

By the Committees on Community Affairs; and Innovation,
Industry, and Technology; and Senator Baxley

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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 627.714, F.S.; prohibiting subrogation rights against
4 a condominium association under certain circumstances;
5 creating s. 712.065, F.S.; defining the term
6 "discriminatory restriction"; providing that
7 discriminatory restrictions are unlawful,
8 unenforceable, and declared null and void; providing
9 that certain discriminatory restrictions are
10 extinguished and severed from recorded title
11 transactions; specifying that the recording of certain
12 notices does not reimpose or preserve a discriminatory
13 restriction; providing requirements for a parcel owner
14 to remove a discriminatory restriction from a covenant
15 or restriction; amending s. 718.111, F.S.; requiring
16 that certain records be maintained for a specified
17 time; requiring associations to maintain official
18 records in a specified manner; requiring an
19 association to provide a checklist or affidavit
20 relating to certain records to certain persons;
21 providing a timeframe for maintaining such checklist
22 and affidavit; creating a rebuttable presumption;
23 prohibiting an association from requiring certain
24 actions relating to the inspection of records;
25 revising requirements relating to the posting of
26 digital copies of certain documents by certain
27 condominium associations; conforming cross-references;
28 amending s. 718.112, F.S.; authorizing condominium
29 associations to extinguish discriminatory

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30 restrictions; specifying that only board service that
31 occurs on or after a specified date may be used for
32 calculating a board member's term limit; providing
33 requirements for certain notices; revising the fees an
34 association may charge for transfers; conforming
35 provisions to changes made by the act; deleting a
36 prohibition against employing or contracting with
37 certain service providers; amending s. 718.113, F.S.;
38 defining the terms "natural gas fuel" and "natural gas
39 fuel vehicle"; revising legislative findings; revising
40 requirements for electric vehicle charging stations;
41 providing requirements for the installation of natural
42 gas fuel stations on property governed by condominium
43 associations; amending s. 718.1255, F.S.; authorizing
44 parties to initiate presuit mediation under certain
45 circumstances; specifying when arbitration is binding
46 on the parties; providing requirements for presuit
47 mediation; amending s. 718.202, F.S.; revising how
48 developers may use certain withdrawn escrow funds;
49 amending s. 718.303, F.S.; revising requirements for
50 certain actions for failure to comply with specified
51 provisions; revising requirements for certain fines;
52 amending s. 718.501, F.S.; defining the term
53 "financial issue"; authorizing the Division of
54 Condominiums, Timeshares, and Mobile Homes to adopt
55 rules; amending s. 718.5014, F.S.; revising where the
56 principal office of the Office of the Condominium
57 Ombudsman must be maintained; amending s. 719.103,
58 F.S.; revising the definition of the term "unit" to

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59 specify that an interest in a cooperative unit is an
60 interest in real property; amending s. 719.104, F.S.;
61 prohibiting an association from requiring certain
62 actions relating to the inspection of records; making
63 technical changes; amending s. 719.106, F.S.; revising
64 provisions relating to a quorum and voting rights for
65 members remotely participating in meetings;
66 authorizing cooperative associations to extinguish
67 discriminatory restrictions; amending s. 720.303,
68 F.S.; authorizing an association to adopt procedures
69 for electronic meeting notices; revising the documents
70 that constitute the official records of an
71 association; revising when a specified statement must
72 be included in an association's financial report for
73 the preceding fiscal year; revising requirements for
74 such statement; revising when an association is deemed
75 to have provided for reserve accounts; amending s.
76 720.305, F.S.; providing requirements for certain
77 fines; amending s. 720.306, F.S.; revising
78 requirements for providing certain notices; amending
79 s. 720.3075, F.S.; authorizing homeowners'
80 associations to extinguish discriminatory
81 restrictions; providing an effective date.

82
83 Be It Enacted by the Legislature of the State of Florida:

84
85 Section 1. Subsection (4) of section 627.714, Florida
86 Statutes, is amended to read:

87 627.714 Residential condominium unit owner coverage; loss

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88 assessment coverage required.—

89 (4) Every individual unit owner's residential property
90 policy must contain a provision stating that the coverage
91 afforded by such policy is excess coverage over the amount
92 recoverable under any other policy covering the same property.
93 If a condominium association's insurance policy does not provide
94 rights for subrogation against the unit owners in the
95 association, an insurance policy issued to an individual unit
96 owner located in the association may not provide rights of
97 subrogation against the condominium association.

98 Section 2. Section 712.065, Florida Statutes, is created to
99 read:

100 712.065 Extinguishment of discriminatory restrictions.—

101 (1) As used in this section, the term "discriminatory
102 restriction" means a provision in a title transaction recorded
103 in this state which restricts the ownership, occupancy, or use
104 of any real property in this state by any natural person on the
105 basis of a characteristic that has been held, or is held after
106 July 1, 2020, by the United States Supreme Court or the Florida
107 Supreme Court to be protected against discrimination under the
108 Fourteenth Amendment to the United States Constitution or under
109 s. 2, Art. I of the State Constitution, including race, color,
110 national origin, religion, gender, or physical disability.

111 (2) A discriminatory restriction is not enforceable in this
112 state, and all discriminatory restrictions contained in any
113 title transaction recorded in this state are unlawful, are
114 unenforceable, and are declared null and void. Any
115 discriminatory restriction contained in a previously recorded
116 title transaction is extinguished and severed from the recorded

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117 title transaction and the remainder of the title transaction
118 remains enforceable and effective. The recording of any notice
119 preserving or protecting interests or rights pursuant to s.
120 712.05 does not reimpose or preserve any discriminatory
121 restriction that is extinguished under this section.

122 (3) Upon request of a parcel owner, a discriminatory
123 restriction appearing in a covenant or restriction affecting the
124 parcel may be removed from the covenant or restriction by an
125 amendment approved by a majority vote of the board of directors
126 of the respective property owners' association or an owners'
127 association in which all owners may voluntarily join,
128 notwithstanding any other requirements for approval of an
129 amendment of the covenant or restriction. Unless the amendment
130 also changes other provisions of the covenant or restriction,
131 the recording of an amendment removing a discriminatory
132 restriction does not constitute a title transaction occurring
133 after the root of title for purposes of s. 712.03(4).

134 Section 3. Paragraphs (a), (b), (c), (f) and (g) of
135 subsection (12) of section 718.111, Florida Statutes, are
136 amended to read:

137 718.111 The association.—

138 (12) OFFICIAL RECORDS.—

139 (a) From the inception of the association, the association
140 shall maintain each of the following items, if applicable, which
141 constitutes the official records of the association:

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

144 2. A photocopy of the recorded declaration of condominium
145 of each condominium operated by the association and each

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146 amendment to each declaration.

147 3. A photocopy of the recorded bylaws of the association
148 and each amendment to the bylaws.

149 4. A certified copy of the articles of incorporation of the
150 association, or other documents creating the association, and
151 each amendment thereto.

