



604886

LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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03/11/2020 10:17 AM

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Senator Baxley moved the following:

1 **Senate Amendment to Amendment (559554) (with title**
2 **amendment)**

3
4 Delete lines 591 - 984

5 and insert:

6 Section 12. Subsection (4) of section 627.714, Florida
7 Statutes, is amended to read:

8 627.714 Residential condominium unit owner coverage; loss
9 assessment coverage required.—

10 (4) Every individual unit owner's residential property
11 policy must contain a provision stating that the coverage



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12 afforded by such policy is excess coverage over the amount
13 recoverable under any other policy covering the same property.
14 If a condominium association's insurance policy does not provide
15 rights for subrogation against the unit owners in the
16 association, an insurance policy issued to an individual unit
17 owner located in the association may not provide rights of
18 subrogation against the condominium association.

19 Section 13. Section 712.065, Florida Statutes, is created
20 to read:

21 712.065 Extinguishment of discriminatory restrictions.—

22 (1) As used in this section, the term "discriminatory
23 restriction" means a provision in a title transaction recorded
24 in the state which restricts the ownership, occupancy, or use of
25 any real property in this state by any natural person on the
26 basis of a characteristic that has been held, or is held after
27 July 1, 2020, by the United States Supreme Court or the Florida
28 Supreme Court to be protected against discrimination under the
29 Fourteenth Amendment to the United States Constitution or under
30 s. 2, Art. I of the State Constitution, including race, color,
31 national origin, religion, gender, or physical disability.

32 (2) A discriminatory restriction is not enforceable in the
33 state, and a discriminatory restriction contained in a title
34 transaction recorded in the state is unlawful, unenforceable,
35 and void. A discriminatory restriction contained in a previously
36 recorded title transaction is extinguished and severed from the
37 recorded title transaction and the remainder of the title
38 transaction remains enforceable and effective. The recording of
39 a notice preserving or protecting interests or rights under s.
40 712.06 does not reimpose or preserve a discriminatory



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41 restriction that is extinguished under this section.

42 (3) Upon request of a parcel owner, a discriminatory
43 restriction appearing in a covenant or restriction affecting the
44 parcel may be removed from the covenant or restriction by an
45 amendment approved by a majority vote of the board of directors
46 of the respective property owners' association or an owners'
47 association in which all owners may voluntarily join,
48 notwithstanding any other requirements for approval of an
49 amendment of the covenant or restriction. Unless the amendment
50 also changes other provisions of the covenant or restriction,
51 the recording of an amendment removing a discriminatory
52 restriction does not constitute a title transaction occurring
53 after the root of title for purposes of s. 712.03(4).

54 Section 14. Paragraph (a) of subsection (1) and paragraphs
55 (a), (b), (c), (f), and (g) of subsection (12) of section
56 718.111, Florida Statutes, are amended to read:

57 718.111 The association.—

58 (1) CORPORATE ENTITY.—

59 (a) The operation of the condominium shall be by the
60 association, which must be a Florida corporation for profit or a
61 Florida corporation not for profit. However, any association
62 which was in existence on January 1, 1977, need not be
63 incorporated. The owners of units shall be shareholders or
64 members of the association. The officers and directors of the
65 association have a fiduciary relationship to the unit owners. It
66 is the intent of the Legislature that nothing in this paragraph
67 shall be construed as providing for or removing a requirement of
68 a fiduciary relationship between any manager employed by the
69 association and the unit owners. An officer, director, or



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70 manager may not solicit, offer to accept, or accept any thing or
71 service of value or kickback for which consideration has not
72 been provided for his or her own benefit or that of his or her
73 immediate family, from any person providing or proposing to
74 provide goods or services to the association. Any such officer,
75 director, or manager who knowingly so solicits, offers to
76 accept, or accepts any thing or service of value or kickback is
77 subject to a civil penalty pursuant to s. 718.501(2)(d) ~~s.~~
78 ~~718.501(1)(d)~~ and, if applicable, a criminal penalty as provided
79 in paragraph (d). However, this paragraph does not prohibit an
80 officer, director, or manager from accepting services or items
81 received in connection with trade fairs or education programs.
82 An association may operate more than one condominium.

83 (12) OFFICIAL RECORDS.—

84 (a) From the inception of the association, the association
85 shall maintain each of the following items, if applicable, which
86 constitutes the official records of the association:

87 1. A copy of the plans, permits, warranties, and other
88 items provided by the developer under ~~pursuant to~~ s. 718.301(4).

89 2. A photocopy of the recorded declaration of condominium
90 of each condominium operated by the association and each
91 amendment to each declaration.

92 3. A photocopy of the recorded bylaws of the association
93 and each amendment to the bylaws.

94 4. A certified copy of the articles of incorporation of the
95 association, or other documents creating the association, and
96 each amendment thereto.

97 5. A copy of the current rules of the association.

98 6. A book or books that contain the minutes of all meetings



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99 of the association, the board of administration, and the unit
100 owners.

101 7. A current roster of all unit owners and their mailing
102 addresses, unit identifications, voting certifications, and, if
103 known, telephone numbers. The association shall also maintain
104 the e-mail addresses and facsimile numbers of unit owners
105 consenting to receive notice by electronic transmission. The e-
106 mail addresses and facsimile numbers are not accessible to unit
107 owners if consent to receive notice by electronic transmission
108 is not provided in accordance with sub-subparagraph (c)3.e.
109 However, the association is not liable for an inadvertent
110 disclosure of the e-mail address or facsimile number for
111 receiving electronic transmission of notices.

112 8. All current insurance policies of the association and
113 condominiums operated by the association.

114 9. A current copy of any management agreement, lease, or
115 other contract to which the association is a party or under
116 which the association or the unit owners have an obligation or
117 responsibility.

118 10. Bills of sale or transfer for all property owned by the
119 association.

120 11. Accounting records for the association and separate
121 accounting records for each condominium that the association
122 operates. Any person who knowingly or intentionally defaces or
123 destroys such records, or who knowingly or intentionally fails
124 to create or maintain such records, with the intent of causing
125 harm to the association or one or more of its members, is
126 personally subject to a civil penalty under s. 718.501(2)(d)
127 ~~pursuant to s. 718.501(1)(d)~~. The accounting records must



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128 include, but are not limited to:

129 a. Accurate, itemized, and detailed records of all receipts
130 and expenditures.

131 b. A current account and a monthly, bimonthly, or quarterly
132 statement of the account for each unit designating the name of
133 the unit owner, the due date and amount of each assessment, the
134 amount paid on the account, and the balance due.

135 c. All audits, reviews, accounting statements, and
136 financial reports of the association or condominium.

137 d. All contracts for work to be performed. Bids for work to
138 be performed are also considered official records and must be
139 maintained by the association for at least 1 year after receipt
140 of the bid.

141 12. Ballots, sign-in sheets, voting proxies, and all other
142 papers and electronic records relating to voting by unit owners,
143 which must be maintained for 1 year from the date of the
144 election, vote, or meeting to which the document relates,
145 notwithstanding paragraph (b).

146 13. All rental records if the association is acting as
147 agent for the rental of condominium units.

148 14. A copy of the current question and answer sheet as
149 described in s. 718.504.

150 ~~15. All other written records of the association not~~
151 ~~specifically included in the foregoing which are related to the~~
152 ~~operation of the association.~~

153 ~~15.16.~~ A copy of the inspection report as described in s.
154 718.301(4)(p).

155 ~~16.17.~~ Bids for materials, equipment, or services.

156 17. All other written records of the association not



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157 specifically included in subparagraphs 1.-16. which are related
158 to the operation of the association.

159 (b) The official records specified in subparagraphs (a)1.-
160 6. must be permanently maintained from the inception of the
161 association. Bids for work to be performed or for materials,
162 equipment, or services must be maintained for at least 1 year
163 after receipt of the bid. All other official records must be
164 maintained within the state for at least 7 years, unless
165 otherwise provided by general law. All official records must be
166 maintained in a manner and format determined by the division so
167 that the records are easily accessible for inspection. The
168 records of the association shall be made available to a unit
169 owner within 45 miles of the condominium property or within the
170 county in which the condominium property is located within 10
171 working days after receipt of a written request by the board or
172 its designee. However, such distance requirement does not apply
173 to an association governing a timeshare condominium. This
174 paragraph may be complied with by having a copy of the official
175 records of the association available for inspection or copying
176 on the condominium property or association property, or the
177 association may offer the option of making the records available
178 to a unit owner electronically via the Internet or by allowing
179 the records to be viewed in electronic format on a computer
180 screen and printed upon request. The association is not
181 responsible for the use or misuse of the information provided to
182 an association member or his or her authorized representative in
183 ~~pursuant to the compliance with requirements of~~ this chapter
184 unless the association has an affirmative duty not to disclose
185 such information under ~~pursuant to~~ this chapter.



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186 (c)1. The official records of the association are open to
187 inspection by any association member or the authorized
188 representative of such member at all reasonable times. The right
189 to inspect the records includes the right to make or obtain
190 copies, at the reasonable expense, if any, of the member or
191 authorized representative of such member. A renter of a unit
192 only has a right to inspect and copy the declaration of
193 condominium and association's bylaws and rules. The association
194 must provide a checklist to the member or the authorized
195 representative of such member of all records that are made
196 available for inspection and copying in response to a written
197 request. If any of the association's official records are not
198 available, such records must be identified on the checklist
199 provided to the person requesting the records. The checklist
200 must be signed by a manager licensed under part VIII of chapter
201 468 certifying that the checklist is accurate to the best of his
202 or her knowledge and belief or the association must provide the
203 person requesting the records a sworn affidavit attesting to the
204 veracity of the checklist executed by the person responding to
205 the written request on behalf of the association. The
206 association must maintain a copy of the checklist and affidavit,
207 if required, for at least 7 years. Delivery of the checklist and
208 affidavit, if required, to the person requesting the records
209 creates a rebuttable presumption that the association complied
210 with this paragraph. The division may adopt a rule outlining the
211 requirements of the checklist under this subparagraph. The
212 association may adopt reasonable rules regarding the frequency,
213 time, location, notice, and manner of record inspections and
214 copying, but may not require a member to demonstrate any purpose



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215 or state any reason for the inspection. The failure of an
216 association to provide the records within 10 working days after
217 receipt of a written request creates a rebuttable presumption
218 that the association willfully failed to comply with this
219 paragraph. A unit owner who is denied access to official records
220 is entitled to the actual damages or minimum damages for the
221 association's willful failure to comply. Minimum damages are \$50
222 per calendar day for up to 10 days, beginning on the 11th
223 working day after receipt of the written request. The failure to
224 permit inspection entitles any person prevailing in an
225 enforcement action to recover reasonable attorney fees from the
226 person in control of the records who, directly or indirectly,
227 knowingly denied access to the records.

228 2. Any person who knowingly or intentionally defaces or
229 destroys accounting records that are required by this chapter to
230 be maintained during the period for which such records are
231 required to be maintained, or who knowingly or intentionally
232 fails to create or maintain accounting records that are required
233 to be created or maintained, with the intent of causing harm to
234 the association or one or more of its members, is personally
235 subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s.~~
236 ~~718.501(1)(d).~~

237 3. The association shall maintain an adequate number of
238 copies of the declaration, articles of incorporation, bylaws,
239 and rules, and all amendments to each of the foregoing, as well
240 as the question and answer sheet as described in s. 718.504 and
241 year-end financial information required under this section, on
242 the condominium property to ensure their availability to unit
243 owners and prospective purchasers, and may charge its actual



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244 costs for preparing and furnishing these documents to those
245 requesting the documents. An association shall allow a member or
246 his or her authorized representative to use a portable device,
247 including a smartphone, tablet, portable scanner, or any other
248 technology capable of scanning or taking photographs, to make an
249 electronic copy of the official records in lieu of the
250 association's providing the member or his or her authorized
251 representative with a copy of such records. The association may
252 not charge a member or his or her authorized representative for
253 the use of a portable device. Notwithstanding this paragraph,
254 the following records are not accessible to unit owners:

255 a. Any record protected by the lawyer-client privilege as
256 described in s. 90.502 and any record protected by the work-
257 product privilege, including a record prepared by an association
258 attorney or prepared at the attorney's express direction, which
259 reflects a mental impression, conclusion, litigation strategy,
260 or legal theory of the attorney or the association, and which
261 was prepared exclusively for civil or criminal litigation or for
262 adversarial administrative proceedings, or which was prepared in
263 anticipation of such litigation or proceedings until the
264 conclusion of the litigation or proceedings.

265 b. Information obtained by an association in connection
266 with the approval of the lease, sale, or other transfer of a
267 unit.

268 c. Personnel records of association or management company
269 employees, including, but not limited to, disciplinary, payroll,
270 health, and insurance records. For purposes of this sub-
271 subparagraph, the term "personnel records" does not include
272 written employment agreements with an association employee or



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273 management company, or budgetary or financial records that
274 indicate the compensation paid to an association employee.

275 d. Medical records of unit owners.

276 e. Social security numbers, driver license numbers, credit
277 card numbers, e-mail addresses, telephone numbers, facsimile
278 numbers, emergency contact information, addresses of a unit
279 owner other than as provided to fulfill the association's notice
280 requirements, and other personal identifying information of any
281 person, excluding the person's name, unit designation, mailing
282 address, property address, and any address, e-mail address, or
283 facsimile number provided to the association to fulfill the
284 association's notice requirements. Notwithstanding the
285 restrictions in this sub-subparagraph, an association may print
286 and distribute to unit ~~parcel~~ owners a directory containing the
287 name, unit ~~parcel~~ address, and all telephone numbers of each
288 unit ~~parcel~~ owner. However, an owner may exclude his or her
289 telephone numbers from the directory by so requesting in writing
290 to the association. An owner may consent in writing to the
291 disclosure of other contact information described in this sub-
292 subparagraph. The association is not liable for the inadvertent
293 disclosure of information that is protected under this sub-
294 subparagraph if the information is included in an official
295 record of the association and is voluntarily provided by an
296 owner and not requested by the association.

297 f. Electronic security measures that are used by the
298 association to safeguard data, including passwords.

299 g. The software and operating system used by the
300 association which allow the manipulation of data, even if the
301 owner owns a copy of the same software used by the association.



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302 The data is part of the official records of the association.

