

By Senator Burgess

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1 A bill to be entitled
2 An act relating to the homeowners' association
3 ombudsman; creating s. 720.319, F.S.; creating the
4 Office of the Homeowners' Association Ombudsman within
5 the Division of Florida Condominiums, Timeshares, and
6 Mobile Homes of the Department of Business and
7 Professional Regulation; providing for funding of the
8 office; directing the Governor to appoint an
9 ombudsman; requiring the ombudsman to be an attorney
10 admitted to practice before the Florida Supreme Court;
11 prohibiting the ombudsman and officers and full-time
12 employees of the office from holding certain
13 positions, engaging in certain activities, or
14 receiving certain remuneration; providing for the
15 principal location of the ombudsman's office;
16 authorizing the ombudsman to establish branch offices
17 under specified circumstances; specifying the powers
18 and duties of the ombudsman; providing for the
19 administration of an election monitoring process;
20 authorizing rulemaking for the division; providing
21 that a specified rule governs the administration of
22 election monitoring under certain circumstances;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 720.319, Florida Statutes, is created to
28 read:

29 720.319 Homeowners' association ombudsman.-

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(1) ADMINISTRATION; APPOINTMENT; LOCATION.—

(a) There is created an Office of the Homeowners' Association Ombudsman, to be located for administrative purposes within the Division of Florida Condominiums, Timeshares, and Mobile Homes. The functions of the office shall be funded by the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. The ombudsman shall be a bureau chief of the division, and the office shall be set within the division in the same manner as any other bureau is staffed and funded.

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

(c) The ombudsman shall maintain his or her principal office at a place convenient to the offices of the division which will enable the ombudsman to expeditiously carry out the

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59 duties and functions of his or her office. The ombudsman may
60 establish branch offices elsewhere in the state upon the
61 concurrence of the Governor.

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

65 (a) Having access to and use of all files and records of
66 the division.

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

69 (c) Preparing and issuing reports and recommendations to
70 the Governor, the department, the division, the President of the
71 Senate, and the Speaker of the House of Representatives on any
72 matter or subject within the jurisdiction of the division. The
73 ombudsman shall make recommendations he or she deems appropriate
74 for legislation relative to division procedures, rules,
75 jurisdiction, personnel, and functions.

76 (d) Acting as liaison between the division, parcel owners,
77 boards of directors, board members, community association
78 managers, and other affected parties. The ombudsman shall
79 develop policies and procedures to assist parcel owners, boards
80 of directors, board members, community association managers, and
81 other affected parties to understand their rights and
82 responsibilities as set forth in this chapter and the governing
83 documents of their respective associations. The ombudsman shall
84 coordinate and assist in the preparation and adoption of
85 educational and reference material, and shall endeavor to
86 coordinate with private or volunteer providers of these
87 services, so that the availability of these resources is made

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88 known to the largest possible audience.

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

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

99 (g) Providing resources to assist members of boards of
100 directors and officers of associations to carry out their powers
101 and duties consistent with this chapter, division rules, and the
102 governing documents of their associations.

103 (h) Encouraging and facilitating voluntary meetings between
104 parcel owners, boards of directors, board members, community
105 association managers, and other affected parties when the
106 meetings may assist in resolving a dispute within a homeowners'
107 association before a person submits a dispute for a formal or
108 administrative remedy. It is the intent of the Legislature that
109 the ombudsman act as a neutral resource for both the rights and
110 responsibilities of parcel owners, associations, and board
111 members.

112 (i) Assisting with the resolution of disputes between
113 parcel owners and the association or between parcel owners when
114 the dispute is not within the jurisdiction of the division to
115 resolve.

116 (j) Appointing an election monitor.

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117 (3) ELECTION MONITORING.—

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

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

127 (c) All costs associated with the election monitoring
128 process shall be paid by the association.

129 (d) The division may adopt a rule establishing procedures
130 for the appointment of election monitors and the scope and
131 extent of the monitor's role in the election process. If the
132 division does not adopt a rule, then, to the extent applicable,
133 rule 61B-23.00215, Florida Administrative Code, shall govern the
134 administration of election monitoring.

135 Section 2. This act shall take effect July 1, 2022.