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

153 6. A book or books that contain the minutes of all meetings
154 of the association, the board of administration, and the unit
155 owners.

156 7. A current roster of all unit owners and their mailing
157 addresses, unit identifications, voting certifications, and, if
158 known, telephone numbers. The association shall also maintain
159 the e-mail addresses and facsimile numbers of unit owners
160 consenting to receive notice by electronic transmission. The e-
161 mail addresses and facsimile numbers are not accessible to unit
162 owners if consent to receive notice by electronic transmission
163 is not provided in accordance with sub-subparagraph (c)3.e.
164 However, the association is not liable for an inadvertent
165 disclosure of the e-mail address or facsimile number for
166 receiving electronic transmission of notices.

167 8. All current insurance policies of the association and
168 condominiums operated by the association.

169 9. A current copy of any management agreement, lease, or
170 other contract to which the association is a party or under
171 which the association or the unit owners have an obligation or
172 responsibility.

173 10. Bills of sale or transfer for all property owned by the
174 association.

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175 11. Accounting records for the association and separate
176 accounting records for each condominium that the association
177 operates. Any person who knowingly or intentionally defaces or
178 destroys such records, or who knowingly or intentionally fails
179 to create or maintain such records, with the intent of causing
180 harm to the association or one or more of its members, is
181 personally subject to a civil penalty under s. 718.501(2)(d)
182 ~~pursuant to s. 718.501(1)(d)~~. The accounting records must
183 include, but are not limited to:

184 a. Accurate, itemized, and detailed records of all receipts
185 and expenditures.

186 b. A current account and a monthly, bimonthly, or quarterly
187 statement of the account for each unit designating the name of
188 the unit owner, the due date and amount of each assessment, the
189 amount paid on the account, and the balance due.

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

192 d. All contracts for work to be performed. Bids for work to
193 be performed are also considered official records and must be
194 maintained by the association for at least 1 year after receipt
195 of the bid.

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

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

203 14. A copy of the current question and answer sheet as

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204 described in s. 718.504.

205 ~~15. All other written records of the association not~~
206 ~~specifically included in the foregoing which are related to the~~
207 ~~operation of the association.~~

208 ~~16.~~ A copy of the inspection report as described in s.
209 718.301(4)(p).

210 ~~16.17.~~ Bids for materials, equipment, or services.

211 17. All other written records of the association not
212 specifically included in subparagraphs 1.-16. which are related
213 to the operation of the association.

214 (b) The official records specified in subparagraphs (a)1.-
215 6. must be permanently maintained from the inception of the
216 association. Bids for work to be performed or for materials,
217 equipment, or services must be maintained for at least 1 year
218 after receipt of the bid. All other official records must be
219 maintained within the state for at least 7 years, unless
220 otherwise provided by general law. All official records must be
221 maintained in a manner and format determined by the division so
222 that the records are easily accessible for inspection. The
223 records of the association shall be made available to a unit
224 owner within 45 miles of the condominium property or within the
225 county in which the condominium property is located within 10
226 working days after receipt of a written request by the board or
227 its designee. However, such distance requirement does not apply
228 to an association governing a timeshare condominium. This
229 paragraph may be complied with by having a copy of the official
230 records of the association available for inspection or copying
231 on the condominium property or association property, or the
232 association may offer the option of making the records available

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233 to a unit owner electronically via the Internet or by allowing
234 the records to be viewed in electronic format on a computer
235 screen and printed upon request. The association is not
236 responsible for the use or misuse of the information provided to
237 an association member or his or her authorized representative in
238 ~~pursuant to the compliance with requirements of~~ this chapter
239 unless the association has an affirmative duty not to disclose
240 such information under ~~pursuant to~~ this chapter.

241 (c)1. The official records of the association are open to
242 inspection by any association member or the authorized
243 representative of such member at all reasonable times. The right
244 to inspect the records includes the right to make or obtain
245 copies, at the reasonable expense, if any, of the member or
246 authorized representative of such member. A renter of a unit
247 only has a right to inspect and copy the declaration of
248 condominium and association's bylaws and rules. The association
249 must provide a checklist to the member or the authorized
250 representative of such member of all records that are made
251 available for inspection and copying in response to a written
252 request. If any of the association's official records are not
253 available, such records must be identified on the checklist
254 provided to the person requesting the records. The checklist
255 must be signed by a manager licensed pursuant to chapter 468 who
256 certifies that the checklist is accurate to the best of his or
257 her knowledge and belief or the association must provide the
258 person requesting the records with a sworn affidavit attesting
259 to the veracity of the checklist and executed by the person
260 responding to the written request on behalf of the association.
261 The association must maintain a copy of the checklist and

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262 affidavit for at least 7 years. Delivery of the checklist and,
263 if required, the sworn affidavit to the person requesting the
264 records creates a rebuttable presumption that the association
265 complied with this paragraph. The association may adopt
266 reasonable rules regarding the frequency, time, location,
267 notice, and manner of record inspections and copying, but may
268 not require a member to demonstrate any purpose or state any
269 reason for the inspection. The failure of an association to
270 provide the records within 10 working days after receipt of a
271 written request creates a rebuttable presumption that the
272 association willfully failed to comply with this paragraph. A
273 unit owner who is denied access to official records is entitled
274 to the actual damages or minimum damages for the association's
275 willful failure to comply. Minimum damages are \$50 per calendar
276 day for up to 10 days, beginning on the 11th working day after
277 receipt of the written request. The failure to permit inspection
278 entitles any person prevailing in an enforcement action to
279 recover reasonable attorney fees from the person in control of
280 the records who, directly or indirectly, knowingly denied access
281 to the records.

282 2. Any person who knowingly or intentionally defaces or
283 destroys accounting records that are required by this chapter to
284 be maintained during the period for which such records are
285 required to be maintained, or who knowingly or intentionally
286 fails to create or maintain accounting records that are required
287 to be created or maintained, with the intent of causing harm to
288 the association or one or more of its members, is personally
289 subject to a civil penalty under 718.501(2) (d) ~~pursuant to s.~~
290 ~~718.501(1) (d).~~

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291 3. The association shall maintain an adequate number of
292 copies of the declaration, articles of incorporation, bylaws,
293 and rules, and all amendments to each of the foregoing, as well
294 as the question and answer sheet as described in s. 718.504 and
295 year-end financial information required under this section, on
296 the condominium property to ensure their availability to unit
297 owners and prospective purchasers, and may charge its actual
298 costs for preparing and furnishing these documents to those
299 requesting the documents. An association shall allow a member or
300 his or her authorized representative to use a portable device,
301 including a smartphone, tablet, portable scanner, or any other
302 technology capable of scanning or taking photographs, to make an
303 electronic copy of the official records in lieu of the
304 association's providing the member or his or her authorized
305 representative with a copy of such records. The association may
306 not charge a member or his or her authorized representative for
307 the use of a portable device. Notwithstanding this paragraph,
308 the following records are not accessible to unit owners:

309 a. Any record protected by the lawyer-client privilege as
310 described in s. 90.502 and any record protected by the work-
311 product privilege, including a record prepared by an association
312 attorney or prepared at the attorney's express direction, which
313 reflects a mental impression, conclusion, litigation strategy,
314 or legal theory of the attorney or the association, and which
315 was prepared exclusively for civil or criminal litigation or for
316 adversarial administrative proceedings, or which was prepared in
317 anticipation of such litigation or proceedings until the
318 conclusion of the litigation or proceedings.