303 (f) An outgoing board or committee member must relinquish
304 all official records and property of the association in his or
305 her possession or under his or her control to the incoming board
306 within 5 days after the election. The division shall impose a
307 civil penalty as set forth in s. 718.501(2)(d)6. ~~s.~~
308 ~~718.501(1)(d)6.~~ against an outgoing board or committee member
309 who willfully and knowingly fails to relinquish such records and
310 property.

311 (g)1. By January 1, 2019, an association managing a
312 condominium with 150 or more units which does not contain
313 timeshare units shall post digital copies of the documents
314 specified in subparagraph 2. on its website or make such
315 documents available through an application that can be
316 downloaded on a mobile device.

317 a. The association's website or application must be:

318 (I) An independent website, application, or web portal
319 wholly owned and operated by the association; or

320 (II) A website, application, or web portal operated by a
321 third-party provider with whom the association owns, leases,
322 rents, or otherwise obtains the right to operate a web page,
323 subpage, web portal, ~~or~~ collection of subpages or web portals,
324 or application which is dedicated to the association's
325 activities and on which required notices, records, and documents
326 may be posted or made available by the association.

327 b. The association's website or application must be
328 accessible through the Internet and must contain a subpage, web
329 portal, or other protected electronic location that is
330 inaccessible to the general public and accessible only to unit



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331 owners and employees of the association.

332 c. Upon a unit owner's written request, the association
333 must provide the unit owner with a username and password and
334 access to the protected sections of the association's website or
335 application that contain any notices, records, or documents that
336 must be electronically provided.

337 2. A current copy of the following documents must be posted
338 in digital format on the association's website or application:

339 a. The recorded declaration of condominium of each
340 condominium operated by the association and each amendment to
341 each declaration.

342 b. The recorded bylaws of the association and each
343 amendment to the bylaws.

344 c. The articles of incorporation of the association, or
345 other documents creating the association, and each amendment to
346 the articles of incorporation or other documents thereto. The
347 copy posted pursuant to this sub-subparagraph must be a copy of
348 the articles of incorporation filed with the Department of
349 State.

350 d. The rules of the association.

351 e. A list of all executory contracts or documents to which
352 the association is a party or under which the association or the
353 unit owners have an obligation or responsibility and, after
354 bidding for the related materials, equipment, or services has
355 closed, a list of bids received by the association within the
356 past year. Summaries of bids for materials, equipment, or
357 services which exceed \$500 must be maintained on the website or
358 application for 1 year. In lieu of summaries, complete copies of
359 the bids may be posted.



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360 f. The annual budget required by s. 718.112(2)(f) and any
361 proposed budget to be considered at the annual meeting.

362 g. The financial report required by subsection (13) and any
363 monthly income or expense statement to be considered at a
364 meeting.

365 h. The certification of each director required by s.
366 718.112(2)(d)4.b.

367 i. All contracts or transactions between the association
368 and any director, officer, corporation, firm, or association
369 that is not an affiliated condominium association or any other
370 entity in which an association director is also a director or
371 officer and financially interested.

372 j. Any contract or document regarding a conflict of
373 interest or possible conflict of interest as provided in ss.
374 468.436(2)(b)6. and 718.3027(3).

375 k. The notice of any unit owner meeting and the agenda for
376 the meeting, as required by s. 718.112(2)(d)3., no later than 14
377 days before the meeting. The notice must be posted in plain view
378 on the front page of the website or application, or on a
379 separate subpage of the website or application labeled "Notices"
380 which is conspicuously visible and linked from the front page.
381 The association must also post on its website or application any
382 document to be considered and voted on by the owners during the
383 meeting or any document listed on the agenda at least 7 days
384 before the meeting at which the document or the information
385 within the document will be considered.

386 l. Notice of any board meeting, the agenda, and any other
387 document required for the meeting as required by s.
388 718.112(2)(c), which must be posted no later than the date



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389 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

390 3. The association shall ensure that the information and
391 records described in paragraph (c), which are not allowed to be
392 accessible to unit owners, are not posted on the association's
393 website or application. If protected information or information
394 restricted from being accessible to unit owners is included in
395 documents that are required to be posted on the association's
396 website or application, the association shall ensure the
397 information is redacted before posting the documents ~~online~~.
398 Notwithstanding the foregoing, the association or its agent is
399 not liable for disclosing information that is protected or
400 restricted under ~~pursuant to~~ this paragraph unless such
401 disclosure was made with a knowing or intentional disregard of
402 the protected or restricted nature of such information.

403 4. The failure of the association to post information
404 required under subparagraph 2. is not in and of itself
405 sufficient to invalidate any action or decision of the
406 association's board or its committees.

407 Section 15. Paragraphs (d), (i), (j), (k), (f), and (p) of
408 subsection (2) of section 718.112, Florida Statutes, are
409 amended, and paragraph (c) is added to subsection (1) of that
410 section, to read:

411 718.112 Bylaws.—

412 (1) GENERALLY.—

413 (c) The association may extinguish a discriminatory
414 restriction as provided under s. 712.065.

415 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
416 following and, if they do not do so, shall be deemed to include
417 the following:



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418 (d) *Unit owner meetings.*—

419 1. An annual meeting of the unit owners must be held at the
420 location provided in the association bylaws and, if the bylaws
421 are silent as to the location, the meeting must be held within
422 45 miles of the condominium property. However, such distance
423 requirement does not apply to an association governing a
424 timeshare condominium.

425 2. Unless the bylaws provide otherwise, a vacancy on the
426 board caused by the expiration of a director's term must be
427 filled by electing a new board member, and the election must be
428 by secret ballot. An election is not required if the number of
429 vacancies equals or exceeds the number of candidates. For
430 purposes of this paragraph, the term "candidate" means an
431 eligible person who has timely submitted the written notice, as
432 described in sub-subparagraph 4.a., of his or her intention to
433 become a candidate. Except in a timeshare or nonresidential
434 condominium, or if the staggered term of a board member does not
435 expire until a later annual meeting, or if all members' terms
436 would otherwise expire but there are no candidates, the terms of
437 all board members expire at the annual meeting, and such members
438 may stand for reelection unless prohibited by the bylaws. Board
439 members may serve terms longer than 1 year if permitted by the
440 bylaws or articles of incorporation. A board member may not
441 serve more than 8 consecutive years unless approved by an
442 affirmative vote of unit owners representing two-thirds of all
443 votes cast in the election or unless there are not enough
444 eligible candidates to fill the vacancies on the board at the
445 time of the vacancy. Only board service that occurs on or after
446 July 1, 2018, may be used when calculating a board member's term



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447 limit. If the number of board members whose terms expire at the
448 annual meeting equals or exceeds the number of candidates, the
449 candidates become members of the board effective upon the
450 adjournment of the annual meeting. Unless the bylaws provide
451 otherwise, any remaining vacancies shall be filled by the
452 affirmative vote of the majority of the directors making up the
453 newly constituted board even if the directors constitute less
454 than a quorum or there is only one director. In a residential
455 condominium association of more than 10 units or in a
456 residential condominium association that does not include
457 timeshare units or timeshare interests, co-owners of a unit may
458 not serve as members of the board of directors at the same time
459 unless they own more than one unit or unless there are not
460 enough eligible candidates to fill the vacancies on the board at
461 the time of the vacancy. A unit owner in a residential
462 condominium desiring to be a candidate for board membership must
463 comply with sub-subparagraph 4.a. and must be eligible to be a
464 candidate to serve on the board of directors at the time of the
465 deadline for submitting a notice of intent to run in order to
466 have his or her name listed as a proper candidate on the ballot
467 or to serve on the board. A person who has been suspended or
468 removed by the division under this chapter, or who is delinquent
469 in the payment of any assessment ~~monetary obligation~~ due to the
470 association, is not eligible to be a candidate for board
471 membership and may not be listed on the ballot. A person is
472 delinquent if a payment is not made by the due date as
473 specifically identified in the declaration of condominium,
474 bylaws, or articles of incorporation. If a due date is not
475 specifically identified in the declaration of condominium,



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476 bylaws, or articles of incorporation, the due date is the first
477 day of the monthly or quarterly assessment period. A person who
478 has been convicted of any felony in this state or in a United
479 States District or Territorial Court, or who has been convicted
480 of any offense in another jurisdiction which would be considered
481 a felony if committed in this state, is not eligible for board
482 membership unless such felon's civil rights have been restored
483 for at least 5 years as of the date such person seeks election
484 to the board. The validity of an action by the board is not
485 affected if it is later determined that a board member is
486 ineligible for board membership due to having been convicted of
487 a felony. This subparagraph does not limit the term of a member
488 of the board of a nonresidential or timeshare condominium.

489 3. The bylaws must provide the method of calling meetings
490 of unit owners, including annual meetings. Written notice of an
491 annual meeting must include an agenda; ~~it must~~ be mailed, hand
492 delivered, or electronically transmitted to each unit owner at
493 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
494 a conspicuous place on the condominium property at least 14
495 continuous days before the annual meeting. Written notice of a
496 meeting other than an annual meeting must include an agenda; be
497 mailed, hand delivered, or electronically transmitted to each
498 unit owner; and be posted in a conspicuous place on the
499 condominium property in accordance with the minimum period of
500 time for posting a notice as set forth in the bylaws, and if the
501 bylaws do not provide such notice requirements, then at least 14
502 continuous days before the meeting. Upon notice to the unit
503 owners, the board shall, by duly adopted rule, designate a
504 specific location on the condominium property where all notices



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505 of unit owner meetings must be posted. This requirement does not
506 apply if there is no condominium property for posting notices.
507 In lieu of, or in addition to, the physical posting of meeting
508 notices, the association may, by reasonable rule, adopt a
509 procedure for conspicuously posting and repeatedly broadcasting
510 the notice and the agenda on a closed-circuit cable television
511 system serving the condominium association. However, if
512 broadcast notice is used in lieu of a notice posted physically
513 on the condominium property, the notice and agenda must be
514 broadcast at least four times every broadcast hour of each day
515 that a posted notice is otherwise required under this section.
516 If broadcast notice is provided, the notice and agenda must be
517 broadcast in a manner and for a sufficient continuous length of
518 time so as to allow an average reader to observe the notice and
519 read and comprehend the entire content of the notice and the
520 agenda. In addition to any of the authorized means of providing
521 notice of a meeting of the board, the association may, by rule,
522 adopt a procedure for conspicuously posting the meeting notice
523 and the agenda on a website serving the condominium association
524 for at least the minimum period of time for which a notice of a
525 meeting is also required to be physically posted on the
526 condominium property. Any rule adopted shall, in addition to
527 other matters, include a requirement that the association send
528 an electronic notice in the same manner as a notice for a
529 meeting of the members, which must include a hyperlink to the
530 website where the notice is posted, to unit owners whose e-mail
531 addresses are included in the association's official records.
532 Unless a unit owner waives in writing the right to receive
533 notice of the annual meeting, such notice must be hand



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534 delivered, mailed, or electronically transmitted to each unit
535 owner. Notice for meetings and notice for all other purposes
536 must be mailed to each unit owner at the address last furnished
537 to the association by the unit owner, or hand delivered to each
538 unit owner. However, if a unit is owned by more than one person,
539 the association must provide notice to the address that the
540 developer identifies for that purpose and thereafter as one or
541 more of the owners of the unit advise the association in
542 writing, or if no address is given or the owners of the unit do
543 not agree, to the address provided on the deed of record. An
544 officer of the association, or the manager or other person
545 providing notice of the association meeting, must provide an
546 affidavit or United States Postal Service certificate of
547 mailing, to be included in the official records of the
548 association affirming that the notice was mailed or hand
549 delivered in accordance with this provision.

550 4. The members of the board of a residential condominium
551 shall be elected by written ballot or voting machine. Proxies
552 may not be used in electing the board in general elections or
553 elections to fill vacancies caused by recall, resignation, or
554 otherwise, unless otherwise provided in this chapter. This
555 subparagraph does not apply to an association governing a
556 timeshare condominium.

557 a. At least 60 days before a scheduled election, the
558 association shall mail, deliver, or electronically transmit, by
559 separate association mailing or included in another association
560 mailing, delivery, or transmission, including regularly
561 published newsletters, to each unit owner entitled to a vote, a
562 first notice of the date of the election. A unit owner or other



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563 eligible person desiring to be a candidate for the board must
564 give written notice of his or her intent to be a candidate to
565 the association at least 40 days before a scheduled election.
566 Together with the written notice and agenda as set forth in
567 subparagraph 3., the association shall mail, deliver, or
568 electronically transmit a second notice of the election to all
569 unit owners entitled to vote, together with a ballot that lists
570 all candidates not less than 14 days or more than 34 days before
571 the date of the election. Upon request of a candidate, an
572 information sheet, no larger than 8 1/2 inches by 11 inches,
573 which must be furnished by the candidate at least 35 days before
574 the election, must be included with the mailing, delivery, or
575 transmission of the ballot, with the costs of mailing, delivery,
576 or electronic transmission and copying to be borne by the
577 association. The association is not liable for the contents of
578 the information sheets prepared by the candidates. In order to
579 reduce costs, the association may print or duplicate the
580 information sheets on both sides of the paper. The division
581 shall by rule establish voting procedures consistent with this
582 sub-subparagraph, including rules establishing procedures for
583 giving notice by electronic transmission and rules providing for
584 the secrecy of ballots. Elections shall be decided by a
585 plurality of ballots cast. There is no quorum requirement;
586 however, at least 20 percent of the eligible voters must cast a
587 ballot in order to have a valid election. A unit owner may not
588 authorize any other person to vote his or her ballot, and any
589 ballots improperly cast are invalid. A unit owner who violates
590 this provision may be fined by the association in accordance
591 with s. 718.303. A unit owner who needs assistance in casting



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592 the ballot for the reasons stated in s. 101.051 may obtain such
593 assistance. The regular election must occur on the date of the
594 annual meeting. Notwithstanding this sub-subparagraph, an
595 election is not required unless more candidates file notices of
596 intent to run or are nominated than board vacancies exist.

