

By Senator Rader

29-00974-18

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1 A bill to be entitled
2 An act relating to bullying and harassment in
3 community associations; providing a short title;
4 providing applicability; providing definitions;
5 providing association requirements relating to the
6 prohibition of bullying and harassment; providing
7 civil penalties; providing immunity to certain persons
8 from certain causes of action for damages; providing
9 legislative intent; providing an effective date.

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

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13 Section 1. (1) This section may be cited as the "Stand Up
14 for Seniors Act."

15 (2) This section applies only to condominium and
16 homeowners' associations intended and operated for occupancy by
17 persons 55 years of age or older which meet the following
18 requirements:

19 (a) At least 80 percent of the occupied units or parcels
20 are occupied by at least one person 55 years of age or older.

21 (b) The condominium or homeowners' association publishes
22 and adheres to policies and procedures that demonstrate the
23 intent required under this paragraph. If the association meets
24 the requirements of paragraphs (a) and (c) and the recorded
25 governing documents provide for an adult, senior, or retirement
26 housing facility or community and the governing documents lack
27 an amendatory procedure, prohibit amendments, or restrict
28 amendments until a specified future date, then that housing
29 facility or community shall be deemed housing for older persons

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30 intended and operated for occupancy by persons 55 years of age
31 or older. If those documents further provide a prohibition
32 against residents 16 years of age or younger, that provision
33 must be construed, for purposes of the Fair Housing Act, to only
34 apply to residents 18 years of age or younger, in order to
35 conform with federal law requirements. Governing documents that
36 can be amended at a future date must be amended and properly
37 recorded within 1 year after that date to reflect the
38 requirements for consideration as housing for older persons, if
39 that housing facility or community intends to continue as
40 housing for older persons.

41 (c) The association complies with rules promulgated by the
42 Secretary of the United States Department of Housing and Urban
43 Development pursuant to 24 C.F.R. part 100 for verification of
44 occupancy, which rules provide for verification by reliable
45 surveys and affidavits and include examples of the types of
46 policies and procedures relevant to a determination of
47 compliance with the requirements of paragraph (b). Such surveys
48 and affidavits are admissible in administrative and judicial
49 proceedings for the purposes of such verification.

50 (3) For purposes of this section:

51 (a) "Bullying" means intimidation or harassment that causes
52 a reasonable person to fear for his or her physical safety or
53 property and may consist of physical actions including gestures,
54 cyberbullying, oral, electronic, or written communication, or
55 any threat of retaliation for reporting of such acts. The term
56 includes reporting an act of bullying or harassment that is not
57 made in good faith and is retaliatory in nature.

58 (b) "Cyberbullying" means bullying through the use of

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59 technology or any electronic communication, which includes, but
60 is not limited to, any transfer of signs, signals, writing,
61 images, sounds, data, or intelligence of any nature transmitted
62 in whole or in part by a wire, radio, electromagnetic system,
63 photoelectronic system, or photooptical system, including, but
64 not limited to, electronic mail, Internet communications,
65 instant messages, or facsimile communications. Cyberbullying
66 includes the creation of a webpage or weblog in which the
67 creator assumes the identity of another person, or the knowing
68 impersonation of another person as the author of posted content
69 or messages, if the creation or impersonation creates any of the
70 conditions enumerated in the definition of bullying.
71 Cyberbullying also includes the distribution by electronic means
72 of a communication to more than one person or the posting of
73 material on an electronic medium that may be accessed by one or
74 more persons, if the distribution or posting creates any of the
75 conditions enumerated in the definition of bullying.

76 (c) "Harassment" means any racist, threatening, insulting,
77 or dehumanizing gesture, use of data or computer software, or
78 written, verbal, or physical conduct that has the effect of
79 substantially interfering with or disrupting a member's
80 opportunities, peaceful enjoyment of his or her home or the
81 association common areas, or association benefits. The term
82 includes reporting an act of bullying or harassment that is not
83 made in good faith and is retaliatory in nature.

84 (4) Associations must adopt, and review at least every 3
85 years, a policy prohibiting bullying and harassment. The policy
86 must ensure association members do not subject others to fear or
87 intimidation. The policy must afford all members the same

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88 protections. The association policy must contain the following:

89 (a) A statement prohibiting bullying and harassment.

90 (b) Definitions of bullying and harassment that conform to
91 the definitions in this section.

92 (c) A description of the type of behavior expected from
93 each association member.

94 (d) A requirement that the association investigate any
95 reported act of bullying or harassment.

96 (e) The penalties, under paragraph (h), for a person who
97 commits an act of bullying or harassment or who has wrongfully
98 and intentionally accused another of an act of bullying or
99 harassment.

100 (f) A procedure for receiving reports of an alleged act of
101 bullying or harassment, including provisions that permit a
102 person to anonymously report such an act. A disciplinary action
103 may not be based solely on an anonymous report.

104 (g)1. A procedure for the prompt investigation of a report
105 of bullying or harassment and the persons responsible for the
106 investigation. The investigation of a reported act of bullying
107 or harassment is deemed to be a housing-related activity and
108 must be initiated with a report of such an act. Incidents that
109 require a reasonable investigation when reported to appropriate
110 association authorities must include alleged incidents of
111 bullying or harassment.

112 2. A process to investigate whether a reported act of
113 bullying or harassment is within the scope of the association
114 and a process for referral of acts not within such scope to the
115 appropriate jurisdiction.

116 (h) After the association completes its investigation, it

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117 shall submit its findings to the local ombudsman who shall, upon
118 a finding of a violation or a finding that a member has
119 wrongfully and intentionally accused another of an act of
120 bullying or harassment:

121 1. Provide a written warning to the member upon a finding
122 of a first offense.

123 2. Require the member to complete an anger management
124 treatment program upon a finding of a second offense.

125 3. Impose a \$100 fine upon a finding of a third or
126 subsequent offense.

127 (5) An association member or companion of that member who
128 promptly reports in good faith an act of bullying or harassment
129 to the appropriate housing official designated in the
130 association's grievance committee or board of directors, and who
131 makes this report in compliance with the procedures set forth in
132 the policy, is immune from a cause of action for damages arising
133 out of the reporting itself or any failure to remedy the
134 reported incident.

135 (6) This section is not intended to abridge the rights
136 protected by the First Amendment to the Constitution of the
137 United States.

138 Section 2. This act shall take effect July 1, 2018.