319 b. Information obtained by an association in connection

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320 with the approval of the lease, sale, or other transfer of a
321 unit.

322 c. Personnel records of association or management company
323 employees, including, but not limited to, disciplinary, payroll,
324 health, and insurance records. For purposes of this sub-
325 subparagraph, the term "personnel records" does not include
326 written employment agreements with an association employee or
327 management company, or budgetary or financial records that
328 indicate the compensation paid to an association employee.

329 d. Medical records of unit owners.

330 e. Social security numbers, driver license numbers, credit
331 card numbers, e-mail addresses, telephone numbers, facsimile
332 numbers, emergency contact information, addresses of a unit
333 owner other than as provided to fulfill the association's notice
334 requirements, and other personal identifying information of any
335 person, excluding the person's name, unit designation, mailing
336 address, property address, and any address, e-mail address, or
337 facsimile number provided to the association to fulfill the
338 association's notice requirements. Notwithstanding the
339 restrictions in this sub-subparagraph, an association may print
340 and distribute to unit ~~parcel~~ owners a directory containing the
341 name, unit ~~parcel~~ address, and all telephone numbers of each
342 unit ~~parcel~~ owner. However, an owner may exclude his or her
343 telephone numbers from the directory by so requesting in writing
344 to the association. An owner may consent in writing to the
345 disclosure of other contact information described in this sub-
346 subparagraph. The association is not liable for the inadvertent
347 disclosure of information that is protected under this sub-
348 subparagraph if the information is included in an official

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349 record of the association and is voluntarily provided by an
350 owner and not requested by the association.

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

353 g. The software and operating system used by the
354 association which allow the manipulation of data, even if the
355 owner owns a copy of the same software used by the association.
356 The data is part of the official records of the association.

357 (f) An outgoing board or committee member must relinquish
358 all official records and property of the association in his or
359 her possession or under his or her control to the incoming board
360 within 5 days after the election. The division shall impose a
361 civil penalty as set forth in s. 718.501(2)(d)6. ~~s.~~
362 ~~718.501(1)(d)6.~~ against an outgoing board or committee member
363 who willfully and knowingly fails to relinquish such records and
364 property.

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

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

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

374 (II) A website, application, or web portal operated by a
375 third-party provider with whom the association owns, leases,
376 rents, or otherwise obtains the right to operate a web page,
377 subpage, web portal, ~~or~~ collection of subpages or web portals,

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378 or application which is dedicated to the association's
379 activities and on which required notices, records, and documents
380 may be posted or made available by the association.

381 b. The association's website or application must be
382 accessible through the Internet and must contain a subpage, web
383 portal, or other protected electronic location that is
384 inaccessible to the general public and accessible only to unit
385 owners and employees of the association.

386 c. Upon a unit owner's written request, the association
387 must provide the unit owner with a username and password and
388 access to the protected sections of the association's website or
389 application that contain any notices, records, or documents that
390 must be electronically provided.

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

393 a. The recorded declaration of condominium of each
394 condominium operated by the association and each amendment to
395 each declaration.

396 b. The recorded bylaws of the association and each
397 amendment to the bylaws.

398 c. The articles of incorporation of the association, or
399 other documents creating the association, and each amendment to
400 the articles of incorporation or other documents ~~thereto~~. The
401 copy posted pursuant to this sub-subparagraph must be a copy of
402 the articles of incorporation filed with the Department of
403 State.

404 d. The rules of the association.

405 e. A list of all executory contracts or documents to which
406 the association is a party or under which the association or the

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407 unit owners have an obligation or responsibility and, after
408 bidding for the related materials, equipment, or services has
409 closed, a list of bids received by the association within the
410 past year. Summaries of bids for materials, equipment, or
411 services which exceed \$500 must be maintained on the website or
412 application for 1 year. In lieu of summaries, complete copies of
413 the bids may be posted.

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

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

419 h. The certification of each director required by s.
420 718.112(2)(d)4.b.

421 i. All contracts or transactions between the association
422 and any director, officer, corporation, firm, or association
423 that is not an affiliated condominium association or any other
424 entity in which an association director is also a director or
425 officer and financially interested.

426 j. Any contract or document regarding a conflict of
427 interest or possible conflict of interest as provided in ss.
428 468.436(2)(b)6. and 718.3027(3).

429 k. The notice of any unit owner meeting and the agenda for
430 the meeting, as required by s. 718.112(2)(d)3., no later than 14
431 days before the meeting. The notice must be posted in plain view
432 on the front page of the website or application, or on a
433 separate subpage of the website or application labeled "Notices"
434 which is conspicuously visible and linked from the front page.
435 The association must also post on its website or application any

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436 document to be considered and voted on by the owners during the
437 meeting or any document listed on the agenda at least 7 days
438 before the meeting at which the document or the information
439 within the document will be considered.

440 1. Notice of any board meeting, the agenda, and any other
441 document required for the meeting as required by s.
442 718.112(2)(c), which must be posted no later than the date
443 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

444 3. The association shall ensure that the information and
445 records described in paragraph (c), which are not allowed to be
446 accessible to unit owners, are not posted on the association's
447 website or application. If protected information or information
448 restricted from being accessible to unit owners is included in
449 documents that are required to be posted on the association's
450 website or application, the association shall ensure the
451 information is redacted before posting the documents ~~online~~.
452 Notwithstanding the foregoing, the association or its agent is
453 not liable for disclosing information that is protected or
454 restricted under ~~pursuant to~~ this paragraph unless such
455 disclosure was made with a knowing or intentional disregard of
456 the protected or restricted nature of such information.

457 4. The failure of the association to post information
458 required under subparagraph 2. is not in and of itself
459 sufficient to invalidate any action or decision of the
460 association's board or its committees.

461 Section 4. Paragraphs (d), (i), (k), and (p) of subsection
462 (2) of section 718.112, Florida Statutes, are amended, and
463 paragraph (c) is added to subsection (1) of that section, to
464 read:

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465 718.112 Bylaws.—

466 (1) GENERALLY.—

467 (c) The association may extinguish a discriminatory
468 restriction, as defined in s. 712.065(1), pursuant to s.
469 712.065.

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

473 (d) *Unit owner meetings.*—

474 1. An annual meeting of the unit owners must be held at the
475 location provided in the association bylaws and, if the bylaws
476 are silent as to the location, the meeting must be held within
477 45 miles of the condominium property. However, such distance
478 requirement does not apply to an association governing a
479 timeshare condominium.