597 b. Within 90 days after being elected or appointed to the
598 board of an association of a residential condominium, each newly
599 elected or appointed director shall certify in writing to the
600 secretary of the association that he or she has read the
601 association's declaration of condominium, articles of
602 incorporation, bylaws, and current written policies; that he or
603 she will work to uphold such documents and policies to the best
604 of his or her ability; and that he or she will faithfully
605 discharge his or her fiduciary responsibility to the
606 association's members. In lieu of this written certification,
607 within 90 days after being elected or appointed to the board,
608 the newly elected or appointed director may submit a certificate
609 of having satisfactorily completed the educational curriculum
610 administered by a division-approved condominium education
611 provider within 1 year before or 90 days after the date of
612 election or appointment. The written certification or
613 educational certificate is valid and does not have to be
614 resubmitted as long as the director serves on the board without
615 interruption. A director of an association of a residential
616 condominium who fails to timely file the written certification
617 or educational certificate is suspended from service on the
618 board until he or she complies with this sub-subparagraph. The
619 board may temporarily fill the vacancy during the period of
620 suspension. The secretary shall cause the association to retain



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621 a director's written certification or educational certificate
622 for inspection by the members for 5 years after a director's
623 election or the duration of the director's uninterrupted tenure,
624 whichever is longer. Failure to have such written certification
625 or educational certificate on file does not affect the validity
626 of any board action.

627 c. Any challenge to the election process must be commenced
628 within 60 days after the election results are announced.

629 5. Any approval by unit owners called for by this chapter
630 or the applicable declaration or bylaws, including, but not
631 limited to, the approval requirement in s. 718.111(8), must be
632 made at a duly noticed meeting of unit owners and is subject to
633 all requirements of this chapter or the applicable condominium
634 documents relating to unit owner decisionmaking, except that
635 unit owners may take action by written agreement, without
636 meetings, on matters for which action by written agreement
637 without meetings is expressly allowed by the applicable bylaws
638 or declaration or any law that provides for such action.

639 6. Unit owners may waive notice of specific meetings if
640 allowed by the applicable bylaws or declaration or any law.
641 Notice of meetings of the board of administration, unit owner
642 meetings, except unit owner meetings called to recall board
643 members under paragraph (j), and committee meetings may be given
644 by electronic transmission to unit owners who consent to receive
645 notice by electronic transmission. A unit owner who consents to
646 receiving notices by electronic transmission is solely
647 responsible for removing or bypassing filters that block receipt
648 of mass e-mails ~~emails~~ sent to members on behalf of the
649 association in the course of giving electronic notices.



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650 7. Unit owners have the right to participate in meetings of
651 unit owners with reference to all designated agenda items.
652 However, the association may adopt reasonable rules governing
653 the frequency, duration, and manner of unit owner participation.

654 8. A unit owner may tape record or videotape a meeting of
655 the unit owners subject to reasonable rules adopted by the
656 division.

657 9. Unless otherwise provided in the bylaws, any vacancy
658 occurring on the board before the expiration of a term may be
659 filled by the affirmative vote of the majority of the remaining
660 directors, even if the remaining directors constitute less than
661 a quorum, or by the sole remaining director. In the alternative,
662 a board may hold an election to fill the vacancy, in which case
663 the election procedures must conform to sub-subparagraph 4.a.
664 unless the association governs 10 units or fewer and has opted
665 out of the statutory election process, in which case the bylaws
666 of the association control. Unless otherwise provided in the
667 bylaws, a board member appointed or elected under this section
668 shall fill the vacancy for the unexpired term of the seat being
669 filled. Filling vacancies created by recall is governed by
670 paragraph (j) and rules adopted by the division.

671 10. This chapter does not limit the use of general or
672 limited proxies, require the use of general or limited proxies,
673 or require the use of a written ballot or voting machine for any
674 agenda item or election at any meeting of a timeshare
675 condominium association or nonresidential condominium
676 association.

677
678 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an



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679 association of 10 or fewer units may, by affirmative vote of a
680 majority of the total voting interests, provide for different
681 voting and election procedures in its bylaws, which may be by a
682 proxy specifically delineating the different voting and election
683 procedures. The different voting and election procedures may
684 provide for elections to be conducted by limited or general
685 proxy.

686 (f) *Annual budget.*—

687 1. The proposed annual budget of estimated revenues and
688 expenses must be detailed and must show the amounts budgeted by
689 accounts and expense classifications, including, at a minimum,
690 any applicable expenses listed in s. 718.504(21). The annual
691 budget must be proposed to unit owners and adopted by the board
692 of directors no later than 30 days before the beginning of the
693 fiscal year. A multicondominium association shall adopt a
694 separate budget of common expenses for each condominium the
695 association operates and shall adopt a separate budget of common
696 expenses for the association. In addition, if the association
697 maintains limited common elements with the cost to be shared
698 only by those entitled to use the limited common elements as
699 provided for in s. 718.113(1), the budget or a schedule attached
700 to it must show the amount budgeted for this maintenance. If,
701 after turnover of control of the association to the unit owners,
702 any of the expenses listed in s. 718.504(21) are not applicable,
703 they need not be listed.

704 2.a. In addition to annual operating expenses, the budget
705 must include reserve accounts for capital expenditures and
706 deferred maintenance. These accounts must include, but are not
707 limited to, roof replacement, building painting, and pavement



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708 resurfacing, regardless of the amount of deferred maintenance
709 expense or replacement cost, and any other item that has a
710 deferred maintenance expense or replacement cost that exceeds
711 \$10,000. The amount to be reserved must be computed using a
712 formula based upon estimated remaining useful life and estimated
713 replacement cost or deferred maintenance expense of each reserve
714 item. The association may adjust replacement reserve assessments
715 annually to take into account any changes in estimates or
716 extension of the useful life of a reserve item caused by
717 deferred maintenance. This subsection does not apply to an
718 adopted budget in which the members of an association have
719 determined, by a majority vote at a duly called meeting of the
720 association, to provide no reserves or less reserves than
721 required by this subsection.

722 b. Before turnover of control of an association by a
723 developer to unit owners other than a developer pursuant to s.
724 718.301, the developer may vote the voting interests allocated
725 to its units to waive the reserves or reduce the funding of
726 reserves through the period expiring at the end of the second
727 fiscal year after the fiscal year in which the certificate of a
728 surveyor and mapper is recorded pursuant to s. 718.104(4)(e) or
729 an instrument that transfers title to a unit in the condominium
730 which is not accompanied by a recorded assignment of developer
731 rights in favor of the grantee of such unit is recorded,
732 whichever occurs first, after which time reserves may be waived
733 or reduced only upon the vote of a majority of all nondeveloper
734 voting interests voting in person or by limited proxy at a duly
735 called meeting of the association. If a meeting of the unit
736 owners has been called to determine whether to waive or reduce



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737 the funding of reserves and no such result is achieved or a
738 quorum is not attained, the reserves included in the budget
739 shall go into effect. After the turnover, the developer may vote
740 its voting interest to waive or reduce the funding of reserves.

741 3. Reserve funds and any interest accruing thereon shall
742 remain in the reserve account or accounts, and may be used only
743 for authorized reserve expenditures unless their use for other
744 purposes is approved in advance by a majority vote at a duly
745 called meeting of the association. Before turnover of control of
746 an association by a developer to unit owners other than the
747 developer pursuant to s. 718.301, the developer-controlled
748 association may not vote to use reserves for purposes other than
749 those for which they were intended without the approval of a
750 majority of all nondeveloper voting interests, voting in person
751 or by limited proxy at a duly called meeting of the association.

752 4. The only voting interests that are eligible to vote on
753 questions that involve waiving or reducing the funding of
754 reserves, or using existing reserve funds for purposes other
755 than purposes for which the reserves were intended, are the
756 voting interests of the units subject to assessment to fund the
757 reserves in question. Proxy questions relating to waiving or
758 reducing the funding of reserves or using existing reserve funds
759 for purposes other than purposes for which the reserves were
760 intended must contain the following statement in capitalized,
761 bold letters in a font size larger than any other used on the
762 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
763 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
764 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
765 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.



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766 (i) *Transfer fees.*—An association may not ~~no~~ charge a fee
767 shall be made by the association or any body thereof in
768 connection with the sale, mortgage, lease, sublease, or other
769 transfer of a unit unless the association is required to approve
770 such transfer and a fee for such approval is provided for in the
771 declaration, articles, or bylaws. Any such fee may be preset,
772 but may not in no event may such fee exceed \$150 \$100 per
773 applicant other than spouses or parent and dependent child, who
774 husband/wife or parent/dependent child, which are considered one
775 applicant. However, if the lease or sublease is a renewal of a
776 lease or sublease with the same lessee or sublessee, a charge
777 may not no charge shall be made. Such fees shall be adjusted
778 every 5 years in an amount equal to the total of the annual
779 increases for that 5-year period in the Consumer Price Index for
780 All Urban Consumers, U.S. City Average, All Items. The
781 Department of Business and Professional Regulation shall
782 periodically calculate the fees, rounded to the nearest dollar,
783 and publish the amounts, as adjusted, on its website. The
784 foregoing notwithstanding, an association may, if the authority
785 to do so appears in the declaration, articles, or bylaws,
786 require that a prospective lessee place a security deposit, in
787 an amount not to exceed the equivalent of 1 month's rent, into
788 an escrow account maintained by the association. The security
789 deposit shall protect against damages to the common elements or
790 association property. Payment of interest, claims against the
791 deposit, refunds, and disputes under this paragraph shall be
792 handled in the same fashion as provided in part II of chapter
793 83.

794 (j) *Recall of board members.*—Subject to s. 718.301, any



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795 member of the board of administration may be recalled and
796 removed from office with or without cause by the vote or
797 agreement in writing by a majority of all the voting interests.
798 A special meeting of the unit owners to recall a member or
799 members of the board of administration may be called by 10
800 percent of the voting interests giving notice of the meeting as
801 required for a meeting of unit owners, and the notice shall
802 state the purpose of the meeting. Electronic transmission may
803 not be used as a method of giving notice of a meeting called in
804 whole or in part for this purpose.

805 1. If the recall is approved by a majority of all voting
806 interests by a vote at a meeting, the recall will be effective
807 as provided in this paragraph. The board shall duly notice and
808 hold a board meeting within 5 full business days after the
809 adjournment of the unit owner meeting to recall one or more
810 board members. Such member or members shall be recalled
811 effective immediately upon conclusion of the board meeting,
812 provided that the recall is facially valid. A recalled member
813 must turn over to the board, within 10 full business days after
814 the vote, any and all records and property of the association in
815 their possession.

816 2. If the proposed recall is by an agreement in writing by
817 a majority of all voting interests, the agreement in writing or
818 a copy thereof shall be served on the association by certified
819 mail or by personal service in the manner authorized by chapter
820 48 and the Florida Rules of Civil Procedure. The board of
821 administration shall duly notice and hold a meeting of the board
822 within 5 full business days after receipt of the agreement in
823 writing. Such member or members shall be recalled effective



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824 immediately upon the conclusion of the board meeting, provided
825 that the recall is facially valid. A recalled member must turn
826 over to the board, within 10 full business days, any and all
827 records and property of the association in their possession.

828 3. If the board fails to duly notice and hold a board
829 meeting within 5 full business days after service of an
830 agreement in writing or within 5 full business days after the
831 adjournment of the unit owner recall meeting, the recall is
832 ~~shall be~~ deemed effective and the board members so recalled
833 shall turn over to the board within 10 full business days after
834 the vote any and all records and property of the association.

835 4. If the board fails to duly notice and hold the required
836 meeting or at the conclusion of the meeting determines that the
837 recall is not facially valid, the unit owner representative may
838 file a petition or court action under ~~pursuant to~~ s. 718.1255
839 challenging the board's failure to act or challenging the
840 board's determination on facial validity. The petition or action
841 must be filed within 60 days after the expiration of the
842 applicable 5-full-business-day period. The review of a petition
843 or action under this subparagraph is limited to the sufficiency
844 of service on the board and the facial validity of the written
845 agreement or ballots filed.

846 5. If a vacancy occurs on the board as a result of a recall
847 or removal and less than a majority of the board members are
848 removed, the vacancy may be filled by the affirmative vote of a
849 majority of the remaining directors, notwithstanding any
850 provision to the contrary contained in this subsection. If
851 vacancies occur on the board as a result of a recall and a
852 majority or more of the board members are removed, the vacancies



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853 shall be filled in accordance with procedural rules to be
854 adopted by the division, which rules need not be consistent with
855 this subsection. The rules must provide procedures governing the
856 conduct of the recall election as well as the operation of the
857 association during the period after a recall but before the
858 recall election.

859 6. A board member who has been recalled may file a petition
860 or court action under ~~pursuant to~~ s. 718.1255 challenging the
861 validity of the recall. The petition or action must be filed
862 within 60 days after the recall. The association and the unit
863 owner representative shall be named as the respondents. The
864 petition or action may challenge the facial validity of the
865 written agreement or ballots filed or the substantial compliance
866 with the procedural requirements for the recall. If the
867 arbitrator or court determines the recall was invalid, the
868 petitioning board member shall immediately be reinstated and the
869 recall is null and void. A board member who is successful in
870 challenging a recall is entitled to recover reasonable attorney
871 fees and costs from the respondents. The arbitrator or court may
872 award reasonable attorney fees and costs to the respondents if
873 they prevail, if the arbitrator or court makes a finding that
874 the petitioner's claim is frivolous.

875 7. The division or a court of competent jurisdiction may
876 not accept for filing a recall petition or court action, whether
877 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
878 subparagraph 4., or subparagraph 6. when there are 60 or fewer
879 days until the scheduled reelection of the board member sought
880 to be recalled or when 60 or fewer days have elapsed since the
881 election of the board member sought to be recalled.



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882 (k) Alternative dispute resolution Arbitration.—There must
883 ~~shall~~ be a provision for mandatory alternative dispute
884 resolution nonbinding arbitration as provided for in s. 718.1255
885 for any residential condominium.

