

By Senator Garcia

36-00295-24

2024426__

1 A bill to be entitled
2 An act relating to community associations; creating s.
3 16.0151, F.S.; creating the Condominium Fraud
4 Investigation Pilot Program within the Department of
5 Legal Affairs in the Office of the Attorney General;
6 providing the purpose of the pilot program;
7 authorizing the department to contract with a private
8 entity to achieve the program's purpose; requiring the
9 department to hire specified personnel under certain
10 circumstances; authorizing the submission of
11 complaints to the Office of the Condominium Ombudsman;
12 requiring the ombudsman to review such complaints and
13 take specified actions; providing powers of and
14 requirements for the department relating to the pilot
15 program; requiring that the pilot program be funded
16 from the Division of Florida Condominiums, Timeshares,
17 and Mobile Homes Trust Fund; providing for future
18 repeal of the pilot program unless it is reviewed and
19 saved from repeal by the Legislature; amending s.
20 215.22, F.S.; exempting the Division of Florida
21 Condominiums, Timeshares, and Mobile Homes Trust Fund
22 from contributing to the General Revenue Fund;
23 amending s. 718.111, F.S.; requiring the division to
24 monitor condominium associations' compliance with
25 requirements relating to maintenance of certain
26 insurance or fidelity bonding of certain persons;
27 authorizing the division to issue fines and penalties
28 for noncompliance; creating s. 718.13, F.S.; requiring
29 the division to establish a searchable cloud-based

36-00295-24

2024426__

30 database by a specified date which contains specified
31 information regarding each condominium association in
32 this state; requiring a condominium association to
33 notify the division of any changes to the information
34 related to the association which is listed in the
35 database; requiring that the creation and
36 administration of the database be funded in part by
37 specified proceeds; amending s. 718.501, F.S.;

38 requiring the division to forward complaints received
39 alleging fraud or corruption to the Office of the
40 Condominium Ombudsman; amending s. 718.5012, F.S.;

41 revising the powers of the ombudsman; amending s.
42 718.509, F.S.; conforming a provision to changes made
43 by the act; making technical changes; creating s.
44 720.319, F.S.; creating the Office of the Homeowners'
45 Association Ombudsman within the Division of Florida
46 Condominiums, Timeshares, and Mobile Homes of the
47 Department of Business and Professional Regulation;

48 providing for funding of the office; directing the
49 Governor to appoint the ombudsman; requiring that the
50 ombudsman be an attorney admitted to practice before
51 the Florida Supreme Court; prohibiting the ombudsman,
52 officers, or full-time employees of the office from
53 holding certain positions, engaging in certain
54 activities, or receiving certain remuneration;

55 providing for the principal location of the
56 ombudsman's office; authorizing the ombudsman to
57 establish branch offices upon the concurrence of the
58 Governor; specifying the powers and duties of the

36-00295-24

2024426__

59 ombudsman; providing a process for monitoring
60 homeowners' association elections; providing for the
61 appointment of an election monitor to attend an annual
62 meeting of parcel owners and to conduct the election
63 of directors; requiring that an association subject to
64 election monitoring pay all costs associated with the
65 process; requiring the division to adopt rules;
66 providing an effective date.

67
68 Be It Enacted by the Legislature of the State of Florida:

69
70 Section 1. Section 16.0151, Florida Statutes, is created to
71 read:

72 16.0151 Condominium Fraud Investigation Pilot Program.—

73 (1) The Condominium Fraud Investigation Pilot Program is
74 created within the Department of Legal Affairs, Office of the
75 Attorney General. The purpose of the pilot program is to
76 investigate condominium-related fraud and corruption in this
77 state. The department may contract with a private entity that
78 employs retired law enforcement officers who have subject matter
79 expertise in financial fraud to achieve the purpose of the pilot
80 program. If the department does not contract with a private
81 entity, the department must hire a suitable number of financial
82 investigators, investigators with previous law enforcement
83 experience, and clerical employees to staff the pilot program.

