

**61B-21.001 Definitions and Purpose.**

(1) Definitions. For the purposes of this rule chapter, the following definitions shall apply:

(a) “Accepted complaint” means a complaint received by the division from someone with standing to file a complaint, containing sufficient documentation which addresses and addressing a subject within the jurisdiction of the division, under pursuant to Section 718.501(1), F.S., and which meets the following criteria:

1. It must allege a violation of Chapter 718, F.S., or the division’s rules;

2. It must contain a plain statement of specific facts upon which the complainant bases the allegation that a violation of Chapter 718, F.S. or a rule occurred. A complaint that merely recites the statutes or is based on mere suspicion or speculation, without a plain statement of facts clearly describing what is alleged to have occurred, will not be accepted; and

3. It must contain sufficient evidentiary documentation to support the complaint. A complaint received by the division that fails to meet the above criteria will be returned to the complainant with an explanation as to why it was not accepted with suggestions as to how the complaint may be made acceptable, and resubmitted.

(b) “Affirmative or corrective action” means putting remedial procedures in place to ensure that the violation does not recur, making any injured person whole as to the harm suffered in relation to the violation, or taking any other appropriate measures to redress the harm caused.

(c) “Alleged repeated violation” means ~~any accepted complaint~~ for the same or substantially similar recurring conduct cited in an accepted complaint received by the

division within two years from the resolution of a previous complaint regarding that conduct. A violation is a repeated violation if the same alleged statutory or rule violation was charged in an arbitration in which an enforceable order of an arbitrator was entered finding it a violation, or if the division entered a final enforceable order finding it a violation.

(d) “Association,” for purposes of these guidelines, shall have the same meaning as stated in Section 718.103(2), F.S.

(e) “Bad check” means any worthless check, draft, or order of payment identified under Section 68.065, F.S.

(f) “Jurisdiction” means that the division has complete authority to investigate complaints and enforce compliance with the provisions of Chapter 718 with respect to associations that are still under developer control and complaints against developers involving improper turnover or failure to turnover, pursuant to section 718.301, F.S. However, pursuant to subsection 718.501(1), F.S., after turnover has occurred, the division shall only have authority to investigate complaints related to financial issues, elections, and unit owner access to association records pursuant to subsection 718.111(12), F.S. Issues related to access to records include association maintenance of records. A financial issue means an allegation that: involves the maintenance or accuracy of accounting records; assessments, including the process by which assessments are imposed; budgets, including the budget preparation and adoption process; reserves and the use of such reserves for their proper purpose; financial reporting; and use of association funds.

(g) “Standing” means that the complaining party has a substantial interest in the outcome. A party seeking to demonstrate standing must be able to show the sufficient connection to and harm from the violation alleged.

(2) Purpose. The purpose of the ~~penalty resolution~~ guidelines is to implement the division’s responsibility to ensure compliance with the provisions of Chapter 718, F.S., and the division’s administrative rules. The division recognizes that unit owner controlled associations are comprised of volunteer members who, in most circumstances, are lay people without specialized knowledge of the complex statutory and administrative rule structure of Chapter 718, F.S. Based upon this understanding, the division, as set forth in these rules, will first and foremost attempt to seek statutory and rule compliance through an educational resolution. For repeated statutory or rule violations, where the violations have not been corrected or otherwise resolved by the association, the division will seek statutory or rule compliance through an enforcement resolution. The guidelines are also intended to implement the division’s statutory authority to give reasonable and meaningful notice to persons regulated by Chapter 718, F.S., and the administrative rules of the range of penalties that normally will be imposed if an enforcement resolution is taken by the division. Finally, the rules are intended, pursuant to statutory mandate, to distinguish between minor and major violations based upon the potential harm that the violation may cause.

(3) NO CHANGE

*Rulemaking Authority 718.501(1)(d)~~6.4.~~, (f) FS. Law Implemented 718.501(1)(d)~~6.4.~~ FS. History—New 6-4-98, Amended\_\_\_\_\_.*

**61B-21.002 Educational Resolution.**

(1) and (2) NO CHANGE

(3) Alleged Repeated Minor Violations. A subsequent accepted complaint directed at the same association involving a possible violation identified as minor in these guidelines, will be resolved as follows:

(a) If, based on the complaint, the division has reasonable cause to believe that a statutory or rule violation may have occurred, a Warning Letter will be sent to the association. The Warning Letter will give the association 14 calendar days in which to address, correct, or dispute the violation. The Warning Letter will identify the violation, and provide a contact telephone number and an investigator's name so that the association may contact the division for educational assistance or an educational conference in obtaining compliance. However, it is solely the responsibility of the association to take action, when applicable, to achieve statutory or rule compliance. Failure to respond to a Warning Letter, or take affirmative or corrective action as requested by the division, may lead to enforcement resolution ~~further investigation~~. The Warning Letter shall not be considered final agency action.

(b) If the division, through enforcement resolution, issues a notice to show cause, the division will notify the association of its right to a hearing under Chapter 120, F.S.

(c) The division will notify the complainant of the resolution of the complaint, or if applicable, alternative dispute resolution options.