480 2. Unless the bylaws provide otherwise, a vacancy on the
481 board caused by the expiration of a director's term must be
482 filled by electing a new board member, and the election must be
483 by secret ballot. An election is not required if the number of
484 vacancies equals or exceeds the number of candidates. For
485 purposes of this paragraph, the term "candidate" means an
486 eligible person who has timely submitted the written notice, as
487 described in sub-subparagraph 4.a., of his or her intention to
488 become a candidate. Except in a timeshare or nonresidential
489 condominium, or if the staggered term of a board member does not
490 expire until a later annual meeting, or if all members' terms
491 would otherwise expire but there are no candidates, the terms of
492 all board members expire at the annual meeting, and such members
493 may stand for reelection unless prohibited by the bylaws. Board

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494 members may serve terms longer than 1 year if permitted by the
495 bylaws or articles of incorporation. A board member may not
496 serve more than 8 consecutive years unless approved by an
497 affirmative vote of unit owners representing two-thirds of all
498 votes cast in the election or unless there are not enough
499 eligible candidates to fill the vacancies on the board at the
500 time of the vacancy. Only board service that occurs on or after
501 July 1, 2018, may be used when calculating a board member's term
502 limit. If the number of board members whose terms expire at the
503 annual meeting equals or exceeds the number of candidates, the
504 candidates become members of the board effective upon the
505 adjournment of the annual meeting. Unless the bylaws provide
506 otherwise, any remaining vacancies shall be filled by the
507 affirmative vote of the majority of the directors making up the
508 newly constituted board even if the directors constitute less
509 than a quorum or there is only one director. In a residential
510 condominium association of more than 10 units or in a
511 residential condominium association that does not include
512 timeshare units or timeshare interests, co-owners of a unit may
513 not serve as members of the board of directors at the same time
514 unless they own more than one unit or unless there are not
515 enough eligible candidates to fill the vacancies on the board at
516 the time of the vacancy. A unit owner in a residential
517 condominium desiring to be a candidate for board membership must
518 comply with sub-subparagraph 4.a. and must be eligible to be a
519 candidate to serve on the board of directors at the time of the
520 deadline for submitting a notice of intent to run in order to
521 have his or her name listed as a proper candidate on the ballot
522 or to serve on the board. A person who has been suspended or

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523 removed by the division under this chapter, or who is delinquent
524 in the payment of any monetary obligation due to the
525 association, is not eligible to be a candidate for board
526 membership and may not be listed on the ballot. A person who has
527 been convicted of any felony in this state or in a United States
528 District or Territorial Court, or who has been convicted of any
529 offense in another jurisdiction which would be considered a
530 felony if committed in this state, is not eligible for board
531 membership unless such felon's civil rights have been restored
532 for at least 5 years as of the date such person seeks election
533 to the board. The validity of an action by the board is not
534 affected if it is later determined that a board member is
535 ineligible for board membership due to having been convicted of
536 a felony. This subparagraph does not limit the term of a member
537 of the board of a nonresidential or timeshare condominium.

538 3. The bylaws must provide the method of calling meetings
539 of unit owners, including annual meetings. Written notice of an
540 annual meeting must include an agenda; ~~it must~~ be mailed, hand
541 delivered, or electronically transmitted to each unit owner at
542 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
543 a conspicuous place on the condominium property at least 14
544 continuous days before the annual meeting. Written notice of a
545 meeting other than an annual meeting must include an agenda; be
546 mailed, hand delivered, or electronically transmitted to each
547 unit owner; and be posted in a conspicuous place on the
548 condominium property in accordance with the minimum period of
549 time for posting a notice as set forth in the bylaws, or if the
550 bylaws do not provide such notice requirements, at least 14
551 continuous days before the meeting. Upon notice to the unit

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552 owners, the board shall, by duly adopted rule, designate a
553 specific location on the condominium property where all notices
554 of unit owner meetings must be posted. This requirement does not
555 apply if there is no condominium property for posting notices.
556 In lieu of, or in addition to, the physical posting of meeting
557 notices, the association may, by reasonable rule, adopt a
558 procedure for conspicuously posting and repeatedly broadcasting
559 the notice and the agenda on a closed-circuit cable television
560 system serving the condominium association. However, if
561 broadcast notice is used in lieu of a notice posted physically
562 on the condominium property, the notice and agenda must be
563 broadcast at least four times every broadcast hour of each day
564 that a posted notice is otherwise required under this section.
565 If broadcast notice is provided, the notice and agenda must be
566 broadcast in a manner and for a sufficient continuous length of
567 time so as to allow an average reader to observe the notice and
568 read and comprehend the entire content of the notice and the
569 agenda. In addition to any of the authorized means of providing
570 notice of a meeting of the board, the association may, by rule,
571 adopt a procedure for conspicuously posting the meeting notice
572 and the agenda on a website serving the condominium association
573 for at least the minimum period of time for which a notice of a
574 meeting is also required to be physically posted on the
575 condominium property. Any rule adopted shall, in addition to
576 other matters, include a requirement that the association send
577 an electronic notice in the same manner as a notice for a
578 meeting of the members, which must include a hyperlink to the
579 website where the notice is posted, to unit owners whose e-mail
580 addresses are included in the association's official records.

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581 Unless a unit owner waives in writing the right to receive
582 notice of the annual meeting, such notice must be hand
583 delivered, mailed, or electronically transmitted to each unit
584 owner. Notice for meetings and notice for all other purposes
585 must be mailed to each unit owner at the address last furnished
586 to the association by the unit owner, or hand delivered to each
587 unit owner. However, if a unit is owned by more than one person,
588 the association must provide notice to the address that the
589 developer identifies for that purpose and thereafter as one or
590 more of the owners of the unit advise the association in
591 writing, or if no address is given or the owners of the unit do
592 not agree, to the address provided on the deed of record. An
593 officer of the association, or the manager or other person
594 providing notice of the association meeting, must provide an
595 affidavit or United States Postal Service certificate of
596 mailing, to be included in the official records of the
597 association affirming that the notice was mailed or hand
598 delivered in accordance with this provision.

599 4. The members of the board of a residential condominium
600 shall be elected by written ballot or voting machine. Proxies
601 may not be used in electing the board in general elections or
602 elections to fill vacancies caused by recall, resignation, or
603 otherwise, unless otherwise provided in this chapter. This
604 subparagraph does not apply to an association governing a
605 timeshare condominium.

