A bill to be entitled
An act relating to bullying and harassment in
community associations; providing a short title;
providing applicability; prohibiting the bullying or
harassment of certain association members; providing
definitions; providing association requirements;
providing civil penalties; providing immunity from
certain causes of action for damages; providing
legislative intent; providing an effective date.

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

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

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

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

(b) The condominium or homeowners' association publishes
and adheres to policies and procedures that demonstrate the
intent required under this paragraph. If the association meets
the requirements of paragraphs (a) and (c) and the recorded
governing documents provide for an adult, senior, or retirement
housing facility or community and the governing documents lack an amendatory procedure, prohibit amendments, or restrict amendments until a specified future date, then that housing facility or community shall be deemed housing for older persons intended and operated for occupancy by persons 55 years of age or older. If those documents further provide a prohibition against residents 16 years of age or younger, that provision shall be construed, for purposes of the Fair Housing Act, to only apply to residents 18 years of age or younger, in order to conform with federal law requirements. Governing documents which can be amended at a future date must be amended and properly recorded within 1 year after that date to reflect the requirements for consideration as housing for older persons, if that housing facility or community intends to continue as housing for older persons.

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

(3) For purposes of this section:
(a) "Bullying" means intimidation or harassment that causes a reasonable person to fear for his or her physical safety or property and may consist of physical actions including gestures; cyberbullying; oral, electronic, or written communication; or any threat of retaliation for reporting of such acts. The term includes reporting an act of bullying or harassment that is not made in good faith and is retaliatory in nature.

(b) "Cyberbullying" means bullying through the use of technology or any electronic communication, which includes, but is not limited to, any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photoelectronic system, or photooptical system, including, but not limited to, electronic mail, Internet communications, instant messages, or facsimile communications. Cyberbullying includes the creation of a webpage or weblog in which the creator assumes the identity of another person, or the knowing impersonation of another person as the author of posted content or messages, if the creation or impersonation creates any of the conditions enumerated in the definition of bullying. Cyberbullying also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons, if the distribution or posting creates any of the conditions enumerated in the definition of bullying.
(c) "Harassment" means any racist, threatening, insulting, or dehumanizing gesture, use of data or computer software, or written, verbal, or physical conduct that has the effect of substantially interfering with or disrupting a member's opportunities, peaceful enjoyment of his or her home or the association common areas, or association benefits. The term includes reporting an act of bullying or harassment that is not made in good faith and is retaliatory in nature.

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

(a) A statement prohibiting bullying and harassment.

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

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

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

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

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

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

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

(h) After the association completes its investigation, it 
shall submit its findings to the local ombudsman who shall, upon 
a finding of a violation or a finding that a member has 
wrongfully and intentionally accused another of an act of 
bullying or harassment:

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

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

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

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

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

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