(4) Alleged Major Violations. An initial accepted complaint, directed at an association and involving a possible violation identified as major in these guidelines, will be resolved as follows:

(a) If based on the complaint, the division has reasonable cause to believe that a statutory or rule violation may have occurred, a Warning Letter will be sent to the

association. The Warning Letter will give the association 14 calendar days in which to address, correct, or dispute the violation. The Warning Letter will identify the violation, and provide a contact telephone number and an investigator's name so that the association may contact the division for educational assistance or an educational conference in obtaining compliance. However, it is solely the responsibility of the association to take action, when applicable, to achieve statutory or rule compliance. Failure to respond to a Warning Letter, or take affirmative or corrective action as requested by the division, ~~may~~ will lead to enforcement resolution. ~~further investigation.~~ The Warning Letter shall not be considered final agency action.

(b) If the division, through enforcement resolution, issues a notice to show cause, the division will notify the association of its right to a hearing under Chapter 120, F.S.

(c) The division will notify the complainant of the resolution of the complaint, or if applicable, alternative dispute resolution options.

*Rulemaking Authority 718.501(1)(d)~~6.4~~, (f) FS. Law Implemented 718.501(1)(a),(d)~~6.4~~, (j)~~(k)~~ FS. History—New 6-4-98, Amended \_\_\_\_\_.*

### **61B-21.003 Enforcement Resolution and Penalty Guidelines ~~Civil Penalties.~~**

(1) The division will seek compliance through ~~an enforcement resolution~~ for repeated minor or major violations, or for the failure to correct or address a violation or provide unit owner redress as requested by the division. If the division seeks compliance through enforcement action, the division will issue a notice to show cause and notify the association of its right to a hearing under Chapter 120, F.S. These guidelines list aggravating and mitigating factors that will ~~reduce or increase the listed penalty amounts within the specified range and those circumstances that justify a departure from the~~

~~guideline range~~. No aggravating factors will be applied to increase a penalty for a single violation above the statutory maximum of \$5,000. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty. Nothing in this rule chapter shall limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, settlement agreement, or consent order.

(2) General Provisions.

(a) NO CHANGE

(b) Violations Included. This rule chapter applies to all statutory and rule violations subject to a penalty authorized by Chapter 718, F.S. An enforceable arbitration order finding a statutory or rule violation constitutes a violation for purposes of this rule chapter and shall count as a violation when determining whether a violation has been repeated.

(c) - (d) NO CHANGE

(3) Aggravating and Mitigating factors. The division will consider aggravating and mitigating factors in determining penalties for both minor and major violations listed in this rule chapter. ~~The factors are not necessarily listed in order of importance, and they~~ shall be applied against each single count of the listed violation.

(a) Aggravating factors:

<u>No.</u>	<u>Description</u>	<u>Value</u>
1.	Filing or causing to be filed any materially incorrect document in response to any division request or subpoena.	<u>3</u>
2.	Financial loss to parties or persons affected by the violation.	<u>3</u>

3.	Financial gain to parties or persons <u>responsible for</u> <del>who perpetrated the</del> violation	<u>3</u>
4.	The disciplinary history of the association, including <u>actions</u> <del>such action</del> resulting in <del>an</del> enforcement <del>resolution</del> as detailed in Rule 61B-21.003, F.A.C., or Section 718.501, F.S.	<u>2</u>
5.	The violation caused substantial harm, <del>or has potential to cause</del> <u>substantial harm to unit owner's condominium residents</u> or other persons or entities.	<u>2</u>
<del>6.</del>	<del>Undue delay in initiating or completing, or failure to take, affirmative or corrective action after the association received the division's written notifications of the violation.</del>	
<del>6.7.</del>	The violation <del>had</del> occurred for a long period of time.	<u>2</u>
<del>7.8.</del>	The violation was repeated within <u>2 years</u> <del>a short period of time.</del>	<u>2</u>
<del>8.9.</del>	The association impeded the division's investigation or authority.	<u>1</u>
10.	<del>The investigation involved the issuance of a notice to show cause or other proceeding.</del>	

(b) Mitigating factors:

<u>No.</u>	<u>Description</u>	<u>Value</u>
<del>1.</del>	<del>Whether current members of the association board have sought and received educational training, other than information provided pursuant to Rule 61B-21.002, F.A.C., on the requirements of Chapter 718, F.S., within the past two years.</del>	
<del>2.</del>	<del>Reliance on written professional or expert counsel and advice.</del>	
<del>1.3.</del>	The violation or harm was related to a natural or manmade disaster(s)..	<u>3</u>
<u>2.</u>	<u>Financial hardship to respondent.</u>	<u>3</u>
<del>3.4.</del>	The violation caused no harm to <u>unit owner's condominium residents</u> or other persons or entities.	<u>3</u>
<u>4.</u>	<u>The violation occurred despite reliance on written professional or expert</u>	<u>2</u>