606 a. At least 60 days before a scheduled election, the
607 association shall mail, deliver, or electronically transmit, by
608 separate association mailing or included in another association
609 mailing, delivery, or transmission, including regularly

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610 published newsletters, to each unit owner entitled to a vote, a
611 first notice of the date of the election. A unit owner or other
612 eligible person desiring to be a candidate for the board must
613 give written notice of his or her intent to be a candidate to
614 the association at least 40 days before a scheduled election.
615 Together with the written notice and agenda as set forth in
616 subparagraph 3., the association shall mail, deliver, or
617 electronically transmit a second notice of the election to all
618 unit owners entitled to vote, together with a ballot that lists
619 all candidates, not less than 14 days or more than 34 days
620 before the date of the election. Upon request of a candidate, an
621 information sheet, no larger than 8 1/2 inches by 11 inches,
622 which must be furnished by the candidate at least 35 days before
623 the election, must be included with the mailing, delivery, or
624 transmission of the ballot, with the costs of mailing, delivery,
625 or electronic transmission and copying to be borne by the
626 association. The association is not liable for the contents of
627 the information sheets prepared by the candidates. In order to
628 reduce costs, the association may print or duplicate the
629 information sheets on both sides of the paper. The division
630 shall by rule establish voting procedures consistent with this
631 sub-subparagraph, including rules establishing procedures for
632 giving notice by electronic transmission and rules providing for
633 the secrecy of ballots. Elections shall be decided by a
634 plurality of ballots cast. There is no quorum requirement;
635 however, at least 20 percent of the eligible voters must cast a
636 ballot in order to have a valid election. A unit owner may not
637 authorize any other person to vote his or her ballot, and any
638 ballots improperly cast are invalid. A unit owner who violates

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639 this provision may be fined by the association in accordance
640 with s. 718.303. A unit owner who needs assistance in casting
641 the ballot for the reasons stated in s. 101.051 may obtain such
642 assistance. The regular election must occur on the date of the
643 annual meeting. Notwithstanding this sub-subparagraph, an
644 election is not required unless more candidates file notices of
645 intent to run or are nominated than board vacancies exist.

646 b. Within 90 days after being elected or appointed to the
647 board of an association of a residential condominium, each newly
648 elected or appointed director shall certify in writing to the
649 secretary of the association that he or she has read the
650 association's declaration of condominium, articles of
651 incorporation, bylaws, and current written policies; that he or
652 she will work to uphold such documents and policies to the best
653 of his or her ability; and that he or she will faithfully
654 discharge his or her fiduciary responsibility to the
655 association's members. In lieu of this written certification,
656 within 90 days after being elected or appointed to the board,
657 the newly elected or appointed director may submit a certificate
658 of having satisfactorily completed the educational curriculum
659 administered by a division-approved condominium education
660 provider within 1 year before or 90 days after the date of
661 election or appointment. The written certification or
662 educational certificate is valid and does not have to be
663 resubmitted as long as the director serves on the board without
664 interruption. A director of an association of a residential
665 condominium who fails to timely file the written certification
666 or educational certificate is suspended from service on the
667 board until he or she complies with this sub-subparagraph. The

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668 board may temporarily fill the vacancy during the period of
669 suspension. The secretary shall cause the association to retain
670 a director's written certification or educational certificate
671 for inspection by the members for 5 years after a director's
672 election or the duration of the director's uninterrupted tenure,
673 whichever is longer. Failure to have such written certification
674 or educational certificate on file does not affect the validity
675 of any board action.

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

678 5. Any approval by unit owners called for by this chapter
679 or the applicable declaration or bylaws, including, but not
680 limited to, the approval requirement in s. 718.111(8), must be
681 made at a duly noticed meeting of unit owners and is subject to
682 all requirements of this chapter or the applicable condominium
683 documents relating to unit owner decisionmaking, except that
684 unit owners may take action by written agreement, without
685 meetings, on matters for which action by written agreement
686 without meetings is expressly allowed by the applicable bylaws
687 or declaration or any law that provides for such action.

688 6. Unit owners may waive notice of specific meetings if
689 allowed by the applicable bylaws or declaration or any law.
690 Notice of meetings of the board of administration, unit owner
691 meetings, except unit owner meetings called to recall board
692 members under paragraph (j), and committee meetings may be given
693 by electronic transmission to unit owners who consent to receive
694 notice by electronic transmission. A unit owner who consents to
695 receiving notices by electronic transmission is solely
696 responsible for removing or bypassing filters that block receipt

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697 of mass e-mails ~~emails~~ sent to members on behalf of the
698 association in the course of giving electronic notices.

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

703 8. A unit owner may tape record or videotape a meeting of
704 the unit owners subject to reasonable rules adopted by the
705 division.

706 9. Unless otherwise provided in the bylaws, any vacancy
707 occurring on the board before the expiration of a term may be
708 filled by the affirmative vote of the majority of the remaining
709 directors, even if the remaining directors constitute less than
710 a quorum, or by the sole remaining director. In the alternative,
711 a board may hold an election to fill the vacancy, in which case
712 the election procedures must conform to sub-subparagraph 4.a.
713 unless the association governs 10 units or fewer and has opted
714 out of the statutory election process, in which case the bylaws
715 of the association control. Unless otherwise provided in the
716 bylaws, a board member appointed or elected under this section
717 shall fill the vacancy for the unexpired term of the seat being
718 filled. Filling vacancies created by recall is governed by
719 paragraph (j) and rules adopted by the division.

720 10. This chapter does not limit the use of general or
721 limited proxies, require the use of general or limited proxies,
722 or require the use of a written ballot or voting machine for any
723 agenda item or election at any meeting of a timeshare
724 condominium association or nonresidential condominium
725 association.

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726

727 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
728 association of 10 or fewer units may, by affirmative vote of a
729 majority of the total voting interests, provide for different
730 voting and election procedures in its bylaws, which may be by a
731 proxy specifically delineating the different voting and election
732 procedures. The different voting and election procedures may
733 provide for elections to be conducted by limited or general
734 proxy.

735 (i) Transfer fees.—An association may not ~~ne~~ charge an
736 applicant any fees, except the actual costs of any background
737 check or screening performed ~~shall be made~~ by the association as
738 supported by an invoice from an independent third party
739 background investigation company used by the association or its
740 authorized agent, ~~or any body thereof~~ in connection with the
741 sale, mortgage, lease, sublease, or other transfer of a unit
742 unless the association is required to approve such transfer and
743 a fee for such approval is provided for in the declaration,
744 articles, or bylaws. Neither the association, nor its authorized
745 agent may charge an owner, purchaser, mortgagee, lessee, or
746 sublessee any administration fee on such background check or
747 screening. In addition to the actual costs of any background
748 check or screening performed by the association, a transfer ~~any~~
749 ~~such~~ fee may be preset, but may not ~~in no event may such fee~~
750 exceed \$100 per applicant other than spouses or parent and
751 dependent child, who ~~husband/wife or parent/dependent child,~~
752 ~~which~~ are considered one applicant. However, if the lease or
753 sublease is a renewal of a lease or sublease with the same
754 lessee or sublessee, a charge may not ~~no charge shall~~ be made.