886 ~~(p) Service providers; conflicts of interest.—An~~
887 ~~association, which is not a timeshare condominium association,~~
888 ~~may not employ or contract with any service provider that is~~
889 ~~owned or operated by a board member or with any person who has a~~
890 ~~financial relationship with a board member or officer, or a~~
891 ~~relative within the third degree of consanguinity by blood or~~
892 ~~marriage of a board member or officer. This paragraph does not~~
893 ~~apply to a service provider in which a board member or officer,~~
894 ~~or a relative within the third degree of consanguinity by blood~~
895 ~~or marriage of a board member or officer, owns less than 1~~
896 ~~percent of the equity shares.~~

897 Section 16. Subsection (8) of section 718.113, Florida
898 Statutes, is amended to read:

899 718.113 Maintenance; limitation upon improvement; display
900 of flag; hurricane shutters and protection; display of religious
901 decorations.—

902 (8) The Legislature finds that the use of electric and
903 natural gas fuel vehicles conserves and protects the state's
904 environmental resources, provides significant economic savings
905 to drivers, and serves an important public interest. The
906 participation of condominium associations is essential to the
907 state's efforts to conserve and protect the state's
908 environmental resources and provide economic savings to drivers.
909 For purposes of this subsection, the term "natural gas fuel" has
910 the same meaning as in s. 206.9951, and the term "natural gas



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911 fuel vehicle” means any motor vehicle, as defined in s. 320.01,
912 that is powered by natural gas fuel. Therefore, the installation
913 of an electric vehicle charging station or natural gas fuel
914 station shall be governed as follows:

915 (a) A declaration of condominium or restrictive covenant
916 may not prohibit or be enforced so as to prohibit any unit owner
917 from installing an electric vehicle charging station or natural
918 gas fuel station within the boundaries of the unit owner’s
919 limited common element or exclusively designated parking area.
920 The board of administration of a condominium association may not
921 prohibit a unit owner from installing an electric vehicle
922 charging station for an electric vehicle, as defined in s.
923 320.01, or a natural gas fuel station for a natural gas fuel
924 vehicle within the boundaries of his or her limited common
925 element or exclusively designated parking area. The installation
926 of such charging or fuel stations are subject to the provisions
927 of this subsection.

928 (b) The installation may not cause irreparable damage to
929 the condominium property.

930 (c) The electricity for the electric vehicle charging
931 station or natural gas fuel station must be separately metered
932 or metered by an embedded meter and payable by the unit owner
933 installing such charging or fuel station or by his or her
934 successor.

935 (d) The cost for supply and storage of the natural gas fuel
936 must be paid by the unit owner installing the natural gas fuel
937 station or by his or her successor.

938 (e) ~~(d)~~ The unit owner who is installing an electric vehicle
939 charging station or natural gas fuel station is responsible for



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940 the costs of installation, operation, maintenance, and repair,
941 including, but not limited to, hazard and liability insurance.
942 The association may enforce payment of such costs under ~~pursuant~~
943 ~~to~~ s. 718.116.

944 (f) ~~(e)~~ If the unit owner or his or her successor decides
945 there is no longer a need for the electronic vehicle charging
946 station or natural gas fuel station, such person is responsible
947 for the cost of removal of such ~~the electronic vehicle~~ charging
948 or fuel station. The association may enforce payment of such
949 costs under ~~pursuant to~~ s. 718.116.

950 (g) The unit owner installing, maintaining, or removing the
951 electric vehicle charging station or natural gas fuel station is
952 responsible for complying with all federal, state, or local laws
953 and regulations applicable to such installation, maintenance, or
954 removal.

955 (h) ~~(f)~~ The association may require the unit owner to:

956 1. Comply with bona fide safety requirements, consistent
957 with applicable building codes or recognized safety standards,
958 for the protection of persons and property.

959 2. Comply with reasonable architectural standards adopted
960 by the association that govern the dimensions, placement, or
961 external appearance of the electric vehicle charging station or
962 natural gas fuel station, provided that such standards may not
963 prohibit the installation of such charging or fuel station or
964 substantially increase the cost thereof.

965 3. Engage the services of a licensed and registered firm
966 ~~electrical contractor or engineer~~ familiar with the installation
967 or removal and core requirements of an electric vehicle charging
968 station or natural gas fuel station.



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969 4. Provide a certificate of insurance naming the
970 association as an additional insured on the owner's insurance
971 policy for any claim related to the installation, maintenance,
972 or use of the electric vehicle charging station or natural gas
973 fuel station within 14 days after receiving the association's
974 approval to install such charging or fuel station or notice to
975 provide such a certificate.

976 5. Reimburse the association for the actual cost of any
977 increased insurance premium amount attributable to the electric
978 vehicle charging station or natural gas fuel station within 14
979 days after receiving the association's insurance premium
980 invoice.

981 (i) ~~(g)~~ The association provides an implied easement across
982 the common elements of the condominium property to the unit
983 owner for purposes of ~~the installation of the~~ electric vehicle
984 charging station or natural gas fuel station installation, and
985 the furnishing of electrical power or natural gas fuel supply,
986 including any necessary equipment, to such charging or fuel
987 station, subject to the requirements of this subsection.

988 Section 17. Subsection (16) of section 718.117, Florida
989 Statutes, is amended to read:

990 718.117 Termination of condominium.—

991 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
992 plan of termination by initiating a petition in accordance with
993 ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~
994 within 90 days after the date the plan is recorded. A unit owner
995 or lienor may only contest the fairness and reasonableness of
996 the apportionment of the proceeds from the sale among the unit
997 owners, that the liens of the first mortgages of unit owners



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998 other than the bulk owner have not or will not be satisfied to
999 the extent required by subsection (3), or that the required vote
1000 to approve the plan was not obtained. A unit owner or lienor who
1001 does not contest the plan within the 90-day period is barred
1002 from asserting or prosecuting a claim against the association,
1003 the termination trustee, any unit owner, or any successor in
1004 interest to the condominium property. In an action contesting a
1005 plan of termination, the person contesting the plan has the
1006 burden of pleading and proving that the apportionment of the
1007 proceeds from the sale among the unit owners was not fair and
1008 reasonable or that the required vote was not obtained. The
1009 apportionment of sale proceeds is presumed fair and reasonable
1010 if it was determined pursuant to the methods prescribed in
1011 subsection (12). If the petition is filed with the division for
1012 arbitration, the arbitrator shall determine the rights and
1013 interests of the parties in the apportionment of the sale
1014 proceeds. If the arbitrator determines that the apportionment of
1015 sales proceeds is not fair and reasonable, the arbitrator may
1016 void the plan or may modify the plan to apportion the proceeds
1017 in a fair and reasonable manner pursuant to this section based
1018 upon the proceedings and order the modified plan of termination
1019 to be implemented. If the arbitrator determines that the plan
1020 was not properly approved, or that the procedures to adopt the
1021 plan were not properly followed, the arbitrator may void the
1022 plan or grant other relief it deems just and proper. The
1023 arbitrator shall automatically void the plan upon a finding that
1024 any of the disclosures required in subparagraph (3)(c)5. are
1025 omitted, misleading, incomplete, or inaccurate. Any challenge to
1026 a plan, other than a challenge that the required vote was not



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1027 obtained, does not affect title to the condominium property or
1028 the vesting of the condominium property in the trustee, but
1029 shall only be a claim against the proceeds of the plan. In any
1030 such action, the prevailing party shall recover reasonable
1031 attorney fees and costs.

1032 Section 18. Subsection (2) of section 718.121, Florida
1033 Statutes, is amended to read:

1034 718.121 Liens.—

1035 (2) Labor performed on or materials furnished to a unit may
1036 ~~shall~~ not be the basis for the filing of a lien under ~~pursuant~~
1037 ~~to~~ part I of chapter 713, the Construction Lien Law, against the
1038 unit or condominium parcel of any unit owner not expressly
1039 consenting to or requesting the labor or materials. Labor
1040 performed on or materials furnished for the installation of a
1041 natural gas fuel station or an electronic vehicle charging
1042 station ~~under pursuant to~~ s. 718.113(8) may not be the basis for
1043 filing a lien under part I of chapter 713 against the
1044 association, but such a lien may be filed against the unit
1045 owner. Labor performed on or materials furnished to the common
1046 elements are not the basis for a lien on the common elements,
1047 but if authorized by the association, the labor or materials are
1048 deemed to be performed or furnished with the express consent of
1049 each unit owner and may be the basis for the filing of a lien
1050 against all condominium parcels in the proportions for which the
1051 owners are liable for common expenses.

1052 Section 19. Subsections (5) and (6) of section 718.1255,
1053 Florida Statutes, are renumbered as subsections (6) and (7),
1054 respectively, subsection (2) and paragraph (a) of subsection (4)
1055 of that section are amended, and a new subsection (5) is added



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1056 to that section, to read:

1057 718.1255 Alternative dispute resolution; ~~voluntary~~
1058 mediation; ~~mandatory~~ nonbinding arbitration; legislative
1059 findings.—

1060 (2) ~~VOLUNTARY~~ MEDIATION.—~~Voluntary~~ Mediation through
1061 Citizen Dispute Settlement Centers as provided for in s. 44.201
1062 is encouraged.

1063 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
1064 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
1065 Mobile Homes of the Department of Business and Professional
1066 Regulation may employ full-time attorneys to act as arbitrators
1067 to conduct the arbitration hearings provided by this chapter.
1068 The division may also certify attorneys who are not employed by
1069 the division to act as arbitrators to conduct the arbitration
1070 hearings provided by this chapter. A ~~No~~ person may not be
1071 employed by the department as a full-time arbitrator unless he
1072 or she is a member in good standing of The Florida Bar. A person
1073 may only be certified by the division to act as an arbitrator if
1074 he or she has been a member in good standing of The Florida Bar
1075 for at least 5 years and has mediated or arbitrated at least 10
1076 disputes involving condominiums in this state during the 3 years
1077 immediately preceding the date of application, mediated or
1078 arbitrated at least 30 disputes in any subject area in this
1079 state during the 3 years immediately preceding the date of
1080 application, or attained board certification in real estate law
1081 or condominium and planned development law from The Florida Bar.
1082 Arbitrator certification is valid for 1 year. An arbitrator who
1083 does not maintain the minimum qualifications for initial
1084 certification may not have his or her certification renewed. The



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1085 department may not enter into a legal services contract for an
1086 arbitration hearing under this chapter with an attorney who is
1087 not a certified arbitrator unless a certified arbitrator is not
1088 available within 50 miles of the dispute. The department shall
1089 adopt rules of procedure to govern such arbitration hearings
1090 including mediation incident thereto. The decision of an
1091 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1092 ~~be~~ deemed final agency action. Nothing in this provision shall
1093 be construed to foreclose parties from proceeding in a trial de
1094 novo unless the parties have agreed that the arbitration is
1095 binding. If judicial proceedings are initiated, the final
1096 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1097 the trial de novo.

1098 (a) Before ~~Prior to~~ the institution of court litigation, a
1099 party to a dispute, other than an election or recall dispute,
1100 shall either petition the division for nonbinding arbitration or
1101 initiate presuit mediation as provided in subsection (5).

1102 Arbitration is binding on the parties if all parties in
1103 arbitration agree to be bound in a writing filed in arbitration.
1104 The petition must be accompanied by a filing fee in the amount
1105 of \$50. Filing fees collected under this section must be used to
1106 defray the expenses of the alternative dispute resolution
1107 program.

1108 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1109 nonbinding arbitration as set forth in subsections (1)-(4), a
1110 party may submit a dispute to presuit mediation in accordance
1111 with s. 720.311. Election and recall disputes are not eligible
1112 for mediation and such disputes must be arbitrated by the
1113 division or filed in a court of competent jurisdiction.



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1114 Section 20. Subsection (3) of section 718.202, Florida
1115 Statutes, is amended to read:

1116 718.202 Sales or reservation deposits prior to closing.—

1117 (3) If the contract for sale of the condominium unit so
1118 provides, the developer may withdraw escrow funds in excess of
1119 10 percent of the purchase price from the special account
1120 required by subsection (2) when the construction of improvements
1121 has begun. He or she may use the funds for the actual costs
1122 incurred by the developer in the ~~actual~~ construction and
1123 development of the condominium property in which the unit to be
1124 sold is located. For purposes of this subsection, the term
1125 “actual costs” includes, but is not limited to, expenditures for
1126 demolition, site clearing, permit fees, impact fees, and utility
1127 reservation fees, as well as architectural, engineering, and
1128 surveying fees that directly relate to construction and
1129 development of the condominium property. However, no part of
1130 these funds may be used for salaries, commissions, or expenses
1131 of salespersons; ~~or~~ for advertising, marketing, or promotional
1132 purposes; or for loan fees, costs or interest, attorney fees,
1133 accounting fees, or insurance. A contract which permits use of
1134 the advance payments for these purposes shall include the
1135 following legend conspicuously printed or stamped in boldfaced
1136 type on the first page of the contract and immediately above the
1137 place for the signature of the buyer: ANY PAYMENT IN EXCESS OF
1138 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO
1139 CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION
1140 PURPOSES BY THE DEVELOPER.

1141 Section 21. Subsection (1) and paragraph (b) of subsection
1142 (3) of section 718.303, Florida Statutes, are amended to read:



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1143 718.303 Obligations of owners and occupants; remedies.-
1144 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1145 ~~each~~ association is governed by, and must comply with the
1146 provisions of, this chapter, the declaration, the documents
1147 creating the association, and the association bylaws which are
1148 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1149 Actions at law or in equity for damages or for injunctive
1150 ~~relief~~, or both, for failure to comply with these provisions may
1151 be brought by the association or by a unit owner against:

1152 (a) The association.

1153 (b) A unit owner.

1154 (c) Directors designated by the developer, for actions
1155 taken by them before control of the association is assumed by
1156 unit owners other than the developer.

1157 (d) Any director who willfully and knowingly fails to
1158 comply with these provisions.

1159 (e) Any tenant leasing a unit, and any other invitee
1160 occupying a unit.

1161
1162 The prevailing party in any such action or in any action in
1163 which the purchaser claims a right of voidability based upon
1164 contractual provisions as required in s. 718.503(1)(a) is
1165 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1166 owner prevailing in an action between the association and the
1167 unit owner under this subsection ~~section~~, in addition to
1168 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1169 recover additional amounts as determined by the court to be
1170 necessary to reimburse the unit owner for his or her share of
1171 assessments levied by the association to fund its expenses of



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1172 the litigation. This relief does not exclude other remedies
1173 provided by law. Actions arising under this subsection are not
1174 considered ~~may not be deemed to be~~ actions for specific
1175 performance.

1176 (3) The association may levy reasonable fines for the
1177 failure of the owner of the unit or its occupant, licensee, or
1178 invitee to comply with any provision of the declaration, the
1179 association bylaws, or reasonable rules of the association. A
1180 fine may not become a lien against a unit. A fine may be levied
1181 by the board on the basis of each day of a continuing violation,
1182 with a single notice and opportunity for hearing before a
1183 committee as provided in paragraph (b). However, the fine may
1184 not exceed \$100 per violation, or \$1,000 in the aggregate.