	<u>counsel and advice.</u>	
5.	The association took affirmative or corrective action before it received the division's written notification of the violation.	<u>2</u>
6.	The association expeditiously took affirmative or corrective action after it received the division's written notification of the violation.	<u>1</u>
7.	The association cooperated with the division during the investigation.	<u>1</u>
8.	<del>The investigation was concluded through consent proceedings.</del>	

(c) Application. When applying aggravating or mitigating factors, the value of each applicable factor shall be multiplied by one tenth (1/10) of the specified penalty for the violation. In the case of a mitigating factor, the resulting product shall be subtracted from the specified penalty. In the case of an aggravating factor, the resulting product shall be added to the specified penalty. However, the maximum calculated penalty for a single violation may not exceed \$5,000, and the minimum calculated penalty for a single violation shall not be less than one tenth (1/10) of the specified penalty for that violation. For example: if the specified penalty for a violation were \$1,000, and the association had relied on written professional or expert counsel and advice, then two tenths would be subtracted in mitigation and the resulting penalty would be \$800.

(4) – (6) NO CHANGE

(7) Penalties.

(a) Minor Violations. The following violations shall be considered minor due to their lower potential for public harm. If an enforcement resolution is utilized, the division shall impose a civil penalty of \$2.50 ~~between \$1 and \$5~~, per unit, for each minor violation. The penalty will be assessed ~~beginning with the middle of the specified range~~

and adjusted either up or down based upon any accepted aggravating or mitigating factors submitted with proper documentation.. ~~An occurrence of six or more aggravating factors or five or more mitigating factors will result in a penalty being assessed outside of the specified range.~~ The total minimum penalty to be assessed shall be calculated according to these guidelines or \$100, whichever amount is greater. Finally, in no event shall a penalty of more than \$2,500 be imposed for a single violation. The following are identified as minor violations:

No.	Category	Statute or Rule Cite	Description of Conduct/Violation
<u>1.</u>	<u>Assessments</u>	<u>718.116(8), F.S.</u>	<u>Failure to provide or timely provide a certificate stating assessments owed by the unit.</u>
	<del>Board</del>	<del>718.110(1)(b), FS. 718.112(2)(h)2., F.S.</del>	<del>Failure of amendment to declaration or bylaws to contain full text showing underlined or language; etc.</del>
	<del>Board</del>	<del>718.111(1)(a), F.S.</del>	<del>Failure to maintain corporate status of association.</del>
	<del>Board</del>	<del>718.111(1)(b), F.S.</del>	<del>Improper use of secret ballot, or use of proxy, by board members at a board meeting.</del>
	<del>Board</del>	<del>718.112(2)(a)2., F.S.</del>	<del>Failure to provide a timely or substantive response to a written inquiry received by certified mail.</del>
	<del>Board</del>	<del>718.112(2)(b)1., F.S.</del>	<del>Improper quorum at unit owner meeting.</del>
	<del>Board</del>	<del>718.112(2)(b)2., F.S.</del>	<del>Failure of proxy to contain required elements.</del>
<u>2.</u>	Board	718.112(2)(c), F.S. <del>61B-23.002(9); F.A.C.</del>	Failure to properly notice and conduct board of administration or committee meetings; <u>Notice notice</u> failed to indicate assessment would be considered; <u>Failure failure</u> to maintain affidavit by person who gave notice of special assessment meeting; <u>Failure failure</u> to ratify emergency action at next meeting; <u>failure to adopt a rule regarding posting of notices;</u> <u>Failure failure</u> to notice meeting; <u>non-emergency action taken at board meeting, not on agenda; no meeting agenda; failure to allow unit owners to speak at meeting or speech is limited to less than three</u>

			minutes.
	Board	718.112(2)(d)2., F.S.	Failure to provide notice of the annual meeting not less than 14 days prior to the meeting. Failure to include agenda. Failure to maintain affidavit by person who gave notice of annual meeting. Failure to adopt a rule designating a specific place for posting notice of unit owner meetings.
	Board	718.112(2)(d)4., F.S.	Failure to hold a unit owner meeting to obtain unit owners' approval when written agreements are not authorized.
	Board	718.112(2)(i), F.S.	Failure to have the authority in the documents when levying transfer fees or security deposits.
	Board	718.113(5), F.S.	Failure to comply with hurricane shutter requirements.
	Board	718.116(3), F.S.	Failure to have the authority in the documents when levying late fees.
3.	Board	718.3026(1), F.S.	Failure to obtain competitive bids on contracts that exceed five percent of the association's budget.
	Board	718.303(3), F.S.	Failure to have the authority in the documents when levying fines. Failure to provide proper notice of fines.
	Board	61B-23.001(2), F.A.C.	Failure to allow unit owners to attend board or committee meetings.
	Board	718.112(2)(b)5., F.S.	Failure to provide a speaker phone for board or committee meetings held by teleconference.
	Board	61B-23.001(4), F.A.C.	Failure to employ a licensed manager when licensure is required.
	Board	61B-23.002(10), F.A.C.	Failure to permit a unit owner to tape record or video tape meetings.
	Board	61B-23.0021(1)(d), F.A.C. 718.112(2)(D)(8), F.S.	Failure to fill vacancy properly.

