, lease, ownership, operation, and management
264 of residential parcels and complaints. In performing its duties,
265 the division has complete jurisdiction to investigate complaints
266 and enforce compliance with respect to associations that are
267 still under developer control involving improper turnover or
268 failure to turn over under s. 720.307. However, after turnover
269 has occurred, the division has jurisdiction to review records
270 and investigate complaints related only to:

271 (a)1. Procedural aspects and records relating to financial
272 issues, including annual financial reporting under ss.
273 720.303(7) and 720.3086; assessments for common expenses, fines,
274 and commingling of reserve and operating funds under s.
275 720.303(8); use of debit cards for unintended purposes under s.
276 720.303(13); the annual operating budget and the allocation of
277 reserve funds under s. 720.303(6); financial records under s.
278 720.303(4) (a)10.; and any other record necessary to determine
279 the revenues and expenses of the association.

280 2. Elections, including election and voting requirements
281 under ss. 720.303(2) and 720.306, recall of board members under
282 s. 720.303(10), electronic voting under s. 720.317, and
283 elections that occur during an emergency under s. 720.316(1) (a).

284 3. The maintenance of and parcel owner access to
285 association records under s. 720.303(4).

286 4. The procedural aspects of meetings, including parcel
287 owner meetings, quorums, voting requirements, proxies, board of
288 administration meetings, budget meetings, and the right to speak
289 at such meetings under s. 720.303(2) and s. 720.306.

290 5. The disclosure of conflicts of interest under s.

36-01002-26

2026906__

291 720.3033(6).

292 6. The removal of a board member or officer under ss.
293 720.3033(3) and (4).

294 7. Any written inquiry by parcel owners to the association
295 relating to such matters, including written inquiries.

296 8. The requirement under s. 720.3033(5) for associations to
297 maintain an insurance policy or fidelity bonding for all persons
298 who control or disperse funds of the association.

299 9. Board member education requirements under s.
300 720.3033(1).

301 (b)1. The division may conduct necessary public or private
302 investigations within or outside this state to determine whether
303 any person has violated this chapter or any rule or order
304 hereunder, to aid in the enforcement of this chapter, or to aid
305 in the adoption of rules or forms.

306 2. The division may submit any official written report,
307 worksheet, or other related paper, or a duly certified copy
308 thereof, compiled, prepared, drafted, or otherwise made and duly
309 authenticated by a financial examiner or analyst to be admitted
310 as competent evidence in any hearing in which the financial
311 examiner or analyst is available for cross-examination and
312 attests under oath that such documents were prepared as a result
313 of an examination or inspection conducted pursuant to this
314 chapter.

315 (c) The division may require or authorize any person to
316 file a statement in writing, under oath or otherwise, as the
317 division determines, as to the facts and circumstances
318 concerning a matter being investigated.

319 (d) For the purpose of any investigation under this

36-01002-26

2026906__

chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any book, document, or other tangible thing and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

(e) Notwithstanding any remedy available to parcel owners and associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against any developer, association, officer, or member of the board of administration, or its assignees or agents, as follows:

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

2. The division may issue an order requiring the developer, association, developer-designated officer, or developer-designated member of the board of administration, developer-

36-01002-26

2026906__

349 designated assignees or agents, community association manager,
350 or community association management firm to cease and desist
351 from the unlawful practice and take such affirmative action as
352 in the judgment of the division will carry out the purposes of
353 this chapter. If the division finds that a developer, an
354 association, an officer, or a member of the board of
355 administration, or its assignees or agents, is violating or is
356 about to violate any provision of this chapter, any rule adopted
357 or order issued by the division, or any written agreement
358 entered into with the division, and presents an immediate danger
359 to the public requiring an immediate final order, it may issue
360 an emergency cease and desist order reciting with particularity
361 the facts underlying such findings. The emergency cease and
362 desist order is effective for 90 days. If the division begins
363 nonemergency cease and desist proceedings, the emergency cease
364 and desist order remains effective until the conclusion of the
365 proceedings under ss. 120.569 and 120.57.