1185 (b) A fine or suspension levied by the board of
1186 administration may not be imposed unless the board first
1187 provides at least 14 days' written notice to the unit owner and,
1188 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1189 unit owner sought to be fined or suspended, and an opportunity
1190 for a hearing before a committee of at least three members
1191 appointed by the board who are not officers, directors, or
1192 employees of the association, or the spouse, parent, child,
1193 brother, or sister of an officer, director, or employee. The
1194 role of the committee is limited to determining whether to
1195 confirm or reject the fine or suspension levied by the board. If
1196 the committee does not approve the proposed fine or suspension
1197 by majority vote, the fine or suspension may not be imposed. If
1198 the proposed fine or suspension is approved by the committee,
1199 the fine payment is due 5 days after notice of the approved fine
1200 is provided to the unit owner and, if applicable, to any tenant,



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1201 licensee, or invitee of the unit owner ~~the date of the committee~~
1202 ~~meeting at which the fine is approved.~~ The association must
1203 provide written notice of such fine or suspension by mail or
1204 hand delivery to the unit owner and, if applicable, to any
1205 tenant, licensee, or invitee of the unit owner.

1206 Section 22. Section 718.501, Florida Statutes, is amended
1207 to read:

1208 718.501 Authority, responsibility, and duties of Division
1209 of Florida Condominiums, Timeshares, and Mobile Homes.—

1210 (1) As used in this section, the term "financial issue"
1211 means an issue related to operating budgets; reserve schedules;
1212 accounting records under s. 718.111(12) (a)11.; notices of
1213 meetings; minutes of meetings discussing budget or financial
1214 issues; assessments for common expenses, fees, or fines; the
1215 commingling of funds; and any other record necessary to
1216 determine the revenues and expenses of the association. The
1217 division may adopt rules to further define what a financial
1218 issue is under this section.

1219 (2) ~~(1)~~ The division may enforce and ensure compliance with
1220 ~~the provisions of~~ this chapter and rules relating to the
1221 development, construction, sale, lease, ownership, operation,
1222 and management of residential condominium units. In performing
1223 its duties, the division has complete jurisdiction to
1224 investigate complaints and enforce compliance with respect to
1225 associations that are still under developer control or the
1226 control of a bulk assignee or bulk buyer pursuant to part VII of
1227 this chapter and complaints against developers, bulk assignees,
1228 or bulk buyers involving improper turnover or failure to
1229 turnover, pursuant to s. 718.301. However, after turnover has



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1230 occurred, the division has jurisdiction to investigate
1231 complaints related only to financial issues, elections, and the
1232 maintenance of and unit owner access to association records
1233 under ~~pursuant to~~ s. 718.111(12).

1234 (a)1. The division may make necessary public or private
1235 investigations within or outside this state to determine whether
1236 any person has violated this chapter or any rule or order
1237 hereunder, to aid in the enforcement of this chapter, or to aid
1238 in the adoption of rules or forms.

1239 2. The division may submit any official written report,
1240 worksheet, or other related paper, or a duly certified copy
1241 thereof, compiled, prepared, drafted, or otherwise made by and
1242 duly authenticated by a financial examiner or analyst to be
1243 admitted as competent evidence in any hearing in which the
1244 financial examiner or analyst is available for cross-examination
1245 and attests under oath that such documents were prepared as a
1246 result of an examination or inspection conducted pursuant to
1247 this chapter.

1248 (b) The division may require or permit any person to file a
1249 statement in writing, under oath or otherwise, as the division
1250 determines, as to the facts and circumstances concerning a
1251 matter to be investigated.

1252 (c) For the purpose of any investigation under this
1253 chapter, the division director or any officer or employee
1254 designated by the division director may administer oaths or
1255 affirmations, subpoena witnesses and compel their attendance,
1256 take evidence, and require the production of any matter which is
1257 relevant to the investigation, including the existence,
1258 description, nature, custody, condition, and location of any



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1259 books, documents, or other tangible things and the identity and
1260 location of persons having knowledge of relevant facts or any
1261 other matter reasonably calculated to lead to the discovery of
1262 material evidence. Upon the failure by a person to obey a
1263 subpoena or to answer questions propounded by the investigating
1264 officer and upon reasonable notice to all affected persons, the
1265 division may apply to the circuit court for an order compelling
1266 compliance.

1267 (d) Notwithstanding any remedies available to unit owners
1268 and associations, if the division has reasonable cause to
1269 believe that a violation of any provision of this chapter or
1270 related rule has occurred, the division may institute
1271 enforcement proceedings in its own name against any developer,
1272 bulk assignee, bulk buyer, association, officer, or member of
1273 the board of administration, or its assignees or agents, as
1274 follows:

1275 1. The division may permit a person whose conduct or
1276 actions may be under investigation to waive formal proceedings
1277 and enter into a consent proceeding whereby orders, rules, or
1278 letters of censure or warning, whether formal or informal, may
1279 be entered against the person.

1280 2. The division may issue an order requiring the developer,
1281 bulk assignee, bulk buyer, association, developer-designated
1282 officer, or developer-designated member of the board of
1283 administration, developer-designated assignees or agents, bulk
1284 assignee-designated assignees or agents, bulk buyer-designated
1285 assignees or agents, community association manager, or community
1286 association management firm to cease and desist from the
1287 unlawful practice and take such affirmative action as in the



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1288 judgment of the division carry out the purposes of this chapter.
1289 If the division finds that a developer, bulk assignee, bulk
1290 buyer, association, officer, or member of the board of
1291 administration, or its assignees or agents, is violating or is
1292 about to violate any provision of this chapter, any rule adopted
1293 or order issued by the division, or any written agreement
1294 entered into with the division, and presents an immediate danger
1295 to the public requiring an immediate final order, it may issue
1296 an emergency cease and desist order reciting with particularity
1297 the facts underlying such findings. The emergency cease and
1298 desist order is effective for 90 days. If the division begins
1299 nonemergency cease and desist proceedings, the emergency cease
1300 and desist order remains effective until the conclusion of the
1301 proceedings under ss. 120.569 and 120.57.

1302 3. If a developer, bulk assignee, or bulk buyer, fails to
1303 pay any restitution determined by the division to be owed, plus
1304 any accrued interest at the highest rate permitted by law,
1305 within 30 days after expiration of any appellate time period of
1306 a final order requiring payment of restitution or the conclusion
1307 of any appeal thereof, whichever is later, the division must
1308 bring an action in circuit or county court on behalf of any
1309 association, class of unit owners, lessees, or purchasers for
1310 restitution, declaratory relief, injunctive relief, or any other
1311 available remedy. The division may also temporarily revoke its
1312 acceptance of the filing for the developer to which the
1313 restitution relates until payment of restitution is made.

1314 4. The division may petition the court for appointment of a
1315 receiver or conservator. If appointed, the receiver or
1316 conservator may take action to implement the court order to



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1317 ensure the performance of the order and to remedy any breach
1318 thereof. In addition to all other means provided by law for the
1319 enforcement of an injunction or temporary restraining order, the
1320 circuit court may impound or sequester the property of a party
1321 defendant, including books, papers, documents, and related
1322 records, and allow the examination and use of the property by
1323 the division and a court-appointed receiver or conservator.

1324 5. The division may apply to the circuit court for an order
1325 of restitution whereby the defendant in an action brought under
1326 ~~pursuant to~~ subparagraph 4. is ordered to make restitution of
1327 those sums shown by the division to have been obtained by the
1328 defendant in violation of this chapter. At the option of the
1329 court, such restitution is payable to the conservator or
1330 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1331 to the persons whose funds or assets were obtained in violation
1332 of this chapter.

1333 6. The division may impose a civil penalty against a
1334 developer, bulk assignee, or bulk buyer, or association, or its
1335 assignee or agent, for any violation of this chapter or related
1336 rule. The division may impose a civil penalty individually
1337 against an officer or board member who willfully and knowingly
1338 violates a ~~provision of~~ this chapter, adopted rule, or a final
1339 order of the division; may order the removal of such individual
1340 as an officer or from the board of administration or as an
1341 officer of the association; and may prohibit such individual
1342 from serving as an officer or on the board of a community
1343 association for a period of time. The term "willfully and
1344 knowingly" means that the division informed the officer or board
1345 member that his or her action or intended action violates this



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1346 chapter, a rule adopted under this chapter, or a final order of
1347 the division and that the officer or board member refused to
1348 comply with the requirements of this chapter, a rule adopted
1349 under this chapter, or a final order of the division. The
1350 division, before initiating formal agency action under chapter
1351 120, must afford the officer or board member an opportunity to
1352 voluntarily comply, and an officer or board member who complies
1353 within 10 days is not subject to a civil penalty. A penalty may
1354 be imposed on the basis of each day of continuing violation, but
1355 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1356 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1357 applicable to possible violations or to categories of violations
1358 of this chapter or rules adopted by the division. The guidelines
1359 must specify a meaningful range of civil penalties for each such
1360 violation of the statute and rules and must be based upon the
1361 harm caused by the violation, the repetition of the violation,
1362 and upon such other factors deemed relevant by the division. For
1363 example, the division may consider whether the violations were
1364 committed by a developer, bulk assignee, or bulk buyer, or
1365 owner-controlled association, the size of the association, and
1366 other factors. The guidelines must designate the possible
1367 mitigating or aggravating circumstances that justify a departure
1368 from the range of penalties provided by the rules. It is the
1369 legislative intent that minor violations be distinguished from
1370 those which endanger the health, safety, or welfare of the
1371 condominium residents or other persons and that such guidelines
1372 provide reasonable and meaningful notice to the public of likely
1373 penalties that may be imposed for proscribed conduct. This
1374 subsection does not limit the ability of the division to



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1375 informally dispose of administrative actions or complaints by
1376 stipulation, agreed settlement, or consent order. All amounts
1377 collected shall be deposited with the Chief Financial Officer to
1378 the credit of the Division of Florida Condominiums, Timeshares,
1379 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1380 bulk buyer fails to pay the civil penalty and the amount deemed
1381 to be owed to the association, the division shall issue an order
1382 directing that such developer, bulk assignee, or bulk buyer
1383 cease and desist from further operation until such time as the
1384 civil penalty is paid or may pursue enforcement of the penalty
1385 in a court of competent jurisdiction. If an association fails to
1386 pay the civil penalty, the division shall pursue enforcement in
1387 a court of competent jurisdiction, and the order imposing the
1388 civil penalty or the cease and desist order is not effective
1389 until 20 days after the date of such order. Any action commenced
1390 by the division shall be brought in the county in which the
1391 division has its executive offices or in the county where the
1392 violation occurred.

1393 7. If a unit owner presents the division with proof that
1394 the unit owner has requested access to official records in
1395 writing by certified mail, and that after 10 days the unit owner
1396 again made the same request for access to official records in
1397 writing by certified mail, and that more than 10 days has
1398 elapsed since the second request and the association has still
1399 failed or refused to provide access to official records as
1400 required by this chapter, the division shall issue a subpoena
1401 requiring production of the requested records where the records
1402 are kept pursuant to s. 718.112.

1403 8. In addition to subparagraph 6., the division may seek



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1404 the imposition of a civil penalty through the circuit court for
1405 any violation for which the division may issue a notice to show
1406 cause under paragraph (r). The civil penalty shall be at least
1407 \$500 but no more than \$5,000 for each violation. The court may
1408 also award to the prevailing party court costs and reasonable
1409 attorney ~~attorney's~~ fees and, if the division prevails, may also
1410 award reasonable costs of investigation.

1411 (e) The division may prepare and disseminate a prospectus
1412 and other information to assist prospective owners, purchasers,
1413 lessees, and developers of residential condominiums in assessing
1414 the rights, privileges, and duties pertaining thereto.

1415 (f) The division may adopt rules to administer and enforce
1416 ~~the provisions of~~ this chapter.

1417 (g) The division shall establish procedures for providing
1418 notice to an association and the developer, bulk assignee, or
1419 bulk buyer during the period in which the developer, bulk
1420 assignee, or bulk buyer controls the association if the division
1421 is considering the issuance of a declaratory statement with
1422 respect to the declaration of condominium or any related
1423 document governing such condominium community.

1424 (h) The division shall furnish each association that pays
1425 the fees required by paragraph (3)(a) ~~(2)(a)~~ a copy of this
1426 chapter, as amended, and the rules adopted thereto on an annual
1427 basis.

1428 (i) The division shall annually provide each association
1429 with a summary of declaratory statements and formal legal
1430 opinions relating to the operations of condominiums which were
1431 rendered by the division during the previous year.

1432 (j) The division shall provide training and educational



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1433 programs for condominium association board members and unit
1434 owners. The training may, in the division's discretion, include
1435 web-based electronic media, and live training and seminars in
1436 various locations throughout the state. The division may review
1437 and approve education and training programs for board members
1438 and unit owners offered by providers and shall maintain a
1439 current list of approved programs and providers and make such
1440 list available to board members and unit owners in a reasonable
1441 and cost-effective manner. The division may adopt rules to
1442 establish requirements for the training and educational programs
1443 required in this paragraph.

1444 (k) The division shall maintain a toll-free telephone
1445 number accessible to condominium unit owners.

1446 (l) The division shall develop a program to certify both
1447 volunteer and paid mediators to provide mediation of condominium
1448 disputes. The division shall provide, upon request, a list of
1449 such mediators to any association, unit owner, or other
1450 participant in alternative dispute resolution ~~arbitration~~
1451 proceedings under s. 718.1255 requesting a copy of the list. The
1452 division shall include on the list of volunteer mediators only
1453 the names of persons who have received at least 20 hours of
1454 training in mediation techniques or who have mediated at least
1455 20 disputes. In order to become initially certified by the
1456 division, paid mediators must be certified by the Supreme Court
1457 to mediate court cases in county or circuit courts. However, the
1458 division may adopt, by rule, additional factors for the
1459 certification of paid mediators, which must be related to
1460 experience, education, or background. Any person initially
1461 certified as a paid mediator by the division must, in order to



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1462 continue to be certified, comply with the factors or
1463 requirements adopted by rule.

1464 (m) If a complaint is made, the division must conduct its
1465 inquiry with due regard for the interests of the affected
1466 parties. Within 30 days after receipt of a complaint, the
1467 division shall acknowledge the complaint in writing and notify
1468 the complainant whether the complaint is within the jurisdiction
1469 of the division and whether additional information is needed by
1470 the division from the complainant. The division shall conduct
1471 its investigation and, within 90 days after receipt of the
1472 original complaint or of timely requested additional
1473 information, take action upon the complaint. However, the
1474 failure to complete the investigation within 90 days does not
1475 prevent the division from continuing the investigation,
1476 accepting or considering evidence obtained or received after 90
1477 days, or taking administrative action if reasonable cause exists
1478 to believe that a violation of this chapter or a rule has
1479 occurred. If an investigation is not completed within the time
1480 limits established in this paragraph, the division shall, on a
1481 monthly basis, notify the complainant in writing of the status
1482 of the investigation. When reporting its action to the
1483 complainant, the division shall inform the complainant of any
1484 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57. The
1485 division may adopt rules regarding the submission of a complaint
1486 against an association.