<u>4.</u>	Budgets	718.112(2)(e), F.S.	Failure to timely notice budget meeting. Failure to timely deliver proposed budget. <del>Failure of board to call a unit owners' meeting to consider alternate budget.</del>
	<del>Budgets</del>	<del>718.112(2)(f)1., F.S.</del>	<del>Failure to include applicable line items in proposed budget.</del>
<u>5.</u>	Budgets	718.112(2)(f)1., F.S. 61B-22.003(5), F.A.C.	<del>Failure to include a schedule of limited common element expenses in budget. Failure to show limited common element expenses in proposed budget.</del>
<u>6.</u>	Budgets	61B-22.003(1)(b), F.A.C.	Failure to disclose the beginning and ending dates of the period covered by the proposed budget.
<u>7.</u>	Budgets	61B-22.003(1)(c), F.A.C.	Failure to disclose periodic assessments for each unit <u>type in the</u> proposed budget.
	<del>Budgets</del>	<del>61B-22.003(1)(d), F.A.C.</del>	<del>Failure to propose full reserve funding in proposed budget.</del>
	<del>Budgets</del>	<del>61B-22.003(1)(e), (f), (g), F.A.C. 61B-22.005(1), F.A.C.</del>	<del>Failure to provide for funding of one or more reserve fund categories in the proposed budget</del>
	<del>Budgets</del>	<del>61B-22.003(4)(a), F.A.C.</del>	<del>Failure to provide the required separate proposed budget for each condominium operated by the association.</del>
	Elections	718.112(2)(d)3., F.S. 61B-23.0021(3), F.A.C.	Improper nomination procedures in election.
	Elections	718.112(2)(d)3., F.S. 61B-23.0021(5), F.A.C.	<del>Including candidate who did not submit timely notice of candidacy.</del>
	Elections	61B-23.0021(6), F.A.C.	<del>Failure to provide candidate a receipt for written notice of intent to be a candidate.</del>
<u>8.</u>	Elections	61B-23.0021(8), (10), F.A.C.	Counting ballots not cast in inner and outer envelopes. Failure to provide space for name, <u>unit number</u> , and signature on outer envelope.
	Elections	61B-23.0021(10)(c), F.A.C.	<del>Failure to timely hold runoff election.</del>
<u>9.</u>	<u>Elections</u>	<u>61B-23.0021(9), F.A.C.</u>	<u>Ballot does not list candidates alphabetically.</u>

<u>10.</u>	<u>Elections</u>	<u>61B-23.0021(10)(b), F.A.C..</u>	<u>Outer envelope information verified before the date of the election.</u>
	<del>Records</del>	<del>718.111(1)(b), F.S.</del>	<del>Failure of minutes to reflect how board members voted at board meeting. Failure to record a vote or an abstention in the minutes for each board member present at the board meeting.</del>
<u>11.</u>	Records	718.111(12)(a)2., F.S.	Failure to maintain a copy of recorded declaration and amendments.
<u>12.</u>	Records	718.111(12)(a)3., F.S.	Failure to maintain a copy of recorded bylaws and amendments.
<u>13.</u>	Records	718.111(12)(a)4., F.S.	Failure to maintain a certified copy of articles of incorporation and amendments.
<u>14.</u>	Records	718.111(12)(a)7., F.S.	Failure to maintain a current <u>complete</u> unit owner roster. <del>Failure of roster to include all elements.</del>
<u>15.</u>	Records	718.111(12)(a)14., F.S. 61B-23.002(7)(a), F.A.C.	Failure to maintain or annually update the question and answer sheet.
<u>16.</u>	Records	718.111(12)(a)15., F.S.	Failure to maintain other association records related to the operation of the association.
	<del>Records</del>	<del>718.111(12)(b),(c), F.S.</del>	<del>Failure to provide access to records.</del>
	<del>Records</del>	<del>61B-22.003(3), F.A.C.</del>	<del>Failure of budget meeting minutes to reflect adoption of the proposed budget.</del>
<u>17.</u>	Records	61B-23.003(6), F.A.C.	Failure to maintain copy of the receipt for delivery of association records <u>by the developer upon transfer of control.</u>
	<del>Reporting</del>	<del>718.111(13), F.S.</del>	<del>Failure to timely provide the annual financial report.</del>
<u>18.</u>	Reporting	61B-22.006(3)(a)5.,6. F.A.C.	<u>Failure to disclose the amount required to fully fund each reserve account as of the end of the fiscal period covered by the annual financial statements; and the manner by which reserve items were estimated and/or the date the estimates were last made in the annual financial statements or turnover audit.</u> <del>Failure to</del>

