

By Senator Burgess

23-00321-25 2025120__

Ombudsman oversees elections and can refer illegal actions to the Division of Florida Condominiums, Timeshares, and Mobile Homes. But has no authority to enforce.
THIS BILL DOES NOT SOLVE THE HOA PROBLEMS.

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A bill to be entitled 1

An act relating to the homeowners' association 2

ombudsman; creating s. 720.319, F.S.; creating the 3

Office of the Homeowners' Association Ombudsman within 4

the Division of Florida Condominiums, Timeshares, and 5

Mobile Homes of the Department of Business and 6

Professional Regulation; providing for funding of the 7

office; directing the Governor to appoint the 8

ombudsman; requiring that the ombudsman be an attorney 9

admitted to practice before the Florida Supreme Court; 10

providing that the ombudsman serves at the pleasure of 11

the Governor; prohibiting the ombudsman and officers 12

and full-time employees of the office from holding 13

certain 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

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Be It Enacted by the Legislature of the State of Florida: 26

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Section 1. Section 720.319, Florida Statutes, is created to 28

read: 29

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THE OMBUDSMAN office as described here DOES NOT SOLVE THE PROBLEM. They have no
authority to do anything.

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720.319 Homeowners' association ombudsman.— 30

(1) ADMINISTRATION; APPOINTMENT; LOCATION.— 31

(a) There is created an Office of the Homeowners' 32

Association Ombudsman, to be located for administrative purposes 33

within the Division of Florida Condominiums, Timeshares, and 34

Mobile Homes. The functions of the office shall be funded by the 35
Division of Florida Condominiums, Timeshares, and Mobile Homes 36
Trust Fund. The ombudsman shall be a bureau chief of the office, 37
and the office shall be set within the division in the same 38
manner as any other bureau is staffed and funded. 39

(b) The Governor shall appoint the ombudsman. The ombudsman 40
must be an attorney admitted to practice before the Florida 41
Supreme Court and shall serve at the pleasure of the Governor. 42
The ombudsman, an officer, or a full-time employee of the 43
ombudsman's office may not actively engage in any other business 44
or profession that directly or indirectly relates to or 45
conflicts with his or her work in the ombudsman's office; serve 46
as the representative of any political party, executive 47
committee, or other governing body of a political party; serve 48
as an executive, officer, or employee of a political party; 49
receive remuneration for activities on behalf of any candidate 50
for public office; or engage in soliciting votes or other 51
activities on behalf of a candidate for public office. The 52
ombudsman, an officer, or a full-time employee of the 53
ombudsman's office may not become a candidate for election to 54
public office unless he or she first resigns from his or her 55
office or employment. 56

(c) The ombudsman shall maintain his or her principal 57
office at a place convenient to the offices of the division 58

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which will enable the ombudsman to carry out the duties and 59
functions of his or her office expeditiously. The ombudsman may 60
establish branch offices elsewhere in this 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, the authority to do any of the 65
following: 66

(a) Access and use all files and records of the division. 67

(b) Employ professional and clerical staff as necessary for 68
the efficient operation of the office. 69

(c) Prepare and issue reports and recommendations to the 70
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) Act 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 materials and shall endeavor to 86
coordinate with private or volunteer providers of these 87
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services, so that the availability of any such resource is made 88
known to the largest possible audience. 89

(e) Monitor and review procedures and disputes concerning 90
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) Make 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) Provide 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) Encourage and facilitate 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 that involves a 107
homeowners' association before a person submits a dispute for a 108
formal or administrative remedy. It is the intent of the 109
Legislature that the ombudsman act as a neutral resource for 110
both the rights and responsibilities of parcel owners, 111
associations, and board members. 112

(i) Assist with the resolution of disputes between parcel 113
owners and the association or between parcel owners when the 114
dispute is not within the jurisdiction of the division to 115
resolve. 116

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(j) Appoint an election monitor. 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

According to Meta AI:

“

Approximately 20-30 Homeowners Associations (HOAs) or Condominium Owners Associations (COAs) in Florida have over 10,000 members. Some notable examples include:

- The Villages (over 70,000 residents)
- On Top of the World (over 17,000 residents)
- The Meadows (over 13,000 residents)
- Kings Point (over 12,000 residents)
- Century Village (over 10,000 residents)

Keep in mind that these numbers are estimates and may have changed since the last available update.”

This bill would mean that a homeowner in an HOA with 10,000 members would need to find 1500 members that have the courage to risk their life savings and homes against the retaliation of a corrupt HOA Board, knowing that there is no government agency to protect them, and then convince those members that the elections are likely not to be one in concurrence with the laws and governing documents, and then get them to sign a petition. That is quite a burden to put on a homeowner that realizes that there is something going wrong with the election process.

Generally it is difficult to get more than 10% of the members of HOA to show up for elections.

Also, in a small HOA, say 10 members, with a 5 member board, there would be no legal way to get a the state to monitor the elections no matter how corrupt they were.

The above should read 10% of the members or 50 members, whichever is less. Getting 50 signatures is a reasonable task in large HOAs.

(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 this state as 126
the election monitor. 127

(c) All costs associated with the election monitoring 128

process must 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, must govern the 134

administration of election monitoring. 135

61B-23.00215 says:

"(4) The first notice of the date of the election, which is required to be mailed, electronically transmitted, or delivered not less than 60 days before a scheduled election, must contain the name and correct mailing address of the association."

If the ballots are mailed to the association, or the HOA attorney, or the HOA Property Manager, that means the Board has access to the votes before they are counted. The widespread problem is that a corrupt Board can then discard votes they don't want and even replace them with fake votes in their favor. They can also keep track of who voted for them and who voted against them to benefit them in upcoming elections, and to retaliate against those that voted against them.

The solution is that Homeowners should be allowed to vote electronically. The electronic voting system cannot be operated, licensed or in any way have any connection or affiliation with current board members, members of the HOA, property management company, HOA attorneys and or subsidiaries of any of the previous mentioned bodies.

No ballots from members should be sent to the HOA nor should any board members, other member, staff or employee have any access to the ballots before they are counted. The ballots should be mailed directly to the election company. No Board members, other members, staff or employees should have any access or participate in any way with the process of the elections or voting on issues or in any way shape or form in the processing of the election documents. This shall not be superseded by any governing documents in the declaration, bylaws, articles of incorporation or CCR's.

HRLNG (HOA REFORM LEADERS NATIONAL GROUP) has written a set of Fair Voting Laws for

HOAs that are more complete. Please see them at <https://www.hoareformleaders.com/>
Scroll down the page to #6, Fair Voting Laws, click on #6 and the page will auto-scroll down to the details.

Section 2. This act shall take effect July 1, 2025. 136