

HB 1259 – Division of Florida Condominiums, Timeshares, and Mobile Homes (Similar CS/CS/SB 610)

This bill amends s. 781.111, F.S., creating an **unranked, 3rd degree felony** for an officer, director, or manager knowingly soliciting, offering to accept, or accepting any thing or service of value or kickback for which consideration has not been provided for his or her own benefit or that of his or her immediate family, from any person providing or proposing to provide goods or services to the association.” Previously, any potential criminal penalty was referred to paragraph (d), the reference now deleted. Furthermore, an **unranked, 3rd degree felony** is created for “any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape.” It also adds that “a person who uses a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft under s. 812.014, F.S.” It originally had this act prosecuted as credit card fraud pursuant to s. 817.61, F.S.

Additionally, it deletes the following language under s. 781.111(1)(d), F.S.: “Forgery of a ballot envelope or voting certificate used in a condominium association election is punishable as provided in s. 831.01, F.S., the theft or embezzlement of funds of a condominium association is punishable as provided in s. 812.014, F.S., and the destruction of or the refusal to allow inspection or copying of an official record of a condominium association that is accessible to unit owners within the time periods required by general law in furtherance of any crime is punishable as tampering with physical evidence as provided in s. 918.13, F.S. or as obstruction of justice as provided in chapter 843.”

It also creates s. 718.129, F.S., adding multiple felonies for fraudulent voting activities relating to association elections, creating an **unranked, 3rd degree felony** for each of the following:

- willfully and falsely swearing or affirming any oath or affirmation, or willfully procuring another person to swear or affirm falsely to an oath or affirmation, in connection with or arising out of voting or elections
- perpetrating or attempting to perpetrate, or aiding in the perpetration of, any fraud in connection with any vote cast, to be cast, or attempted to be cast
- preventing an elector from voting, or preventing an elector from voting as the elector intended, by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the elector
- using bribery, menace, threat, or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter any elector in voting
- directly or indirectly giving or promising anything of value to another person with the intent to buy the vote of that person or another person or to corruptly influence that person or another person in casting his or her vote (with exceptions)

- directly or indirectly using or threatening to use force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel an individual to vote or refrain from voting in an election or on any particular ballot measure
- knowingly aiding, abetting, or advising a person in the commission of a fraudulent voting activity related to association elections
- agreeing, conspiring, combining, or confederating with at least one other person to commit a fraudulent voting activity related to association elections
- having knowledge of a fraudulent voting activity related to association elections and giving any aid to the offender with intent that the offender avoid or escape detection, arrest, trial, or punishment.

Per DOC, in FY 17-18 there were 549 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 817.61, F.S., with 54 (adj.) of these offenders sentenced to prison (mean sentence length=35.9 m, incarceration rate: 9.8% adj-9.8% unadj). By moving this to s. 812.014, F.S., this increases the minimum threshold for this felony from \$100 to \$300, while also removing the requirement that it be used more than two times in a six month period when under the \$100 threshold.

Per DOC, in FY 17-18 there were 199 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 831.01, F.S., with 21 (adj.) of these offenders sentenced to prison (mean sentence length=26.2 m, incarceration rate: 10.6% adj-10.8% unadj).

Per DOC, in FY 17-18 there were 10,351 (adj.) offenders sentenced for the Level 2, 3rd degree felony under s. 812.014, F.S., with 1,131 (adj.) of these offenders sentenced to prison (mean sentence length=25.7 m, incarceration rate: 10.9% adj-10.9% unadj). For the Level 3, 3rd degree felony, there were 334 (adj.) offenders sentenced, with 33 (adj.) of these offenders sentenced to prison (mean sentence length=25.1 m, incarceration rate: 9.9% adj-9.9% unadj). There were 506 (adj.) offenders sentenced for the Level 4, 3rd degree felony, with 110 (adj.) of these offenders sentenced to prison (mean sentence length=26.7 m, incarceration rate: 21.7% adj-21.8% unadj). There were 420 (adj.) offenders sentenced for the Level 6, 2nd degree felony, with 119 (adj.) of these offenders sentenced to prison (mean sentence length=34.7 m, incarceration rate: 28.3% adj-28.3% unadj). Finally, there were 8 (adj.) offenders sentenced for the Level 7, 1st degree felony, with 4 (adj.) of these offenders sentenced to prison (mean sentence length=155.8 m, incarceration rate: 50.0% adj-57.1% unadj).

Per DOC, in FY 17-18 there were 742 (adj.) offenders sentenced for the Level 3, 3rd degree felony under s. 918.13, F.S., with 82 (adj.) of these offenders sentenced to prison (mean sentence length=32.3 m, incarceration rate: 11.1% adj-11.0% unadj). It is not known what felonies under Chapter 843 would be used in the acts described in s. 781.111(1)(d), F.S.

Per DOC, in FY 17-18, 24 (adj.) offenders were sentenced under s. 838.015, F.S. (Level 7, 2nd degree felony), involving bribery of a public servant, and 9 (adj.) were sentenced to prison (mean sentence length=29.9 m, incarceration rate: 37.5% adj.-36.4% unadj.). Nobody was sentenced under s. 836.12, F.S. (unranked, 3rd degree felony), for a

second or subsequent act of threatening a public official with death or serious bodily harm.

Per DBPR, in FY 17-18, there were 3,405 condominium complaints received statewide, with 214 of these allegations recommended for arbitration, 368 with the association brought into compliance, and 18 recommended for administrative action.

In FY 17-18, the incarceration rate for an unranked, 3rd degree felony was 8.7%.

CONFERENCE ADOPTED ESTIMATE: Positive Insignificant

Requested by: Senate