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755 The foregoing notwithstanding, an association may, if the
756 authority to do so appears in the declaration, articles, or
757 bylaws, require that a prospective lessee place a security
758 deposit, in an amount not to exceed the equivalent of 1 month's
759 rent, into an escrow account maintained by the association. The
760 security deposit shall protect against damages to the common
761 elements or association property. Payment of interest, claims
762 against the deposit, refunds, and disputes under this paragraph
763 shall be handled in the same fashion as provided in part II of
764 chapter 83.

765 (k) Alternative Dispute Resolution Arbitration.— There must
766 ~~shall~~ be a provision for mandatory alternative dispute
767 resolution nonbinding arbitration as provided for in s. 718.1255
768 for any residential condominium.

769 ~~(p) Service providers; conflicts of interest. An~~
770 ~~association, which is not a timeshare condominium association,~~
771 ~~may not employ or contract with any service provider that is~~
772 ~~owned or operated by a board member or with any person who has a~~
773 ~~financial relationship with a board member or officer, or a~~
774 ~~relative within the third degree of consanguinity by blood or~~
775 ~~marriage of a board member or officer. This paragraph does not~~
776 ~~apply to a service provider in which a board member or officer,~~
777 ~~or a relative within the third degree of consanguinity by blood~~
778 ~~or marriage of a board member or officer, owns less than 1~~
779 ~~percent of the equity shares.~~

780 Section 5. Subsection (8) of section 718.113, Florida
781 Statutes, is amended to read:

782 718.113 Maintenance; limitation upon improvement; display
783 of flag; hurricane shutters and protection; display of religious

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784 decorations.—

785 (8) The Legislature finds that the use of electric and
786 natural gas fuel vehicles conserves and protects the state's
787 environmental resources, provides significant economic savings
788 to drivers, and serves an important public interest. The
789 participation of condominium associations is essential to the
790 state's efforts to conserve and protect the state's
791 environmental resources and provide economic savings to drivers.
792 For purposes of this subsection, the term "natural gas fuel" has
793 the same meaning as in s. 206.9951, and the term "natural gas
794 fuel vehicle" means any motor vehicle, as defined in s.
795 320.01(1), powered by natural gas fuel. Therefore, the
796 installation of an electric vehicle charging or natural gas fuel
797 station shall be governed as follows:

798 (a) A declaration of condominium or restrictive covenant
799 may not prohibit or be enforced so as to prohibit any unit owner
800 from installing an electric vehicle charging or natural gas fuel
801 station within the boundaries of the unit owner's limited common
802 element or exclusively designated parking area. The board of
803 administration of a condominium association may not prohibit a
804 unit owner from installing an electric vehicle charging station
805 for an electric vehicle, as defined in s. 320.01, or a natural
806 gas fuel station for a natural gas fuel vehicle within the
807 boundaries of his or her limited common element or exclusively
808 designated parking area. The installation of such charging or
809 fuel stations are subject to the provisions of this subsection.

810 (b) The installation may not cause irreparable damage to
811 the condominium property.

812 (c) The electricity for the electric vehicle charging or

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813 natural gas fuel station must be separately metered or metered
814 by an embedded meter and payable by the unit owner installing
815 such charging or fuel station or by his or her successor.

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

819 (e)~~(d)~~ The unit owner who is installing an electric vehicle
820 charging or natural gas fuel station is responsible for the
821 costs of installation, operation, maintenance, and repair,
822 including, but not limited to, hazard and liability insurance.
823 The association may enforce payment of such costs under ~~pursuant~~
824 ~~to~~ s. 718.116.

825 (f)~~(e)~~ If the unit owner or his or her successor decides
826 there is no longer a need for the electronic vehicle charging or
827 natural gas fuel station, such person is responsible for the
828 cost of removal of such ~~the electronic vehicle~~ charging or fuel
829 station. The association may enforce payment of such costs under
830 ~~pursuant to~~ s. 718.116.

831 (g) The unit owner installing, maintaining, or removing the
832 electric vehicle charging or natural gas fuel station is
833 responsible for complying with all federal, state, or local laws
834 and regulations applicable to such installation, maintenance, or
835 removal.

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

837 1. Comply with bona fide safety requirements, consistent
838 with applicable building codes or recognized safety standards,
839 for the protection of persons and property.

840 2. Comply with reasonable architectural standards adopted
841 by the association that govern the dimensions, placement, or

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842 external appearance of the electric vehicle charging or natural
843 gas fuel station, provided that such standards may not prohibit
844 the installation of such charging or fuel station or
845 substantially increase the cost thereof.

846 3. Engage the services of a licensed and registered firm
847 ~~electrical contractor or engineer~~ familiar with the installation
848 or removal and core requirements of an electric vehicle charging
849 or natural gas fuel station.

850 4. Provide a certificate of insurance naming the
851 association as an additional insured on the owner's insurance
852 policy for any claim related to the installation, maintenance,
853 or use of the electric vehicle charging or natural gas fuel
854 station within 14 days after receiving the association's
855 approval to install such charging or fuel station or notice to
856 provide such a certificate.

857 5. Reimburse the association for the actual cost of any
858 increased insurance premium amount attributable to the electric
859 vehicle charging or natural gas fuel station within 14 days
860 after receiving the association's insurance premium invoice.

861 (i) ~~(g)~~ The association provides an implied easement across
862 the common elements of the condominium property to the unit
863 owner for purposes of ~~the installation of the~~ electric vehicle
864 charging or natural gas fuel station installation, and the
865 furnishing of electrical power or natural gas fuel supply,
866 including any necessary equipment, to such charging or fuel
867 station, subject to the requirements of this subsection.

868 Section 6. Section 718.1255, Florida Statutes, is amended
869 to read:

870 718.1255 Alternative dispute resolution; ~~voluntary~~

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871 mediation; ~~mandatory~~ nonbinding arbitration; legislative
872 findings.—

873 (1) DEFINITIONS.—As used in this section, the term
874 “dispute” means any disagreement between two or more parties
875 that involves:

876 (a) The authority of the board of directors, under this
877 chapter or association document to:

878 1. Require any owner to take any action, or not to take any
879 action, involving that owner’s unit or the appurtenances
880 thereto.

881 2. Alter or add to a common area or element.

882 (b) The failure of a governing body, when required by this
883 chapter or an association document, to:

884 1. Properly conduct elections.

885 2. Give adequate notice of meetings or other actions.

886 3. Properly conduct meetings.

887 4. Allow inspection of books and records.

888 (c) A plan of termination pursuant to s. 718.117.

889

890 “Dispute” does not include any disagreement that primarily
891 involves: title to any unit or common element; the
892 interpretation or enforcement of any warranty; the levy of a fee
893 or assessment, or the collection of an assessment levied against
894 a party; the eviction or other removal of a tenant from a unit;
895 alleged breaches of fiduciary duty by one or more directors; or
896 claims for damages to a unit based upon the alleged failure of
897 the association to maintain the common elements or condominium
898 property.

899 (2) VOLUNTARY MEDIATION.—Voluntary mediation through

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900 Citizen Dispute Settlement Centers as provided for in s. 44.201
901 is encouraged.

