

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.