			<del>disclose in the year-end financial statements the manner by which reserve items were estimated and/or the date the estimates were last made.</del>
<u>19.</u>	Reporting	61B-22.006(3)(b),(e), F.A.C.	<del>Failure to <u>improper disclosure in the year-end financial statements of method of allocating revenues and expenses in the annual financial statements or turnover audit.</u> Improper special assessment disclosures in the year-end financial statements.</del>
	Reporting	61B-22.006(3)(d), F.A.C.	<del>Improper disclosure in the year-end financial statements of revenues and expenses related to limited common elements.</del>
	Reporting	61B-22.006(4), F.A.C.	<del>Improper multi-condominium reserve fund disclosures in the year-end financial statements. Multi-condominium revenues, expenses, and changes in fund balance not shown for each condominium in the year-end financial statements. Disclosure of multi-condominium revenues/expenses for the association not specific to a condominium, is omitted, or is incomplete in the year-end financial statements.</del>
<u>20.</u>	Reporting	61B-22.006(5), F.A.C.	<del>Failure to show developer assessments separately from other assessment revenues in the annual financial report (statement).</del>
	Reporting	61B-22.006(3)(a), F.A.C.	<del>Failure to include the required reserve fund disclosures in the annual financial report.</del>
	Reporting	61B-22.006(6)(b), F.A.C.	<del>Improper disclosure of receipts and expenditures in the annual financial report in a multi-condominium association.</del>

(b) Major Violations. The following violations shall be considered major due to their increased potential for public harm. If an enforcement resolution is utilized, the penalty will be assessed beginning with the middle of the specified range and adjusted either up or down based upon any accepted aggravating or mitigating factors submitted with proper documentation.. An occurrence of six or more aggravating factors

or five or more mitigating factors will result in a penalty being assessed outside of the specified range. The total minimum penalty to be assessed shall be calculated according to these guidelines or \$100, whichever amount is greater. ~~Finally, In in~~ no event shall a penalty of more than \$5,000 be imposed for a single violation. The penalties are set forth in levels categories 1 and 2, for each violation as follows:

Level Category 1: ~~\$8~~ \$6—\$10 per unit.

Level Category 2: ~~\$16~~ \$12—\$20 per unit.

No.	Category	Statute or Rule Cite	Description of Conduct/Violation	Suggested Penalty Level
<u>1.</u>	Accounting Records	718.111(12)(a)11., F.S. 61B-22.002, F.A.C.	<del>Insufficient or incomplete accounting records. Insufficient detail in the accounting records. Failure to maintain sufficient accounting records.</del>	2
<u>2.</u>	<u>Accounting Records</u>	<u>718.111(12)(a)11., F.S.</u>	<u>Failure to maintain separate accounting records for each condominium.</u>	<u>2</u>
<u>3.</u>	Assessing	718.112(2)(g), F.S.	<del>Assessments not sufficient to meet expenses. Failure to assess at sufficient amounts.</del>	1
<u>4.</u>	<u>Assessing</u>	<u>718.112(2)(g), F.S.</u>	<u>Collecting assessments less frequently than quarterly</u>	<u>1</u>
<u>5.</u>	Assessing	718.115(2), F.S.	<del>Assessments not based upon the shares stated in the declaration of condominium. Failure to assess based upon proportionate share or as stated in the declaration of condominium.</del>	2
<u>6.</u>	<u>Assessing</u>	<u>718.115(4), F.S.</u>	<u>Assessments not properly apportioned among multiple condominiums.</u>	<u>2</u>
<u>7.</u>	<u>Assessing</u>	<u>718.116(3), F.S.</u>	<u>Failure to charge interest on past-due assessments.</u>	<u>2</u>

<u>8.</u>	<u>Assessing</u>	<u>718.116(9), F.S.</u>	<u>Developer or other owner improperly excused from paying assessments.</u>	<u>2</u>
	<del>Board</del>	<del>718.110, F.S. 718.112, F.S.</del>	<del>Failure to follow method of amendment.</del>	<del>2</del>
<u>9.</u>	<u>Board</u>	<u>718.110(4), F.S.</u>	<u>Improperly amending the declaration of condominium to change the proportion or percentage by which the unit owner shares the common expenses of the condominium and owns the common surplus of the condominium.</u>	<u>2</u>
<u>10.</u>	<u>Board</u>	<u>718.111(4), F.S.</u>	<u>Improper use fee.</u>	<u>1</u>
<u>11.</u>	<u>Board</u>	<u>718.111(7)(a), F.S.</u>	<u>Mortgaging or conveying association property without unit-owner approval.</u>	<u>2</u>
<u>12.</u>	<u>Board</u>	<u>718.111(11), F.S.</u>	<u>Failure to use best efforts to insure the common elements and association property.</u>	<u>2</u>
<u>13.</u>	<u>Board</u>	<u>718.111(11)(d), F.S.</u>	<u>Failure to maintain adequate fidelity bonding for all persons who control or distribute association funds.</u>	<u>2</u>
<u>14.</u>	<u>Board</u>	<u>718.112(2)(a)1., F.S.</u>	<u>Compensating members of the board without documentary authority. Improper compensation of officers or directors.</u>	<u>1</u>
<u>15.</u>	<u>Board</u>	<u>718.112(2)(b)2., F.S.</u>	<u>Improper use of general proxies. Use of non-conforming limited proxies regarding voting on financial issues.</u>	<u>1</u>
	<del>Board</del>	<del>718.112(2)(d)1., F.S.</del>	<del>Failure to hold annual meeting.</del>	<del>2</del>
<u>16.</u>	<u>Board</u>	<u>718.112(2)(j), F.S.</u>	<u>Improper removal of board member.</u>	<u>1</u>
<u>17.</u>	<u>Board</u>	<u>718.112(2)(i), F.S.</u>	<u>Improperly requiring transfer fees or security deposits. Requiring excessive transfer fees or security deposits.</u>	<u>1</u>
<u>18.</u>	<u>Board</u>	<u>718.116(3), F.S.</u>	<u>Levying late fees without documentary authority.</u>	<u>1</u>