84 (2) A person may submit a complaint to the Office of the
85 Condominium Ombudsman. The ombudsman shall review all complaints
86 submitted to the office and determine which complaints to
87 forward to the department for additional analysis and

36-00295-24

2024426__

88 investigation under the pilot program. If a complaint submitted
89 to the office does not contain allegations of fraud or
90 corruption, the ombudsman must forward the complaint to the
91 Division of Florida Condominiums, Timeshares, and Mobile Homes,
92 which shall investigate claims made pursuant to s. 718.501.

93 (3) The department has the power to issue subpoenas and
94 conduct audits for investigations in furtherance of the pilot
95 program, and may administer oaths, subpoena witnesses, and
96 compel the production of books, papers, or other records
97 relevant to such investigations. If, after reviewing a complaint
98 filed under the pilot program, the department finds sufficient
99 evidence for criminal prosecution, it must refer the case to the
100 appropriate state attorney for prosecution.

101 (4) The department shall fund the pilot program from the
102 Division of Florida Condominiums, Timeshares, and Mobile Homes
103 Trust Fund as specifically appropriated annually in the General
104 Appropriations Act.

105 (5) This section is repealed October 2, 2029, unless
106 reviewed and saved from repeal through reenactment by the
107 Legislature.

108 Section 2. Paragraph (w) is added to subsection (1) of
109 section 215.22, Florida Statutes, to read:

110 215.22 Certain income and certain trust funds exempt.—

111 (1) The following income of a revenue nature or the
112 following trust funds shall be exempt from the appropriation
113 required by s. 215.20(1):

114 (w) The Division of Florida Condominiums, Timeshares, and
115 Mobile Homes Trust Fund.

116 Section 3. Paragraph (h) of subsection (11) of section

36-00295-24

2024426__

117 718.111, Florida Statutes, is amended to read:

118 718.111 The association.—

119 (11) INSURANCE.—In order to protect the safety, health, and
120 welfare of the people of the State of Florida and to ensure
121 consistency in the provision of insurance coverage to
122 condominiums and their unit owners, this subsection applies to
123 every residential condominium in the state, regardless of the
124 date of its declaration of condominium. It is the intent of the
125 Legislature to encourage lower or stable insurance premiums for
126 associations described in this subsection.

127 (h) The association shall maintain insurance or fidelity
128 bonding of all persons who control or disburse funds of the
129 association. The insurance policy or fidelity bond must cover
130 the maximum funds that will be in the custody of the association
131 or its management agent at any one time. The division shall
132 monitor compliance with this paragraph and may issue fines and
133 penalties established by the division for failure of an
134 association to maintain the required insurance policy or
135 fidelity bond. As used in this paragraph, the term “persons who
136 control or disburse funds of the association” includes, but is
137 not limited to, those individuals authorized to sign checks on
138 behalf of the association, and the president, secretary, and
139 treasurer of the association. The association shall bear the
140 cost of any such bonding.

141 Section 4. Section 718.13, Florida Statutes, is created to
142 read:

143 718.13 Database for condominium association information.—

144 (1) By July 1, 2026, the division shall establish a
145 searchable cloud-based database that contains information

36-00295-24

2024426__

146 regarding each condominium association operating within this
147 state. The database must allow a user to search the name by
148 which a condominium property is identified to find the
149 association that governs such property. At a minimum, the
150 database must include all of the following information for each
151 association:

152 (a) The names, e-mail addresses, and other contact
153 information of officers and directors of the association.

154 (b) An indication that the association is self-managed, or,
155 if not self-managed, the contact information for any person
156 licensed under part VIII of chapter 468 and responsible for
157 management of the association.

158 (c) A copy of the association's governing documents,
159 including, but not limited to, declarations, bylaws, and rules
160 and any amendments thereto.

161 (d) A copy of the association's adopted annual budget, in a
162 file format that is compatible with the database, which includes
163 the amount and purpose of any monthly assessments and current or
164 pending special assessments levied by the association.