902 (3) LEGISLATIVE FINDINGS.—

903 (a) The Legislature finds that unit owners are frequently
904 at a disadvantage when litigating against an association.
905 Specifically, a condominium association, with its statutory
906 assessment authority, is often more able to bear the costs and
907 expenses of litigation than the unit owner who must rely on his
908 or her own financial resources to satisfy the costs of
909 litigation against the association.

910 (b) The Legislature finds that alternative dispute
911 resolution has been making progress in reducing court dockets
912 and trials and in offering a more efficient, cost-effective
913 option to court litigation. However, the Legislature also finds
914 that alternative dispute resolution should not be used as a
915 mechanism to encourage the filing of frivolous or nuisance
916 suits.

917 (c) There exists a need to develop a flexible means of
918 alternative dispute resolution that directs disputes to the most
919 efficient means of resolution.

920 (d) The high cost and significant delay of circuit court
921 litigation faced by unit owners in the state can be alleviated
922 by requiring nonbinding arbitration and mediation in appropriate
923 cases, thereby reducing delay and attorney's fees while
924 preserving the right of either party to have its case heard by a
925 jury, if applicable, in a court of law.

926 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
927 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
928 Mobile Homes of the Department of Business and Professional

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929 Regulation may employ full-time attorneys to act as arbitrators
930 to conduct the arbitration hearings provided by this chapter.
931 The division may also certify attorneys who are not employed by
932 the division to act as arbitrators to conduct the arbitration
933 hearings provided by this chapter. No person may be employed by
934 the department as a full-time arbitrator unless he or she is a
935 member in good standing of The Florida Bar. A person may only be
936 certified by the division to act as an arbitrator if he or she
937 has been a member in good standing of The Florida Bar for at
938 least 5 years and has mediated or arbitrated at least 10
939 disputes involving condominiums in this state during the 3 years
940 immediately preceding the date of application, mediated or
941 arbitrated at least 30 disputes in any subject area in this
942 state during the 3 years immediately preceding the date of
943 application, or attained board certification in real estate law
944 or condominium and planned development law from The Florida Bar.
945 Arbitrator certification is valid for 1 year. An arbitrator who
946 does not maintain the minimum qualifications for initial
947 certification may not have his or her certification renewed. The
948 department may not enter into a legal services contract for an
949 arbitration hearing under this chapter with an attorney who is
950 not a certified arbitrator unless a certified arbitrator is not
951 available within 50 miles of the dispute. The department shall
952 adopt rules of procedure to govern such arbitration hearings
953 including mediation incident thereto. The decision of an
954 arbitrator shall be final; however, a decision shall not be
955 deemed final agency action. Nothing in this provision shall be
956 construed to foreclose parties from proceeding in a trial de
957 novo unless the parties have agreed that the arbitration is

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958 binding. If judicial proceedings are initiated, the final
959 decision of the arbitrator shall be admissible in evidence in
960 the trial de novo.

961 (a) Prior to the institution of court litigation, a party
962 to a dispute shall either petition the division for nonbinding
963 arbitration or initiate presuit mediation as provided in
964 subsection (5). Arbitration shall be binding on the parties if
965 all parties in arbitration agree to be bound in a writing filed
966 in arbitration. The petition must be accompanied by a filing fee
967 in the amount of \$50. Filing fees collected under this section
968 must be used to defray the expenses of the alternative dispute
969 resolution program.

970 (b) The petition must recite, and have attached thereto,
971 supporting proof that the petitioner gave the respondents:

972 1. Advance written notice of the specific nature of the
973 dispute;

974 2. A demand for relief, and a reasonable opportunity to
975 comply or to provide the relief; and

976 3. Notice of the intention to file an arbitration petition
977 or other legal action in the absence of a resolution of the
978 dispute.

979
980 Failure to include the allegations or proof of compliance with
981 these prerequisites requires dismissal of the petition without
982 prejudice.

983 (c) Upon receipt, the petition shall be promptly reviewed
984 by the division to determine the existence of a dispute and
985 compliance with the requirements of paragraphs (a) and (b). If
986 emergency relief is required and is not available through

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987 arbitration, a motion to stay the arbitration may be filed. The
988 motion must be accompanied by a verified petition alleging facts
989 that, if proven, would support entry of a temporary injunction,
990 and if an appropriate motion and supporting papers are filed,
991 the division may abate the arbitration pending a court hearing
992 and disposition of a motion for temporary injunction.

993 (d) Upon determination by the division that a dispute
994 exists and that the petition substantially meets the
995 requirements of paragraphs (a) and (b) and any other applicable
996 rules, the division shall assign or enter into a contract with
997 an arbitrator and serve a copy of the petition upon all
998 respondents. The arbitrator shall conduct a hearing within 30
999 days after being assigned or entering into a contract unless the
1000 petition is withdrawn or a continuance is granted for good cause
1001 shown.

1002 (e) Before or after the filing of the respondents' answer
1003 to the petition, any party may request that the arbitrator refer
1004 the case to mediation under this section and any rules adopted
1005 by the division. Upon receipt of a request for mediation, the
1006 division shall promptly contact the parties to determine if
1007 there is agreement that mediation would be appropriate. If all
1008 parties agree, the dispute must be referred to mediation.
1009 Notwithstanding a lack of an agreement by all parties, the
1010 arbitrator may refer a dispute to mediation at any time.

1011 (f) Upon referral of a case to mediation, the parties must
1012 select a mutually acceptable mediator. To assist in the
1013 selection, the arbitrator shall provide the parties with a list
1014 of both volunteer and paid mediators that have been certified by
1015 the division under s. 718.501. If the parties are unable to

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1016 agree on a mediator within the time allowed by the arbitrator,
1017 the arbitrator shall appoint a mediator from the list of
1018 certified mediators. If a case is referred to mediation, the
1019 parties shall attend a mediation conference, as scheduled by the
1020 parties and the mediator. If any party fails to attend a duly
1021 noticed mediation conference, without the permission or approval
1022 of the arbitrator or mediator, the arbitrator must impose
1023 sanctions against the party, including the striking of any
1024 pleadings filed, the entry of an order of dismissal or default
1025 if appropriate, and the award of costs and attorney fees
1026 incurred by the other parties. Unless otherwise agreed to by the
1027 parties or as provided by order of the arbitrator, a party is
1028 deemed to have appeared at a mediation conference by the
1029 physical presence of the party or its representative having full
1030 authority to settle without further consultation, provided that
1031 an association may comply by having one or more representatives
1032 present with full authority to negotiate a settlement and
1033 recommend that the board of administration ratify and approve
1034 such a settlement within 5 days from the date of the mediation
1035 conference. The parties shall share equally the expense of
1036 mediation, unless they agree otherwise.

1037 (g) The purpose of mediation as provided for by this
1038 section is to present the parties with an opportunity to resolve
1039 the underlying dispute in good faith, and with a minimum
1040 expenditure of time and resources.