<u>19.</u>	<u>Board</u>	<u>718.303(3), F.S.</u>	<u>Imposing fines without documentary authority. Imposing fines without proper notice and hearing. Imposing excessive fines.</u>	<u>1</u>
<u>20.</u>	<u>Board</u>	<u>61B-23.001(4), F.A.C.</u>	<u>Employing an unlicensed manager when licensure is required.</u>	<u>2</u>
<u>21.</u>	<u>Board</u>	<u>718.112(2)(d)1., F.S.</u>	<u>Allowing convicted felon on board of administration.</u>	<u>1</u>
<u>22.</u>	<u>Board</u>	<u>718.112(2)(d)8., F.S. 61B-23.0021(1)(d)2, F.A.C.</u>	<u>Improperly filling a vacancy of an unexpired term on the board.</u>	<u>1</u>
	<u>Board</u>	<u>718.501(2)(a), F.S.</u>	<u>Failure to pay annual fees to the division.</u>	<u>2</u>
<u>23.</u>	<u>Budgets</u>	<u>718.112(2)(e), F.S.</u>	<u>Failure to propose/adopt budget for a given year.</u>	<u>2</u>
<u>24.</u>	<u>Budgets</u>	<u>61B-22.003(4)(a), F.A.C.</u>	<u>Failure to prepare a separate budget for each condominium operated by the association as well as for the association.</u>	<u>1</u>
<u>25.</u>	<u>Budgets</u>	<u>61B-22.003(1)(e), (f), (g), F.A.C.</u>	<u>Failure to include reserve schedule in the proposed budget. Failure to disclose converter-reserve funding.</u>	<u>1</u>
<u>26.</u>	<u>Budgets</u>	<u>718.112(2)(f)2., F.S. 61B-22.005(3), F.A.C.</u>	<u>Improper calculation of reserve requirements.</u>	<u>1</u>
<u>27.</u>	<u>Commingle</u>	<u>718.111(14), F.S.</u>	<u>Commingling association funds with non-association funds.</u>	<u>2</u>
<u>28.</u>	<u>Commingle</u>	<u>718.111(14), F.S. 61B-22.005(2), F.A.C.</u>	<u>Commingling reserve funds with operating funds.</u>	<u>1</u>
<u>29.</u>	<u>Common Expenses</u>	<u>718.115(1), F.S. 61B-23.003(3), F.A.C.</u>	<u>Using association funds for other than common expenses.</u>	<u>2</u>

<u>30.</u>	Converter Reserves	718.618(3)(b), F.S.	Improper use of converter reserves.	1
	<del>Converter Reserves</del>	<del>61B-22.003(1)(e)5., F.A.C. 61B-22.006(3)(a)6., F.A.C.</del>	<del>Failure to include converter reserve disclosures in the proposed budget, year end financial statements, or annual financial report.</del>	<del>1</del>
<u>31.</u>	Elections	718.112(2)(d), F.S. 61B-23.0021(2), F.A.C.	Failure to hold election.	2
<u>32.</u>	Elections	718.112(2)(d)3., F.S.	Failure to use ballots or voting machines.	2
<u>33.</u>	Elections	718.112(2)(d)3., F.S. 61B-23.0021(4), F.A.C.	Failure to provide, or timely provide, first notice of election.	<u>2</u>
<u>34.</u>	<u>Elections</u>	<u>718.112(d)3., F.S. 61B-23.0021(3), F.A.C.</u>	<u>Improper nomination procedures in election.</u>	<u>2</u>
<u>35.</u>	<u>Elections</u>	<u>61B-23.0021(2), F.S.</u>	<u>Election not held at time and place of annual meeting.</u>	<u>1</u>
<u>36.</u>	<u>Elections</u>	<u>61B-23.0021(6), F.A.C.</u>	<u>Failure to provide candidate with a receipt for written notice of candidacy.</u>	<u>1</u>
<u>37.</u>	Elections	718.112(2)(d)3., F.S. 61B-23.0021(7), (8), F.A.C.	Failure to provide, or timely provide, second notice of election or omitting <del>materials such as</del> ballots, envelopes, and candidate information sheets.	<u>2</u>
<u>38.</u>	<u>Elections</u>	<u>718.112(2)(d)3., F.S. 61B-23.0021(5), F.A.C.</u>	<u>Ballot included candidate who did not submit timely notice of candidacy.</u>	<u>2</u>
<u>39.</u>	<u>Elections</u>	<u>61B-23.0021(7), F.A.C.</u>	<u>Distributing candidate information sheets consisting of more than one page.</u>	<u>1</u>
<u>40.</u>	<u>Elections</u>	<u>61B-23.0021(8), F.A.C.</u>	<u>Voters allowed to rescind or change their previously cast ballots.</u>	<u>1</u>
<u>41.</u>	<u>Elections</u>	<u>61B-23.0021(8),</u>	<u>Second notice of election included</u>	<u>2</u>