165 (e) A copy of any studies regarding funds in reserve
166 accounts held by the association or any reports regarding the
167 physical inspection of properties maintained by the association,
168 including any structural integrity reserve studies conducted
169 under s. 718.112(2)(g) of such properties.

170 (2) An association must notify the division of any changes
171 to the information related to the association which is included
172 in the database within 30 days after such changes occur.

173 (3) Expenses associated with the creation and
174 administration of the database must be funded in part by

36-00295-24

2024426__

175 proceeds from the annual fee paid by associations pursuant to s.
176 718.501(2) (a).

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

179 718.501 Authority, responsibility, and duties of Division
180 of Florida Condominiums, Timeshares, and Mobile Homes.—

181 (1) The division may enforce and ensure compliance with
182 this chapter and rules relating to the development,
183 construction, sale, lease, ownership, operation, and management
184 of residential condominium units and complaints related to the
185 procedural completion of milestone inspections under s. 553.899.
186 In performing its duties, the division has complete jurisdiction
187 to investigate complaints and enforce compliance with respect to
188 associations that are still under developer control or the
189 control of a bulk assignee or bulk buyer pursuant to part VII of
190 this chapter and complaints against developers, bulk assignees,
191 or bulk buyers involving improper turnover or failure to
192 turnover, pursuant to s. 718.301. However, after turnover has
193 occurred, the division has jurisdiction to investigate
194 complaints related only to financial issues, elections, and the
195 maintenance of and unit owner access to association records
196 under s. 718.111(12), and the procedural completion of
197 structural integrity reserve studies under s. 718.112(2)(g). If
198 the division receives a complaint about an association which
199 alleges fraud or corruption, the division must forward the
200 complaint to the Office of the Condominium Ombudsman pursuant to
201 s. 16.0151.

202 Section 6. Subsection (10) of section 718.5012, Florida
203 Statutes, is amended, and subsections (11) through (13) are

36-00295-24

2024426__

204 added to that section, to read:

205 718.5012 Ombudsman; powers and duties.—The ombudsman shall
206 have the powers that are necessary to carry out the duties of
207 his or her office, including the following specific powers:

208 (10) To appoint an election monitor to attend the annual
209 meeting of the unit owners and conduct the election of directors
210 if 15 percent of the total voting interests in a condominium
211 association, or six owners, whichever is greater, make such a
212 petition to the ombudsman. ~~Fifteen percent of the total voting~~
213 ~~interests in a condominium association, or six unit owners,~~
214 ~~whichever is greater, may petition the ombudsman to appoint an~~
215 ~~election monitor to attend the annual meeting of the unit owners~~
216 ~~and conduct the election of directors.~~ The ombudsman shall
217 appoint a division employee, a person or persons specializing in
218 condominium election monitoring, or an attorney licensed to
219 practice in this state as the election monitor. All costs
220 associated with the election monitoring process shall be paid by
221 the association. The division shall adopt a rule establishing
222 procedures for the appointment of election monitors and the
223 scope and extent of the monitor's role in the election process.

224 (11) To void an election if the ombudsman determines that a
225 violation of this chapter has occurred relating to condominium
226 elections.

227 (12) To petition the court to appoint a receiver if the
228 appointment of a receiver is in the best interests of the
229 association or owners.

230 (13) To issue subpoenas and conduct audits for
231 investigations for the purposes of the Condominium Fraud
232 Investigation Pilot Program established under s. 16.0151.