1487 (n) Condominium association directors, officers, and
1488 employees; condominium developers; bulk assignees, bulk buyers,
1489 and community association managers; and community association
1490 management firms have an ongoing duty to reasonably cooperate



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1491 with the division in any investigation under ~~pursuant to~~ this
1492 section. The division shall refer to local law enforcement
1493 authorities any person whom the division believes has altered,
1494 destroyed, concealed, or removed any record, document, or thing
1495 required to be kept or maintained by this chapter with the
1496 purpose to impair its verity or availability in the department's
1497 investigation.

1498 (o) The division may:

1499 1. Contract with agencies in this state or other
1500 jurisdictions to perform investigative functions; or

1501 2. Accept grants-in-aid from any source.

1502 (p) The division shall cooperate with similar agencies in
1503 other jurisdictions to establish uniform filing procedures and
1504 forms, public offering statements, advertising standards, and
1505 rules and common administrative practices.

1506 (q) The division shall consider notice to a developer, bulk
1507 assignee, or bulk buyer to be complete when it is delivered to
1508 the address of the developer, bulk assignee, or bulk buyer
1509 currently on file with the division.

1510 (r) In addition to its enforcement authority, the division
1511 may issue a notice to show cause, which must provide for a
1512 hearing, upon written request, in accordance with chapter 120.

1513 (s) The division shall submit to the Governor, the
1514 President of the Senate, the Speaker of the House of
1515 Representatives, and the chairs of the legislative
1516 appropriations committees an annual report that includes, but
1517 need not be limited to, the number of training programs provided
1518 for condominium association board members and unit owners, the
1519 number of complaints received by type, the number and percent of



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1520 complaints acknowledged in writing within 30 days and the number
1521 and percent of investigations acted upon within 90 days in
1522 accordance with paragraph (m), and the number of investigations
1523 exceeding the 90-day requirement. The annual report must also
1524 include an evaluation of the division's core business processes
1525 and make recommendations for improvements, including statutory
1526 changes. The report shall be submitted by September 30 following
1527 the end of the fiscal year.

1528 (3) (a) ~~(2) (a)~~ Each condominium association which operates
1529 more than two units shall pay to the division an annual fee in
1530 the amount of \$4 for each residential unit in condominiums
1531 operated by the association. If the fee is not paid by March 1,
1532 the association shall be assessed a penalty of 10 percent of the
1533 amount due, and the association will not have standing to
1534 maintain or defend any action in the courts of this state until
1535 the amount due, plus any penalty, is paid.

1536 (b) All fees shall be deposited in the Division of Florida
1537 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1538 provided by law.

1539 Section 23. Section 718.5014, Florida Statutes, is amended
1540 to read:

1541 718.5014 Ombudsman location.—The ombudsman shall maintain
1542 his or her principal office at a ~~in Leon County on the premises~~
1543 ~~of the division or, if suitable space cannot be provided there,~~
1544 ~~at another~~ place convenient to the offices of the division which
1545 will enable the ombudsman to expeditiously carry out the duties
1546 and functions of his or her office. The ombudsman may establish
1547 branch offices elsewhere in the state upon the concurrence of
1548 the Governor.



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1549 Section 24. Subsection (25) of section 719.103, Florida
1550 Statutes, is amended to read:

1551 719.103 Definitions.—As used in this chapter:

1552 (25) "Unit" means a part of the cooperative property which
1553 is subject to exclusive use and possession. A unit may be
1554 improvements, land, or land and improvements together, as
1555 specified in the cooperative documents. An interest in a unit is
1556 an interest in real property.

1557 Section 25. Paragraph (c) of subsection (2) of section
1558 719.104, Florida Statutes, is amended to read:

1559 719.104 Cooperatives; access to units; records; financial
1560 reports; assessments; purchase of leases.—

1561 (2) OFFICIAL RECORDS.—

1562 (c) The official records of the association are open to
1563 inspection by any association member or the authorized
1564 representative of such member at all reasonable times. The right
1565 to inspect the records includes the right to make or obtain
1566 copies, at the reasonable expense, if any, of the association
1567 member. The association may adopt reasonable rules regarding the
1568 frequency, time, location, notice, and manner of record
1569 inspections and copying, but may not require a member to
1570 demonstrate any purpose or state any reason for the inspection.

1571 The failure of an association to provide the records within 10
1572 working days after receipt of a written request creates a
1573 rebuttable presumption that the association willfully failed to
1574 comply with this paragraph. A member ~~unit owner~~ who is denied
1575 access to official records is entitled to the actual damages or
1576 minimum damages for the association's willful failure to comply.
1577 The minimum damages are \$50 per calendar day for up to 10 days,



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1578 beginning on the 11th working day after receipt of the written
1579 request. The failure to permit inspection entitles any person
1580 prevailing in an enforcement action to recover reasonable
1581 attorney fees from the person in control of the records who,
1582 directly or indirectly, knowingly denied access to the records.
1583 Any person who knowingly or intentionally defaces or destroys
1584 accounting records that are required by this chapter to be
1585 maintained during the period for which such records are required
1586 to be maintained, or who knowingly or intentionally fails to
1587 create or maintain accounting records that are required to be
1588 created or maintained, with the intent of causing harm to the
1589 association or one or more of its members, is personally subject
1590 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1591 association shall maintain an adequate number of copies of the
1592 declaration, articles of incorporation, bylaws, and rules, and
1593 all amendments to each of the foregoing, as well as the question
1594 and answer sheet as described in s. 719.504 and year-end
1595 financial information required by the department, on the
1596 cooperative property to ensure their availability to members
1597 ~~unit owners~~ and prospective purchasers, and may charge its
1598 actual costs for preparing and furnishing these documents to
1599 those requesting the same. An association shall allow a member
1600 or his or her authorized representative to use a portable
1601 device, including a smartphone, tablet, portable scanner, or any
1602 other technology capable of scanning or taking photographs, to
1603 make an electronic copy of the official records in lieu of the
1604 association providing the member or his or her authorized
1605 representative with a copy of such records. The association may
1606 not charge a member or his or her authorized representative for



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1607 the use of a portable device. Notwithstanding this paragraph,
1608 the following records shall not be accessible to members ~~unit~~
1609 ~~owners~~:

1610 1. Any record protected by the lawyer-client privilege as
1611 described in s. 90.502 and any record protected by the work-
1612 product privilege, including any record prepared by an
1613 association attorney or prepared at the attorney's express
1614 direction which reflects a mental impression, conclusion,
1615 litigation strategy, or legal theory of the attorney or the
1616 association, and which was prepared exclusively for civil or
1617 criminal litigation or for adversarial administrative
1618 proceedings, or which was prepared in anticipation of such
1619 litigation or proceedings until the conclusion of the litigation
1620 or proceedings.

1621 2. Information obtained by an association in connection
1622 with the approval of the lease, sale, or other transfer of a
1623 unit.

1624 3. Personnel records of association or management company
1625 employees, including, but not limited to, disciplinary, payroll,
1626 health, and insurance records. For purposes of this
1627 subparagraph, the term "personnel records" does not include
1628 written employment agreements with an association employee or
1629 management company, or budgetary or financial records that
1630 indicate the compensation paid to an association employee.

1631 4. Medical records of unit owners.

1632 5. Social security numbers, driver license numbers, credit
1633 card numbers, e-mail addresses, telephone numbers, facsimile
1634 numbers, emergency contact information, addresses of a unit
1635 owner other than as provided to fulfill the association's notice



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1636 requirements, and other personal identifying information of any
1637 person, excluding the person's name, unit designation, mailing
1638 address, property address, and any address, e-mail address, or
1639 facsimile number provided to the association to fulfill the
1640 association's notice requirements. Notwithstanding the
1641 restrictions in this subparagraph, an association may print and
1642 distribute to unit ~~parcel~~ owners a directory containing the
1643 name, unit ~~parcel~~ address, and all telephone numbers of each
1644 unit ~~parcel~~ owner. However, an owner may exclude his or her
1645 telephone numbers from the directory by so requesting in writing
1646 to the association. An owner may consent in writing to the
1647 disclosure of other contact information described in this
1648 subparagraph. The association is not liable for the inadvertent
1649 disclosure of information that is protected under this
1650 subparagraph if the information is included in an official
1651 record of the association and is voluntarily provided by an
1652 owner and not requested by the association.

1653 6. Electronic security measures that are used by the
1654 association to safeguard data, including passwords.

1655 7. The software and operating system used by the
1656 association which allow the manipulation of data, even if the
1657 owner owns a copy of the same software used by the association.
1658 The data is part of the official records of the association.

1659 Section 26. Paragraphs (b), (f), and (l) of subsection (1)
1660 of section 719.106, Florida Statutes, are amended, and
1661 subsection (3) is added to that section, to read:

1662 719.106 Bylaws; cooperative ownership.—

1663 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1664 documents shall provide for the following, and if they do not,



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1665 they shall be deemed to include the following:

1666 (b) *Quorum; voting requirements; proxies.*—

1667 1. Unless otherwise provided in the bylaws, the percentage
1668 of voting interests required to constitute a quorum at a meeting
1669 of the members shall be a majority of voting interests, and
1670 decisions shall be made by owners of a majority of the voting
1671 interests. Unless otherwise provided in this chapter, or in the
1672 articles of incorporation, bylaws, or other cooperative
1673 documents, and except as provided in subparagraph (d)1.,
1674 decisions shall be made by owners of a majority of the voting
1675 interests represented at a meeting at which a quorum is present.

1676 2. Except as specifically otherwise provided herein, after
1677 January 1, 1992, unit owners may not vote by general proxy, but
1678 may vote by limited proxies substantially conforming to a
1679 limited proxy form adopted by the division. Limited proxies and
1680 general proxies may be used to establish a quorum. Limited
1681 proxies shall be used for votes taken to waive or reduce
1682 reserves in accordance with subparagraph (j)2., for votes taken
1683 to waive the financial reporting requirements of s.
1684 719.104(4)(b), for votes taken to amend the articles of
1685 incorporation or bylaws pursuant to this section, and for any
1686 other matter for which this chapter requires or permits a vote
1687 of the unit owners. Except as provided in paragraph (d), after
1688 January 1, 1992, no proxy, limited or general, shall be used in
1689 the election of board members. General proxies may be used for
1690 other matters for which limited proxies are not required, and
1691 may also be used in voting for nonsubstantive changes to items
1692 for which a limited proxy is required and given. Notwithstanding
1693 the provisions of this section, unit owners may vote in person



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1694 at unit owner meetings. Nothing contained herein shall limit the
1695 use of general proxies or require the use of limited proxies or
1696 require the use of limited proxies for any agenda item or
1697 election at any meeting of a timeshare cooperative.

1698 3. Any proxy given shall be effective only for the specific
1699 meeting for which originally given and any lawfully adjourned
1700 meetings thereof. In no event shall any proxy be valid for a
1701 period longer than 90 days after the date of the first meeting
1702 for which it was given. Every proxy shall be revocable at any
1703 time at the pleasure of the unit owner executing it.

1704 4. A member of the board of administration or a committee
1705 may submit in writing his or her agreement or disagreement with
1706 any action taken at a meeting that the member did not attend.
1707 This agreement or disagreement may not be used as a vote for or
1708 against the action taken and may not be used for the purposes of
1709 creating a quorum.

1710 5. A board or committee member participating in a meeting
1711 via telephone, real-time video conferencing, or similar real-
1712 time electronic or video communication counts toward a quorum,
1713 and such member may vote as if physically present ~~When some or~~
1714 ~~all of the board or committee members meet by telephone~~
1715 ~~conference, those board or committee members attending by~~
1716 ~~telephone conference may be counted toward obtaining a quorum~~
1717 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1718 used ~~utilized~~ so that the conversation of such ~~those board or~~
1719 ~~committee members attending by telephone~~ may be heard by the
1720 board or committee members attending in person, as well as by
1721 any unit owners present at a meeting.

1722 (f) *Recall of board members.*—Subject to s. 719.301, any



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1723 member of the board of administration may be recalled and
1724 removed from office with or without cause by the vote or
1725 agreement in writing by a majority of all the voting interests.
1726 A special meeting of the voting interests to recall any member
1727 of the board of administration may be called by 10 percent of
1728 the unit owners giving notice of the meeting as required for a
1729 meeting of unit owners, and the notice shall state the purpose
1730 of the meeting. Electronic transmission may not be used as a
1731 method of giving notice of a meeting called in whole or in part
1732 for this purpose.

1733 1. If the recall is approved by a majority of all voting
1734 interests by a vote at a meeting, the recall shall be effective
1735 as provided in this paragraph. The board shall duly notice and
1736 hold a board meeting within 5 full business days after the
1737 adjournment of the unit owner meeting to recall one or more
1738 board members. At the meeting, the board shall either certify
1739 the recall, in which case such member or members shall be
1740 recalled effective immediately and shall turn over to the board
1741 within 5 full business days any and all records and property of
1742 the association in their possession, or shall proceed as set
1743 forth in subparagraph 3.

1744 2. If the proposed recall is by an agreement in writing by
1745 a majority of all voting interests, the agreement in writing or
1746 a copy thereof shall be served on the association by certified
1747 mail or by personal service in the manner authorized by chapter
1748 48 and the Florida Rules of Civil Procedure. The board of
1749 administration shall duly notice and hold a meeting of the board
1750 within 5 full business days after receipt of the agreement in
1751 writing. At the meeting, the board shall either certify the



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1752 written agreement to recall members of the board, in which case
1753 such members shall be recalled effective immediately and shall
1754 turn over to the board, within 5 full business days, any and all
1755 records and property of the association in their possession, or
1756 proceed as described in subparagraph 3.

1757 3. If the board determines not to certify the written
1758 agreement to recall members of the board, or does not certify
1759 the recall by a vote at a meeting, the board shall, within 5
1760 full business days after the board meeting, file with the
1761 division a petition for binding arbitration under ~~pursuant to~~
1762 ~~the procedures of~~ s. 719.1255 or file an action with a court of
1763 competent jurisdiction. For purposes of this paragraph, the unit
1764 owners who voted at the meeting or who executed the agreement in
1765 writing shall constitute one party under the petition for
1766 arbitration or in a court action. If the arbitrator or court
1767 certifies the recall as to any member of the board, the recall
1768 is ~~shall be~~ effective upon the mailing of the final order of
1769 arbitration to the association or the final order of the court.
1770 If the association fails to comply with the order of the court
1771 or the arbitrator, the division may take action under ~~pursuant~~
1772 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
1773 any and all records and property of the association in the
1774 member's possession within 5 full business days after the
1775 effective date of the recall.