366 3. If a developer fails to pay any restitution determined
367 by the division to be owed, plus any accrued interest at the
368 highest rate permitted by law, within 30 days after expiration
369 of any appellate time period of a final order requiring payment
370 of restitution or the conclusion of any appeal thereof,
371 whichever is later, the division must bring an action in circuit
372 or county court on behalf of any association, class of parcel
373 owners, lessees, or purchasers for restitution, declaratory
374 relief, injunctive relief, or any other available remedy.

375 4. The division may petition the court for appointment of a
376 receiver or conservator. If appointed, the receiver or
377 conservator may take action to implement the court order to

36-01002-26

2026906__

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

5. The division may apply to the circuit court for an order of restitution whereby the defendant in an action brought under subparagraph 3. is ordered to make restitution of those sums shown by the division to have been obtained by the defendant in violation of this chapter. At the option of the court, such restitution is payable to the conservator or receiver appointed under subparagraph 4. or directly to the persons whose funds or assets were obtained in violation of this chapter.

6. The division may impose a civil penalty against a developer, or an association or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or a board member who willfully and knowingly violates this chapter, an adopted rule, or a final order of the division; may order the removal of such individual as an officer or a member of the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or a member of the board of a community association for a period of time. The term "willfully and knowingly" means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer

36-01002-26

2026906__

or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must provide the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days after notification is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed \$5,000. The division shall adopt by rule penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the law and rules and must be based upon the harm caused by the violation, upon the repetition of the violation, and upon such other factors deemed relevant by the division, including, but not limited to, whether the violations were committed by a developer or an owner-controlled association, the size of the association, and the duration of the violations. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the homeowners' association residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order.

36-01002-26

2026906__

436 All amounts collected must be deposited with the Chief Financial
437 Officer to the credit of the Division of Florida Condominiums,
438 Timeshares, and Mobile Homes Trust Fund. If a developer fails to
439 pay the civil penalty and the amount deemed to be owed to the
440 association, the division must issue an order directing that
441 such developer cease and desist from further operation until
442 such time as the civil penalty is paid, or the division may
443 pursue enforcement of the penalty in a court of competent
444 jurisdiction. If an association fails to pay the civil penalty,
445 the division must pursue enforcement in a court of competent
446 jurisdiction, and the order imposing the civil penalty or the
447 cease and desist order is not effective until 20 days after the
448 date of such order. Any action commenced by the division must be
449 brought in the county in which the division has its executive
450 offices or in the county in which the violation occurred.

451 7. If a parcel owner presents the division with proof that
452 the parcel owner has requested access to official records in
453 writing by certified mail, and that after 10 days the parcel
454 owner has again made the same request for access to official
455 records in writing by certified mail, and that more than 10 days
456 have elapsed since the second request and the association has
457 still failed or refused to provide access to official records as
458 required by this chapter, the division must issue a subpoena
459 requiring production of the requested records at the location in
460 which the records are kept pursuant to s. 720.303. Upon receipt
461 of the records, the division must provide to the parcel owner
462 who was denied access to such records the produced official
463 records without charge.

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

36-01002-26

2026906__

the imposition of a civil penalty through the circuit court for any violation for which the division may issue a notice to show cause under paragraph (o). The civil penalty must be at least \$500 but no more than \$5,000 for each violation. The court may also award to the prevailing party court costs and reasonable attorney fees and, if the division prevails, may also award reasonable costs of investigation.

9. The division may issue citations and adopt rules to provide for citation bases and citation procedures in accordance with this paragraph.

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

(g) The division shall provide training and educational programs for homeowners' association board members and parcel owners. The training and education may, in the division's discretion, include web-based electronic media and live training and seminars in various locations throughout this state. The division may review and approve education and training programs for board members and parcel owners offered by providers and shall maintain a current list of approved programs and providers and make such list available to board members and parcel owners in a reasonable and cost-effective manner. The division shall provide the division-approved provider with the template certificate for issuance directly to an association's board members who have satisfactorily completed the requirements under s. 720.306. The division shall adopt rules to implement this paragraph.

(h) The division shall maintain a toll-free telephone number accessible to parcel owners.