36-00295-24

2024426__

233 Section 7. Subsection (2) of section 718.509, Florida
234 Statutes, is amended to read:

235 718.509 Division of Florida Condominiums, Timeshares, and
236 Mobile Homes Trust Fund.—

237 (2) All moneys collected by the division from fees, fines,
238 or penalties or from costs awarded to the division by a court or
239 administrative final order must ~~shall~~ be paid into the Division
240 of Florida Condominiums, Timeshares, and Mobile Homes Trust
241 Fund. The Legislature shall appropriate funds from this trust
242 fund sufficient to administer ~~carry out the provisions of this~~
243 ~~chapter and the provisions of~~ law with respect to each category
244 of business covered by the trust fund. The division shall
245 maintain separate revenue accounts in the trust fund for each of
246 the businesses regulated by the division. The division shall
247 provide for the proportionate allocation among the accounts of
248 expenses incurred by the division in the performance of its
249 duties with respect to each of these businesses. As part of its
250 normal budgetary process, the division shall prepare an annual
251 report of revenue and allocated expenses related to the
252 operation of each of these businesses, which may be used to
253 determine fees charged by the division. ~~This subsection shall~~
254 ~~operate pursuant to the provisions of s. 215.20.~~

255 Section 8. Section 720.319, Florida Statutes, is created to
256 read:

257 720.319 Office of the Homeowners' Association Ombudsman.—

258 (1) ADMINISTRATION; APPOINTMENT; LOCATION.—

259 (a) There is created the Office of the Homeowners'
260 Association Ombudsman to be located, for administrative
261 purposes, within the Department of Business and Professional

36-00295-24

2024426__

262 Regulation. The functions of the office shall be funded by the
263 General Appropriations Act.

264 (b) The Governor shall appoint the ombudsman. The ombudsman
265 must be an attorney admitted to practice before the Florida
266 Supreme Court and shall serve at the pleasure of the Governor.
267 The ombudsman, an officer, or a full-time employee of the
268 ombudsman's office may not actively engage in any other business
269 or profession that directly or indirectly relates to or
270 conflicts with his or her work in the ombudsman's office; serve
271 as the representative or an executive, officer, or employee of
272 any political party, executive committee, or other governing
273 body of a political party; receive remuneration for activities
274 on behalf of any candidate for public office; or engage in
275 soliciting votes or other activities on behalf of a candidate
276 for public office. The ombudsman, an officer, or a full-time
277 employee of the ombudsman's office may not become a candidate
278 for election to public office unless he or she first resigns
279 from his or her office or employment.

280 (c) The ombudsman shall maintain his or her principal
281 office at a location convenient to the department, which will
282 enable the ombudsman to expeditiously carry out the duties and
283 functions of his or her office. The ombudsman may establish
284 branch offices elsewhere in this state upon the concurrence of
285 the Governor.

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

289 (a) Having access to and use of all files and records of
290 the division.

36-00295-24

2024426__

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

293 (c) Preparing and issuing reports and recommendations to
294 the Governor, the department, the President of the Senate, and
295 the Speaker of the House of Representatives on any matter or
296 subject within the jurisdiction of this chapter.

297 (d) Acting as a liaison between the department, parcel
298 owners, boards of directors, board members, community
299 association managers, and other affected parties. The ombudsman
300 shall develop policies and procedures to assist parcel owners,
301 boards of directors, board members, community association
302 managers, and other affected parties in understanding their
303 rights and responsibilities as set forth in this chapter and in
304 the governing documents of their respective associations. The
305 ombudsman shall coordinate and assist in the preparation and
306 adoption of educational and reference materials and shall
307 endeavor to coordinate with private or volunteer providers of
308 such services so that the availability of such resources is made
309 known to the largest possible audience.

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

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

36-00295-24

2024426__

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

324 (h) Encouraging and facilitating voluntary meetings between
325 parcel owners, boards of directors, board members, community
326 association managers, and other affected parties when the
327 meetings may assist in resolving a dispute within a homeowners'
328 association before a person submits a dispute for a formal or
329 administrative remedy. The ombudsman shall act as a neutral
330 resource for the rights and responsibilities of parcel owners,
331 associations, and board members.

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

335 (j) Appointing an election monitor.

336 (3) ELECTION MONITORING.—

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

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

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

348 (d) The division shall adopt rules establishing procedures

36-00295-24

2024426__

349 for the appointment of election monitors and the scope and
350 extent of the monitor's role in the election process.

351 Section 9. This act shall take effect July 1, 2024.