1776 4. If the board fails to duly notice and hold a board
1777 meeting within 5 full business days after service of an
1778 agreement in writing or within 5 full business days after the
1779 adjournment of the unit owner recall meeting, the recall is
1780 ~~shall be~~ deemed effective and the board members so recalled



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1781 shall immediately turn over to the board any and all records and
1782 property of the association.

1783 5. If the board fails to duly notice and hold the required
1784 meeting or fails to file the required petition or action, the
1785 unit owner representative may file a petition under ~~pursuant to~~
1786 s. 719.1255 or file an action in a court of competent
1787 jurisdiction challenging the board's failure to act. The
1788 petition or action must be filed within 60 days after the
1789 expiration of the applicable 5-full-business-day period. The
1790 review of a petition or action under this subparagraph is
1791 limited to the sufficiency of service on the board and the
1792 facial validity of the written agreement or ballots filed.

1793 6. If a vacancy occurs on the board as a result of a recall
1794 and less than a majority of the board members are removed, the
1795 vacancy may be filled by the affirmative vote of a majority of
1796 the remaining directors, notwithstanding any provision to the
1797 contrary contained in this chapter. If vacancies occur on the
1798 board as a result of a recall and a majority or more of the
1799 board members are removed, the vacancies shall be filled in
1800 accordance with procedural rules to be adopted by the division,
1801 which rules need not be consistent with this chapter. The rules
1802 must provide procedures governing the conduct of the recall
1803 election as well as the operation of the association during the
1804 period after a recall but before the recall election.

1805 7. A board member who has been recalled may file a petition
1806 under ~~pursuant to~~ s. 719.1255 or file an action in a court of
1807 competent jurisdiction challenging the validity of the recall.
1808 The petition or action must be filed within 60 days after the
1809 recall is deemed certified. The association and the unit owner



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1810 representative shall be named as the respondents.

1811 8. The division or court may not accept for filing a recall
1812 petition or action, whether filed under ~~pursuant to~~ subparagraph
1813 1., subparagraph 2., subparagraph 5., or subparagraph 7. and
1814 regardless of whether the recall was certified, when there are
1815 60 or fewer days until the scheduled reelection of the board
1816 member sought to be recalled or when 60 or fewer days have not
1817 elapsed since the election of the board member sought to be
1818 recalled.

1819 (1) Alternative dispute resolution Arbitration.—There shall
1820 be a provision for mandatory nonbinding alternative dispute
1821 resolution arbitration of internal disputes arising from the
1822 operation of the cooperative in accordance with s. 719.1255.

1823 (3) GENERALLY.—The association may extinguish a
1824 discriminatory restriction as provided under s. 712.065.

1825 Section 27. Paragraph (1) of subsection (4) of section
1826 720.303, Florida Statutes, is redesignated as paragraph (m),
1827 paragraph (c) of subsection (2), present paragraph (1) of
1828 subsection (4), paragraphs (c) and (d) of subsection (6), and
1829 paragraphs (b), (d), (g), (k), and (l) of subsection (10) are
1830 amended, and a new paragraph (1) is added to subsection (4) of
1831 that section, to read:

1832 720.303 Association powers and duties; meetings of board;
1833 official records; budgets; financial reporting; association
1834 funds; recalls.—

1835 (2) BOARD MEETINGS.—

1836 (c) The bylaws shall provide the following for giving
1837 notice to parcel owners and members of all board meetings and,
1838 if they do not do so, shall be deemed to include the following:



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1839 1. Notices of all board meetings must be posted in a
1840 conspicuous place in the community at least 48 hours in advance
1841 of a meeting, except in an emergency. In the alternative, if
1842 notice is not posted in a conspicuous place in the community,
1843 notice of each board meeting must be mailed or delivered to each
1844 member at least 7 days before the meeting, except in an
1845 emergency. Notwithstanding this general notice requirement, for
1846 communities with more than 100 members, the association bylaws
1847 may provide for a reasonable alternative to posting or mailing
1848 of notice for each board meeting, including publication of
1849 notice, provision of a schedule of board meetings, or the
1850 conspicuous posting and repeated broadcasting of the notice on a
1851 closed-circuit cable television system serving the homeowners'
1852 association. However, if broadcast notice is used in lieu of a
1853 notice posted physically in the community, the notice must be
1854 broadcast at least four times every broadcast hour of each day
1855 that a posted notice is otherwise required. When broadcast
1856 notice is provided, the notice and agenda must be broadcast in a
1857 manner and for a sufficient continuous length of time so as to
1858 allow an average reader to observe the notice and read and
1859 comprehend the entire content of the notice and the agenda. In
1860 addition to any of the authorized means of providing notice of a
1861 meeting of the board, the association may, by rule, adopt a
1862 procedure for conspicuously posting the meeting notice and the
1863 agenda on the association's website or an application that can
1864 be downloaded on a mobile device for at least the minimum period
1865 of time for which a notice of a meeting is also required to be
1866 physically posted on the association property. Any rule adopted
1867 shall, in addition to other matters, include a requirement that



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1868 the association send an electronic notice in the same manner as
1869 is required for a notice of a meeting of the members, which must
1870 include a hyperlink to the website or such mobile application at
1871 which the notice is posted, to members whose e-mail addresses
1872 are included in the association's official records. The
1873 association may provide notice by electronic transmission in a
1874 manner authorized by law for meetings of the board of directors,
1875 committee meetings requiring notice under this section, and
1876 annual and special meetings of the members to any member who has
1877 provided a facsimile number or e-mail address to the association
1878 to be used for such purposes; however, a member must consent in
1879 writing to receiving notice by electronic transmission.

1880 2. An assessment may not be levied at a board meeting
1881 unless the notice of the meeting includes a statement that
1882 assessments will be considered and the nature of the
1883 assessments. Written notice of any meeting at which special
1884 assessments will be considered or at which amendments to rules
1885 regarding parcel use will be considered must be mailed,
1886 delivered, or electronically transmitted to the members and
1887 parcel owners and posted conspicuously on the property or
1888 broadcast on closed-circuit cable television not less than 14
1889 days before the meeting.

1890 3. Directors may not vote by proxy or by secret ballot at
1891 board meetings, except that secret ballots may be used in the
1892 election of officers. This subsection also applies to the
1893 meetings of any committee or other similar body, when a final
1894 decision will be made regarding the expenditure of association
1895 funds, and to any body vested with the power to approve or
1896 disapprove architectural decisions with respect to a specific



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1897 parcel of residential property owned by a member of the
1898 community.

1899 (4) OFFICIAL RECORDS.—The association shall maintain each
1900 of the following items, when applicable, which constitute the
1901 official records of the association:

1902 (1) Ballots, sign-in sheets, voting proxies, and all other
1903 papers and electronic records relating to voting by parcel
1904 owners, which must be maintained for at least 1 year after the
1905 date of the election, vote, or meeting.

1906 (m) ~~(l)~~ All other written records of the association not
1907 specifically included in this subsection ~~the foregoing~~ which are
1908 related to the operation of the association.

1909 (6) BUDGETS.—

1910 (c)1. If the budget of the association does not provide for
1911 reserve accounts under ~~pursuant to~~ paragraph (d), or the
1912 declaration of covenants, articles, or bylaws do not obligate
1913 the developer to create reserves, and the association is
1914 responsible for the repair and maintenance of capital
1915 improvements that may result in a special assessment if reserves
1916 are not provided or not fully funded, then each financial report
1917 for the preceding fiscal year required by subsection (7) must
1918 contain the following statement in conspicuous type:

1919
1920 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
1921 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
1922 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
1923 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
1924 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
1925 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL



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1926 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
1927 MEETING OR BY WRITTEN CONSENT.

1928 2. If the budget of the association does provide for
1929 funding accounts for deferred expenditures, including, but not
1930 limited to, funds for capital expenditures and deferred
1931 maintenance, but such accounts are not created or established
1932 under pursuant to paragraph (d), each financial report for the
1933 preceding fiscal year required under subsection (7) must also
1934 contain the following statement in conspicuous type:

1935 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
1936 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
1937 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
1938 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
1939 TO PROVIDE FOR RESERVE ACCOUNTS UNDER PURSUANT TO SECTION
1940 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
1941 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
1942 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

1943 (d) An association is deemed to have provided for reserve
1944 accounts ~~if reserve accounts have been initially established by~~
1945 ~~the developer or if the membership of the association~~
1946 ~~affirmatively elects to provide for reserves. If reserve~~
1947 ~~accounts are established by the developer, the budget must~~
1948 ~~designate the components for which the reserve accounts may be~~
1949 ~~used. If reserve accounts are not initially provided by the~~
1950 ~~developer, the membership of the association may elect to do so~~
1951 upon the affirmative approval of a majority of the total voting
1952 interests of the association. Such approval may be obtained by
1953 vote of the members at a duly called meeting of the membership
1954 or by the written consent of a majority of the total voting



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1955 interests of the association. The approval action of the
1956 membership must state that reserve accounts shall be provided
1957 for in the budget and must designate the components for which
1958 the reserve accounts are to be established. Upon approval by the
1959 membership, the board of directors shall include the required
1960 reserve accounts in the budget in the next fiscal year following
1961 the approval and each year thereafter. Once established as
1962 provided in this subsection, the reserve accounts must be funded
1963 or maintained or have their funding waived in the manner
1964 provided in paragraph (f).

1965 (10) RECALL OF DIRECTORS.—

1966 (b)1. Board directors may be recalled by an agreement in
1967 writing or by written ballot without a membership meeting. The
1968 agreement in writing or the written ballots, or a copy thereof,
1969 shall be served on the association by certified mail or by
1970 personal service in the manner authorized by chapter 48 and the
1971 Florida Rules of Civil Procedure.

1972 2. The board shall duly notice and hold a meeting of the
1973 board within 5 full business days after receipt of the agreement
1974 in writing or written ballots. At the meeting, the board shall
1975 either certify the written ballots or written agreement to
1976 recall a director or directors of the board, in which case such
1977 director or directors shall be recalled effective immediately
1978 and shall turn over to the board within 5 full business days any
1979 and all records and property of the association in their
1980 possession, or proceed as described in paragraph (d).

1981 3. When it is determined by the department pursuant to
1982 binding arbitration proceedings or the court in an action filed
1983 in a court of competent jurisdiction that an initial recall



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1984 effort was defective, written recall agreements or written
1985 ballots used in the first recall effort and not found to be
1986 defective may be reused in one subsequent recall effort.
1987 However, in no event is a written agreement or written ballot
1988 valid for more than 120 days after it has been signed by the
1989 member.

1990 4. Any rescission or revocation of a member's written
1991 recall ballot or agreement must be in writing and, in order to
1992 be effective, must be delivered to the association before the
1993 association is served with the written recall agreements or
1994 ballots.

1995 5. The agreement in writing or ballot shall list at least
1996 as many possible replacement directors as there are directors
1997 subject to the recall, when at least a majority of the board is
1998 sought to be recalled; the person executing the recall
1999 instrument may vote for as many replacement candidates as there
2000 are directors subject to the recall.

2001 (d) If the board determines not to certify the written
2002 agreement or written ballots to recall a director or directors
2003 of the board or does not certify the recall by a vote at a
2004 meeting, the board shall, within 5 full business days after the
2005 meeting, file an action with a court of competent jurisdiction
2006 or file with the department a petition for binding arbitration
2007 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2008 and 718.1255 and the rules adopted thereunder. For the purposes
2009 of this section, the members who voted at the meeting or who
2010 executed the agreement in writing shall constitute one party
2011 under the petition for arbitration or in a court action. If the
2012 arbitrator or court certifies the recall as to any director or



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2013 directors of the board, the recall will be effective upon the
2014 final order of the court or the mailing of the final order of
2015 arbitration to the association. The director or directors so
2016 recalled shall deliver to the board any and all records of the
2017 association in their possession within 5 full business days
2018 after the effective date of the recall.

2019 (g) If the board fails to duly notice and hold the required
2020 meeting or fails to file the required petition or action, the
2021 parcel unit owner representative may file a petition or a court
2022 action under ~~pursuant to~~ s. 718.1255 challenging the board's
2023 failure to act. The petition or action must be filed within 60
2024 days after the expiration of the applicable 5-full-business-day
2025 period. The review of a petition or action under this paragraph
2026 is limited to the sufficiency of service on the board and the
2027 facial validity of the written agreement or ballots filed.

2028 (k) A board member who has been recalled may file an action
2029 with a court of competent jurisdiction or a petition under
2030 ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules adopted
2031 challenging the validity of the recall. The petition or action
2032 must be filed within 60 days after the recall is deemed
2033 certified. The association and the parcel unit owner
2034 representative shall be named as respondents.

2035 (l) The division or a court of competent jurisdiction may
2036 not accept for filing a recall petition or action, whether filed
2037 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2038 or paragraph (k) and regardless of whether the recall was
2039 certified, when there are 60 or fewer days until the scheduled
2040 reelection of the board member sought to be recalled or when 60
2041 or fewer days have not elapsed since the election of the board



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2042 member sought to be recalled.

2043 Section 28. Paragraphs (a) and (b) of subsection (2) of
2044 section 720.304, Florida Statutes, are amended to read:

2045 720.304 Right of owners to peaceably assemble; display of
2046 flag; SLAPP suits prohibited.—

2047 (2) (a) Any homeowner may display one portable, removable
2048 United States flag or official flag of the State of Florida in a
2049 respectful manner, and one portable, removable official flag, in
2050 a respectful manner, not larger than 4 1/2 feet by 6 feet, which
2051 represents any state, as defined in s. 624.08, or the United
2052 States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a
2053 POW-MIA flag, regardless of any covenants, restrictions, bylaws,
2054 rules, or requirements of the association.