		<u>F.A.C.</u>	<u>comments by board about candidates.</u>	
<u>42.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), F.A.C.</u>	<u>Ballots not counted by impartial committee.</u>	<u>1</u>
<u>43.</u>	<u>Elections</u>	<u>718.112(2)(d)3., F.S.; 61B-23.0021(7), F.A.C.</u>	<u>Association altered or edited candidate-information sheets.</u>	<u>2</u>
<u>44.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), F.A.C.</u>	<u>Inner envelopes not placed in separate receptacle before being opened.</u>	<u>2</u>
<u>45.</u>	<u>Elections</u>	<u>718.112(2)(d)3., F.S. 61B-23.0021(9), F.A.C.</u>	<u>Failure to include all timely submitted names of eligible candidates on the ballot.</u>	<u>24</u>
<u>46.</u>	<u>Elections</u>	<u>61B-23.0021(9), F.A.C.</u>	<u>Ballots not uniform. Ballots identify voter. Ballot contained space for write-in candidate.</u>	<u>2</u>
<u>47.</u>	<u>Elections</u>	<u>61B-23.0021(10), F.A.C.</u>	<u>Outer envelopes not checked against list of eligible voters.</u>	<u>1</u>
<u>48.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), (b), F.A.C.</u>	<u>Counting ineligible ballots. <del>Not counting ballots in the presence of unit owners.</del></u>	<u>1</u>
<u>49.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), F.A.C.</u>	<u>Failure to count properly cast ballots.</u>	<u>1</u>
<u>50.</u>	<u>Elections</u>	<u>61B-23.0021(10), F.A.C.</u>	<u>Outer envelopes opened prior to election meeting. Outer envelopes not opened in presence of unit owners.</u>	<u>2</u>
<u>51.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), F.A.C.</u>	<u>Not counting ballots in the presence of unit owners.</u>	<u>2</u>
<u>52.</u>	<u>Elections</u>	<u>61B-23.0021(10)(b), F.A.C.</u>	<u>Failure to notice meeting to verify outer envelope information.</u>	<u>1</u>
<u>53.</u>	<u>Elections</u>	<u>61B-23.0021(10)(c), F.A.C.</u>	<u>Failure to hold <u>or timely hold</u> runoff election.</u>	<u>2</u>

<u>54.</u>	<u>Elections</u>	<u>61B-23.003(7)(f), F.A.C.</u>	<u>Improperly permitting a developer to vote for a majority of the board.</u>	<u>2</u>
<u>55.</u>	<u>Elections</u>	<u>61B-23.0021(10)(a), F.A.C.</u>	<u>No blank ballots available at election meeting.</u>	<u>2</u>
<u>56.</u>	Final Order	718.501(1)(d)4., F.S.	Failure to comply with final order of the division.	2
<u>57.</u>	Records	718.111(12)(a)6., F.S.	Failure to maintain minutes of meetings.	1
<u>58.</u>	<u>Records</u>	<u>718.111(12)(a)8., F.S.</u>	<u>Failure to maintain a copy of a current insurance policy.</u>	<u>1</u>
<u>59.</u>	<u>Records</u>	<u>718.111(12)(a)9., F.S.</u>	<u>Failure to maintain copy of management agreement or other contract under which the association has obligations.</u>	<u>1</u>
<u>60.</u>	<u>Records</u>	<u>718.111(12)(a)10., F.S.</u>	<u>Failure to maintain bills of sale or transfer.</u>	<u>1</u>
<u>61.</u>	Records	718.111(12)(a)12., F.S.	Failure to maintain election or voting materials for one year.	1
<u>62.</u>	<u>Records</u>	<u>718.111(12)(a)13., F.S.</u>	<u>Failure to maintain rental records.</u>	<u>1</u>
<u>63.</u>	<u>Records</u>	<u>718.111(12)(c), F.S.</u> <u>718.115(1)(a), F.S.</u>	<u>Requiring a unit owner to pay a fee for access to association records.</u>	<u>1</u>
<u>64.</u>	Records	718.111(12)(b), F.S.	Failure to maintain records within Florida.	2
<u>65.</u>	<u>Records</u>	<u>718.111(12)(b), (c), F.S.</u>	<u>Failure to provide access to records.</u> <u>Failure to allow copying of records.</u>	<u>1</u>
<u>66.</u>	Reporting	718.111(13), F.S.	Failure to provide, or timely provide, the annual financial report or statements.	2
	<u>Reporting</u>	<u>718.111(13), F.S.</u>	<u>Failure to provide year-end financial statements in a timely manner.</u>	<u>1</u>