36-01002-26

2026906__

494 (i) If a complaint is made, the division must conduct its
495 inquiry with due regard for the interests of the affected
496 parties. Within 30 days after receipt of a complaint, the
497 division shall acknowledge the complaint in writing and notify
498 the complainant whether the complaint is within the jurisdiction
499 of the division and whether the division needs additional
500 information from the complainant. The division shall conduct its
501 investigation and, within 90 days after receipt of the original
502 complaint or requested additional information, take action upon
503 the complaint. However, the failure to complete the
504 investigation within 90 days does not prevent the division from
505 continuing its investigation, accepting or considering evidence
506 obtained or received after 90 days, or taking administrative
507 action if reasonable cause exists to believe that a violation of
508 this chapter or a rule has occurred. If an investigation is not
509 completed within the time limits established in this paragraph,
510 the division must, on a monthly basis, notify the complainant in
511 writing of the status of the investigation. When reporting its
512 action to the complainant, the division shall inform the
513 complainant of any right to a hearing under ss. 120.569 and
514 120.57. The division may adopt rules regarding the submission of
515 a complaint against an association.

516 (j) Homeowners' association directors, officers, and
517 employees; developers; community association managers; and
518 community association management firms have an ongoing duty to
519 reasonably cooperate with the division in any investigation
520 under this section. The division shall refer to local law
521 enforcement authorities any person who the division believes has
522 altered, destroyed, concealed, or removed any record, document,

36-01002-26

2026906__

or thing required to be kept or maintained by this chapter with the purpose to impair its veracity or availability in the division's investigation. The division shall refer to local law enforcement authorities any person who the division believes has engaged in fraud, theft, embezzlement, or other criminal activity or when the division has cause to believe that fraud, theft, embezzlement, or other criminal activity has occurred.

(k) The division director or any officer or employee of the division and the homeowners association ombudsman or any employee of the Office of the Homeowners' Association Ombudsman may attend and observe any meeting of the board of administration or any parcel owner meeting, including any meeting of a subcommittee or special committee, which is open to members of the association for the purpose of performing the duties of the division or the Office of the Homeowners' Association Ombudsman under this chapter.

(l) The division may:

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

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

(n) The division shall consider notice to a developer to be complete when it is delivered to the address of the developer currently on file with the division.

(o) In addition to its enforcement authority, the division may issue a notice to show cause, which must provide for a

36-01002-26

2026906__

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

(p) If the division receives a complaint regarding access to official records on the association's website or through an application that can be downloaded on a mobile device under s. 720.303(2)(c)1., the division may request access to the association's website or application and investigate. The division may adopt rules to carry out this paragraph.

(2) On the certification form provided by the division, the directors of the association shall certify that each director of the association has completed the written certification and educational certificate requirements in s. 720.3033(1). This certification requirement does not apply to the directors of an association governing a timeshare property. Each homeowners' association shall create and maintain an online account with the division, as required in subsection (3).

(3) On or before October 1, 2027, all homeowners' associations shall create and maintain an online account with the division and provide information requested by the division in an electronic format determined by the division. The division shall adopt rules to implement this subsection. The division may require homeowners' associations to provide such information no more than once per year, except that the division may require homeowners' associations to update the contact information in paragraph (a) within 30 days after any change. The division shall provide a homeowners' association at least a 45-day notice of any requirement to provide any information after the homeowners' association initially creates an online account. The information that the division may require from homeowners' associations is limited to:

36-01002-26

2026906__

(a) Contact information for the association which includes:

1. The name of the association.

2. The physical address of the homeowners' association property.

3. The mailing address and county of the association.

4. The e-mail address and telephone number for the association.

5. The name and board title for each member of the association's board.

6. The name and contact information of the association's community association manager or community association management firm, if applicable.

7. The hyperlink or website address of the association's website, if applicable.

(b) The total number of buildings, and for each building in the association:

1. The total number of stories, including both habitable and uninhabitable stories.

2. The total number of parcels.

3. The age of each building, based on the certificate of occupancy.

4. Any construction commenced within the common elements during the most recent calendar year.

(c) The association's assessments, including:

1. The amount of assessment or special assessment by parcel type, including reserves.

2. The purpose of the assessment or special assessment.

3. The name of the financial institution or institutions with which the association maintains accounts.

36-01002-26

2026906__

610

Section 3. This act shall take effect July 1, 2026.