2055 (b) Any homeowner may erect a freestanding flagpole no more
2056 than 20 feet high on any portion of the homeowner's real
2057 property, regardless of any covenants, restrictions, bylaws,
2058 rules, or requirements of the association, if the flagpole does
2059 not obstruct sightlines at intersections and is not erected
2060 within or upon an easement. The homeowner may further display in
2061 a respectful manner from that flagpole, regardless of any
2062 covenants, restrictions, bylaws, rules, or requirements of the
2063 association, one official United States flag, not larger than 4
2064 1/2 feet by 6 feet, and may additionally display one official
2065 flag of the State of Florida, any other state, as defined in s.
2066 624.08, or the United States Army, Navy, Air Force, Marines, or
2067 Coast Guard, or a POW-MIA flag. Such additional flag must be
2068 equal in size to or smaller than the United States flag. The
2069 flagpole and display are subject to all building codes, zoning
2070 setbacks, and other applicable governmental regulations,



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2071 including, but not limited to, noise and lighting ordinances in
2072 the county or municipality in which the flagpole is erected and
2073 all setback and locational criteria contained in the governing
2074 documents.

2075 Section 29. Subsections (1) and (2) of section 720.305,
2076 Florida Statutes, are amended to read:

2077 720.305 Obligations of members; remedies at law or in
2078 equity; levy of fines and suspension of use rights.—

2079 (1) Each member and the member's tenants, guests, and
2080 invitees, and each association, are governed by, and must comply
2081 with, this chapter and the governing documents of the
2082 community, ~~and the rules of the association~~. Actions at law or
2083 in equity, or both, to redress alleged failure or refusal to
2084 comply with these provisions may be brought by the association
2085 or by any member against:

2086 (a) The association;

2087 (b) A member;

2088 (c) Any director or officer of an association who willfully
2089 and knowingly fails to comply with these provisions; and

2090 (d) Any tenants, guests, or invitees occupying a parcel or
2091 using the common areas.

2092

2093 The prevailing party in any such litigation is entitled to
2094 recover reasonable attorney fees and costs. A member prevailing
2095 in an action between the association and the member under this
2096 section, in addition to recovering his or her reasonable
2097 attorney fees, may recover additional amounts as determined by
2098 the court to be necessary to reimburse the member for his or her
2099 share of assessments levied by the association to fund its



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2100 expenses of the litigation. This relief does not exclude other
2101 remedies provided by law. This section does not deprive any
2102 person of any other available right or remedy.

2103 (2) An ~~The~~ association may levy reasonable fines. A fine
2104 may not exceed \$100 per violation against any member or any
2105 member's tenant, guest, or invitee for the failure of the owner
2106 of the parcel or its occupant, licensee, or invitee to comply
2107 with any provision of the declaration, the association bylaws,
2108 or reasonable rules of the association unless otherwise provided
2109 in the governing documents. A fine may be levied by the board
2110 for each day of a continuing violation, with a single notice and
2111 opportunity for hearing, except that the fine may not exceed
2112 \$1,000 in the aggregate unless otherwise provided in the
2113 governing documents. A fine of less than \$1,000 may not become a
2114 lien against a parcel. In any action to recover a fine, the
2115 prevailing party is entitled to reasonable attorney fees and
2116 costs from the nonprevailing party as determined by the court.

2117 (a) An association may suspend, for a reasonable period of
2118 time, the right of a member, or a member's tenant, guest, or
2119 invitee, to use common areas and facilities for the failure of
2120 the owner of the parcel or its occupant, licensee, or invitee to
2121 comply with any provision of the declaration, the association
2122 bylaws, or reasonable rules of the association. This paragraph
2123 does not apply to that portion of common areas used to provide
2124 access or utility services to the parcel. A suspension may not
2125 prohibit an owner or tenant of a parcel from having vehicular
2126 and pedestrian ingress to and egress from the parcel, including,
2127 but not limited to, the right to park.

2128 (b) A fine or suspension levied by the board of



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2129 administration may not be imposed unless the board first
2130 provides at least 14 days' notice to the parcel owner and, if
2131 applicable, any occupant, licensee, or invitee of the parcel
2132 owner, sought to be fined or suspended and an opportunity for a
2133 hearing before a committee of at least three members appointed
2134 by the board who are not officers, directors, or employees of
2135 the association, or the spouse, parent, child, brother, or
2136 sister of an officer, director, or employee. If the committee,
2137 by majority vote, does not approve a proposed fine or
2138 suspension, the proposed fine or suspension may not be imposed.
2139 The role of the committee is limited to determining whether to
2140 confirm or reject the fine or suspension levied by the board. If
2141 the proposed fine or suspension levied by the board is approved
2142 by the committee, the fine payment is due 5 days after notice of
2143 the approved fine is provided to the parcel owner and, if
2144 applicable, to any occupant, licensee, or invitee of the parcel
2145 owner the date of the committee meeting at which the fine is
2146 approved. The association must provide written notice of such
2147 fine or suspension by mail or hand delivery to the parcel owner
2148 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
2149 of the parcel owner.

2150 Section 30. Paragraph (g) of subsection (1) and paragraph
2151 (c) of subsection (9) of section 720.306, Florida Statutes, are
2152 amended, and paragraph (h) is added to subsection (1) of that
2153 section, to read:

2154 720.306 Meetings of members; voting and election
2155 procedures; amendments.—

2156 (1) QUORUM; AMENDMENTS.—

2157 (g) A notice required under this section must be mailed or



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2158 delivered to the address identified as the parcel owner's
2159 mailing address in the official records of the association as
2160 required under s. 720.303(4) on the property appraiser's website
2161 for the county in which the parcel is located, or electronically
2162 transmitted in a manner authorized by the association if the
2163 parcel owner has consented, in writing, to receive notice by
2164 electronic transmission.

2165 (h)1. Except as provided herein, an amendment to a
2166 governing document enacted after July 1, 2020, which prohibits a
2167 parcel owner from renting his or her parcel, alters the
2168 authorized duration of a rental term, or specifies or limits the
2169 number of times that a parcel owner may rent his or her parcel
2170 during a specified period, applies only to a parcel owner who
2171 consents, individually or through a representative, to the
2172 amendment, and to parcel owners who acquire title to a parcel
2173 after the effective date of the amendment.

2174 2. Notwithstanding subparagraph 1., an association may
2175 amend its governing documents to prohibit or regulate rental
2176 durations that are for terms of less than 6 months and to
2177 prohibit a parcel owner from renting his or parcel more than
2178 three times in a calendar year. Such amendments apply to all
2179 parcel owners.

2180 3. This paragraph does not affect the amendment
2181 restrictions for associations of 15 or fewer parcel owners as
2182 provided in s. 720.303(1).

2183 4. For purposes of this paragraph, a change of ownership
2184 does not occur when a parcel owner conveys the parcel to an
2185 affiliated entity or when beneficial ownership of the parcel
2186 does not change. For purposes of this paragraph, the term



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2187 "affiliated entity" means an entity which controls, is
2188 controlled by, or is under common control with the parcel owner
2189 or that becomes a parent or successor entity by reason of
2190 transfer, merger, consolidation, public offering,
2191 reorganization, dissolution or sale of stock, or transfer of
2192 membership partnership interests. For a conveyance to be
2193 recognized as one made to an affiliated entity, the entity must
2194 furnish the association a document certifying that this
2195 paragraph applies, as well as providing any organizational
2196 documents for the parcel owner and the affiliated entity that
2197 support the representations in the certificate, as requested by
2198 the association.

2199 (9) ELECTIONS AND BOARD VACANCIES.—

2200 (c) Any election dispute between a member and an
2201 association must be submitted to ~~mandatory~~ binding arbitration
2202 with the division or filed with a court of competent
2203 jurisdiction. Such proceedings that are submitted to binding
2204 arbitration with the division must be conducted in the manner
2205 provided by s. 718.1255 and the procedural rules adopted by the
2206 division. Unless otherwise provided in the bylaws, any vacancy
2207 occurring on the board before the expiration of a term may be
2208 filled by an affirmative vote of the majority of the remaining
2209 directors, even if the remaining directors constitute less than
2210 a quorum, or by the sole remaining director. In the alternative,
2211 a board may hold an election to fill the vacancy, in which case
2212 the election procedures must conform to the requirements of the
2213 governing documents. Unless otherwise provided in the bylaws, a
2214 board member appointed or elected under this section is
2215 appointed for the unexpired term of the seat being filled.



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2216 Filling vacancies created by recall is governed by s.
2217 720.303(10) and rules adopted by the division.

2218 Section 31. Subsection (1) of section 720.311, Florida
2219 Statutes, is amended to read:

2220 720.311 Dispute resolution.—

2221 (1) The Legislature finds that alternative dispute
2222 resolution has made progress in reducing court dockets and
2223 trials and in offering a more efficient, cost-effective option
2224 to litigation. The filing of any petition for arbitration or the
2225 serving of a demand for presuit mediation as provided for in
2226 this section shall toll the applicable statute of limitations.
2227 Any recall dispute filed with the department under ~~pursuant to~~
2228 s. 720.303(10) shall be conducted by the department in
2229 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
2230 and the rules adopted by the division. In addition, the
2231 department shall conduct ~~mandatory~~ binding arbitration of
2232 election disputes between a member and an association in
2233 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
2234 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
2235 not eligible for presuit mediation; these disputes must ~~shall~~ be
2236 arbitrated by the department or filed in a court of competent
2237 jurisdiction. At the conclusion of an arbitration ~~the~~
2238 proceeding, the department shall charge the parties a fee in an
2239 amount adequate to cover all costs and expenses incurred by the
2240 department in conducting the proceeding. Initially, the
2241 petitioner shall remit a filing fee of at least \$200 to the
2242 department. The fees paid to the department shall become a
2243 recoverable cost in the arbitration proceeding, and the
2244 prevailing party in an arbitration proceeding shall recover its



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2245 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2246 reasonable by the arbitrator. The department shall adopt rules
2247 to effectuate the purposes of this section.

2248 Section 32. Subsection (6) is added to section 720.3075,
2249 Florida Statutes, to read:

2250 720.3075 Prohibited clauses in association documents.—

2251 (6) The association may extinguish a discriminatory
2252 restriction as provided in s. 712.065.

2253

2254 ===== T I T L E A M E N D M E N T =====

2255 And the title is amended as follows:

2256 Delete lines 1108 - 1120

2257 and insert:

2258 beverages; amending s. 627.714, F.S.; prohibiting
2259 subrogation rights against a condominium association
2260 under certain circumstances; creating s. 712.065,
2261 F.S.; defining the term "discriminatory restriction";
2262 providing that discriminatory restrictions are
2263 unlawful, unenforceable, and void; providing that
2264 discriminatory restrictions are extinguished and
2265 severed from recorded title transactions; specifying
2266 that the recording of certain notices does not
2267 reimpose or preserve a discriminatory restriction;
2268 providing requirements for a parcel owner to remove a
2269 discriminatory restriction from a covenant or
2270 restriction; amending s. 718.111, F.S.; requiring that
2271 certain records be maintained for a specified time;
2272 requiring associations to maintain official records in
2273 a specified manner; requiring an association to



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2274 provide a checklist or affidavit relating to certain
2275 records to certain persons; requiring such checklist
2276 or affidavit to be maintained for a time certain;
2277 creating a rebuttable presumption; prohibiting an
2278 association from requiring certain actions relating to
2279 the inspection of records; revising requirements
2280 relating to the posting of digital copies of certain
2281 documents by certain condominium associations;
2282 amending s. 718.112, F.S.; authorizing a condominium
2283 association to extinguish discriminatory restrictions;
2284 revising calculation of a board member's term limit;
2285 providing the circumstances under which a person is
2286 delinquent in the payment of an assessment in the
2287 context of eligibility for membership on certain
2288 condominium boards; providing requirements for certain
2289 notices; requiring that an annual budget be proposed
2290 to unit owners and adopted by the board before a
2291 specified time; revising the fees an association may
2292 charge for transfers; deleting a prohibition against
2293 employing or contracting with certain service
2294 providers; amending s. 718.113, F.S.; defining the
2295 terms "natural gas fuel" and "natural gas fuel
2296 vehicle"; revising legislative findings; revising
2297 requirements for electric vehicle charging stations;
2298 providing requirements for the installation of natural
2299 gas fuel stations on property governed by condominium
2300 associations; amending s. 718.117, F.S.; conforming
2301 provisions to changes made by the act; amending s.
2302 718.121, F.S.; providing when the installation of a



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2303 natural gas fuel station may be the basis of a lien;
2304 amending s. 718.1255, F.S.; authorizing parties to
2305 initiate presuit mediation under certain
2306 circumstances; specifying when arbitration is binding
2307 on the parties; providing requirements for presuit
2308 mediation; amending s. 718.202, F.S.; revising use of
2309 certain withdrawn escrow funds by developers; amending
2310 s. 718.303, F.S.; revising requirements for certain
2311 actions for failure to comply with specified
2312 provisions; revising requirements for certain fines;
2313 amending s. 718.501, F.S.; defining the term
2314 "financial issue"; authorizing the Division of
2315 Condominiums, Timeshares, and Mobile Homes to adopt
2316 rules; amending s. 718.5014, F.S.; revising the
2317 location requirements for the principal office of the
2318 condominium ombudsman; amending s. 719.103, F.S.;
2319 revising the definition of the term "unit" to specify
2320 that an interest in a cooperative unit is an interest
2321 in real property; amending s. 719.104, F.S.;
2322 prohibiting an association from requiring certain
2323 actions relating to the inspection of records;
2324 amending s. 719.106, F.S.; revising provisions
2325 relating to a quorum and voting rights for members
2326 remotely participating in meetings; amending procedure
2327 to challenge a board member recall; authorizing
2328 cooperative associations to extinguish discriminatory
2329 restrictions; amending s. 720.303, F.S.; authorizing
2330 an association to adopt procedures for electronic
2331 meeting notices; revising the documents that



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2332 constitute the official records of an association;
2333 revising when a specified statement must be included
2334 in an association's financial report; revising
2335 requirements for such statement; revising when an
2336 association is deemed to have provided for reserve
2337 accounts; amending procedure to challenge a board
2338 member recall; amending s. 720.304, F.S.; authorizing
2339 a homeowner to display certain flags; amending s.
2340 720.305, F.S.; providing requirements for certain
2341 fines; amending s. 720.306, F.S.; revising
2342 requirements for providing certain notices; providing
2343 limitations on associations when a parcel owner
2344 attempts to rent or lease his or her parcel; amending
2345 the procedure for election disputes; amending s.
2346 720.311, F.S.; amending the procedure for election
2347 disputes; amending s. 720.3075, F.S.; authorizing
2348 homeowners' associations to extinguish discriminatory
2349 restrictions; amending ss. 455.219, 548.002,