	Reporting	718.111(13), F.S.	<del>Failure to provide year-end financial statements.</del>	2
67.	Reporting	61B-22.006(1), F.A.C.	Failure to prepare <u>annual year-end</u> financial statements using fund accounting. Failure to prepare <u>annual year-end</u> financial statements on accrual basis.	1
68.	Reporting	61B-22.006(1), F.A.C.	Failure to prepare <u>annual year-end</u> financial statements in accordance with Generally Accepted Accounting Principles (GAAP). Failure to have reviewed or audited <u>annual year-end</u> financial statements prepared by a Florida-licensed CPA.	2
69.	Reporting	61B-22.006(2), F.A.C.	Failure to include one or more components of the <u>annual year-end</u> financial statements (incomplete).	1
70.	Reporting	61B-22.006(3)(a)1.-6., (6), F.A.C.	Failure to make significant reserve fund disclosures in <u>annual year-end</u> financial <u>reporting statements</u> or <u>annual financial report</u> .	1
71.	Reporting	61B-22.006(3)(a)7.,(6), F.A.C.	<u>Failure to include converter reserve disclosures in the annual financial reporting.</u>	<u>1</u>
72.	Reporting	61B-22.006(4), F.A.C.	<u>Failure to include reserve fund disclosures and/or revenues, expenses, and changes in fund balances for each condominium and the association in the annual financial statements.</u>	<u>1</u>
73.	Reporting	61B-22.006(6)(c), F.A.C.	<u>Failure to include the special assessments disclosures in the annual financial reporting.</u>	<u>1</u>
74.	Reporting	61B-22.006(6)(e), F.A.C.	<u>Failure to separately present revenues and expenses for each condominium and the association in the annual financial report.</u>	<u>1</u>
75.	Reporting	61B-22.006(3)(e), F.A.C.	<u>Guarantee disclosures incomplete in, or missing from, annual financial</u>	<u>1</u>

			<u>statements.</u>	
<u>76.</u>	<u>Reporting</u>	<u>61B-22.004(5), F.A.C.</u>	<u>Improper calculation of guarantor's final obligation.</u>	<u>2</u>
	<u>Reporting</u>	<u>61B- 22.006(6)(a),(b), F.A.C.</u>	<u>Failure to prepare the annual financial report on a cash basis. Failure to include in the annual financial report specified receipt or expenditure line items, or disclosures on limited common elements.</u>	<u>4</u>
<u>77.</u>	<u>Reporting</u>	<u>718.111(13)(b), F.S. 61B- 22.006(6)(a), F.A.C.</u>	<u>Annual financial report not prepared on a cash basis.</u>	<u>1</u>
<u>78.</u>	<u>Reporting</u>	<u>718.111(13)(b)3., F.S.</u>	<u>Annual financial report does not include specified receipt or expenditure items</u>	<u>1</u>
<u>79.</u>	<u>Reporting</u>	<u>61B-22.006(3)(d), F.A.C.</u>	<u>Annual financial statements do not disclose revenues and expenses related to limited common elements.</u>	<u>1</u>
<u>80.</u>	<u>Reporting</u>	<u>61B-22.006(6)(a), (d),F.A.C.</u>	<u>Annual financial report does not disclose revenues and expenses related to limited common elements.</u>	<u>1</u>
<u>81.</u>	<u>Reporting</u>	<u>718.111(13)(a)(d), F.S.</u>	<u>Providing lower level of annual financial reporting than required.</u>	<u>2</u>
	<u>Reserves</u>	<u>718.112(2)(f)2., F.S. 61B-22.005(3), F.A.C.</u>	<u>Failure to calculate reserve funds properly.</u>	<u>4</u>
<u>82.</u>	<u>Reserves</u>	<u>718.112(2)(f)2., F.S. 61B-22.005(6), F.A.C.</u>	<u>Failure to fund reserves in a timely manner. Failure to fully fund reserves.</u>	<u>1</u>
<u>83.</u>	<u>Reserves</u>	<u>718.112(2)(f)2., F.S. 61B-22.005(6), (8), F.A.C.</u>	<u>Failure to follow proper method to waive or reduce reserve funding.</u>	<u>1</u>

<u>84.</u>	Reserves	718.112(2)(f)3., F.S. 61B-22.005(7), F.A.C.	<u>Using reserve funds for other purposes without proper unit owner approval.</u> <del>Failure to obtain unit owner approval prior to using reserve funds for other purposes.</del>	<u>2</u>
<u>85.</u>	Special Assessment	718.116(10), F.S.	<u>Using special assessment funds for other purposes.</u> <del>Failure to use special assessment funds for intended purposes.</del>	<u>1</u>
<u>86.</u>	<u>Special Assessment</u>	<u>718.116(10), F.S.</u>	<u>Special assessment notice does not state purpose of assessment.</u>	<u>1</u>

*Rulemaking Authority 718.501(1)(d)~~6.4~~, (f), FS. Law Implemented 718.501(1)(d), FS. History–New 6-4-98, Amended*