

Criminal Sanctions for Violations by Condominium Board Members

The Florida Senate [recently passed a bill](#) that imposes criminal sanctions on condominium association board members for a number of violations, including electoral fraud, the alteration, withholding and/or removal of condominium documents for the purpose of committing fraud, as well as kickbacks, misuse of condominium credit cards and theft of condominium funds. The bill was intended to address widespread problems in Florida's condominium communities which were highlighted recently in both [the media](#) and in a [Grand Jury report](#).

A joint investigation conducted by a Spanish language newspaper and television station resulted in the publication of a news series entitled "Condo Nightmares" which revealed extensive electoral irregularities and fraud, conflicts of interest, bribes and kickbacks, misappropriation of condo funds and failure/refusal to provide condominium records to unit owners.

A [Grand Jury report](#) entitled "*Addressing Condo Owners Pleas for Help: Recommendations for Legislative Action*", indicated that there were three major areas of concern: failure to provide records, conflicts of interests in the awarding of contracts, and election fraud. The Grand Jury noted that under the existing condominium legislation, rogue directors who engaged in such conduct were not personally accountable for their actions.

"Because the condominium laws and regulations lack "teeth", bad directors, management companies and associations have become emboldened in their wilful refusal to abide by and honor existing laws in this area. They even engage in fraudulent activity which goes unpunished."

That report also concluded that the government agency responsible for dealing with condominium complaints and enforcement of the legislation was perceived to be ineffective and plagued with "delay and inaction".

While the criminal sanctions will definitely provide the legislation with more teeth to address board member wrongdoings, critics of the bill fear that the criminal penalties will discourage owners from running for the board as board membership is an unpaid volunteer position.

The bill needs to be approved by Florida's Governor and if approved, is expected to become law on July 1, 2017.