1041 (h) Mediation proceedings must generally be conducted in
1042 accordance with the Florida Rules of Civil Procedure, and these
1043 proceedings are privileged and confidential to the same extent
1044 as court-ordered mediation. Persons who are not parties to the

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1045 dispute are not allowed to attend the mediation conference
1046 without the consent of all parties, with the exception of
1047 counsel for the parties and corporate representatives designated
1048 to appear for a party. If the mediator declares an impasse after
1049 a mediation conference has been held, the arbitration proceeding
1050 terminates, unless all parties agree in writing to continue the
1051 arbitration proceeding, in which case the arbitrator's decision
1052 shall be binding or nonbinding, as agreed upon by the parties;
1053 in the arbitration proceeding, the arbitrator shall not consider
1054 any evidence relating to the unsuccessful mediation except in a
1055 proceeding to impose sanctions for failure to appear at the
1056 mediation conference. If the parties do not agree to continue
1057 arbitration, the arbitrator shall enter an order of dismissal,
1058 and either party may institute a suit in a court of competent
1059 jurisdiction. The parties may seek to recover any costs and
1060 attorney fees incurred in connection with arbitration and
1061 mediation proceedings under this section as part of the costs
1062 and fees that may be recovered by the prevailing party in any
1063 subsequent litigation.

1064 (i) Arbitration shall be conducted according to rules
1065 adopted by the division. The filing of a petition for
1066 arbitration shall toll the applicable statute of limitations.

1067 (j) At the request of any party to the arbitration, the
1068 arbitrator shall issue subpoenas for the attendance of witnesses
1069 and the production of books, records, documents, and other
1070 evidence and any party on whose behalf a subpoena is issued may
1071 apply to the court for orders compelling such attendance and
1072 production. Subpoenas shall be served and shall be enforceable
1073 in the manner provided by the Florida Rules of Civil Procedure.

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1074 Discovery may, in the discretion of the arbitrator, be permitted
1075 in the manner provided by the Florida Rules of Civil Procedure.
1076 Rules adopted by the division may authorize any reasonable
1077 sanctions except contempt for a violation of the arbitration
1078 procedural rules of the division or for the failure of a party
1079 to comply with a reasonable nonfinal order issued by an
1080 arbitrator which is not under judicial review.

1081 (k) The arbitration decision shall be rendered within 30
1082 days after the hearing and presented to the parties in writing.
1083 An arbitration decision is final in those disputes in which the
1084 parties have agreed to be bound. An arbitration decision is also
1085 final if a complaint for a trial de novo is not filed in a court
1086 of competent jurisdiction in which the condominium is located
1087 within 30 days. The right to file for a trial de novo entitles
1088 the parties to file a complaint in the appropriate trial court
1089 for a judicial resolution of the dispute. The prevailing party
1090 in an arbitration proceeding shall be awarded the costs of the
1091 arbitration and reasonable attorney fees in an amount determined
1092 by the arbitrator. Such an award shall include the costs and
1093 reasonable attorney fees incurred in the arbitration proceeding
1094 as well as the costs and reasonable attorney fees incurred in
1095 preparing for and attending any scheduled mediation. An
1096 arbitrator's failure to render a written decision within 30 days
1097 after the hearing may result in the cancellation of his or her
1098 arbitration certification.

1099 (l) The party who files a complaint for a trial de novo
1100 shall be assessed the other party's arbitration costs, court
1101 costs, and other reasonable costs, including attorney fees,
1102 investigation expenses, and expenses for expert or other

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1103 testimony or evidence incurred after the arbitration hearing if
1104 the judgment upon the trial de novo is not more favorable than
1105 the arbitration decision. If the judgment is more favorable, the
1106 party who filed a complaint for trial de novo shall be awarded
1107 reasonable court costs and attorney fees.

1108 (m) Any party to an arbitration proceeding may enforce an
1109 arbitration award by filing a petition in a court of competent
1110 jurisdiction in which the condominium is located. A petition may
1111 not be granted unless the time for appeal by the filing of a
1112 complaint for trial de novo has expired. If a complaint for a
1113 trial de novo has been filed, a petition may not be granted with
1114 respect to an arbitration award that has been stayed. If the
1115 petition for enforcement is granted, the petitioner shall
1116 recover reasonable attorney fees and costs incurred in enforcing
1117 the arbitration award. A mediation settlement may also be
1118 enforced through the county or circuit court, as applicable, and
1119 any costs and fees incurred in the enforcement of a settlement
1120 agreement reached at mediation must be awarded to the prevailing
1121 party in any enforcement action.

1122 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1123 mandatory nonbinding arbitration set forth in subsections (1)-
1124 (4), a party may submit a dispute to presuit mediation in
1125 accordance with s. 720.311. Election and recall disputes are not
1126 eligible for mediation; such disputes must be arbitrated by the
1127 division or filed with a court of competent jurisdiction.

1128 (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
1129 arbitration petition received by the division and required to be
1130 filed under this section challenging the legality of the
1131 election of any director of the board of administration must be

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1132 handled on an expedited basis in the manner provided by the
1133 division's rules for recall arbitration disputes.

1134 (7)~~(6)~~ APPLICABILITY.—This section does not apply to a
1135 nonresidential condominium unless otherwise specifically
1136 provided for in the declaration of the nonresidential
1137 condominium.

1138 Section 7. Subsection (3) of section 718.202, Florida
1139 Statutes, is amended to read:

1140 718.202 Sales or reservation deposits prior to closing.—

1141 (3) If the contract for sale of the condominium unit so
1142 provides, the developer may withdraw escrow funds in excess of
1143 10 percent of the purchase price from the special account
1144 required by subsection (2) when the construction of improvements
1145 has begun. He or she may use the funds for the actual costs
1146 incurred by the developer in the ~~actual~~ construction and
1147 development of the condominium property in which the unit to be
1148 sold is located. Actual costs include, but are not limited to,
1149 expenditures for demolition, site clearing, permit fees, impact
1150 fees, and utility reservation fees, as well as architectural,
1151 engineering, and surveying fees that directly relate to
1152 construction and development. However, no part of these funds
1153 may be used for salaries, commissions, or expenses of
1154 salespersons; ~~or~~ for advertising, marketing, or promotional
1155 purposes; or for loan fees, costs or interest, attorney fees,
1156 accounting fees, or insurance. A contract which permits use of
1157 the advance payments for these purposes shall include the
1158 following legend conspicuously printed or stamped in boldfaced
1159 type on the first page of the contract and immediately above the
1160 place for the signature of the buyer: ANY PAYMENT IN EXCESS OF

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1161 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO
1162 CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION
1163 PURPOSES BY THE DEVELOPER.

1164 Section 8. Subsection (1) and paragraph (b) of subsection
1165 (3) of section 718.303, Florida Statutes, are amended to read:

1166 718.303 Obligations of owners and occupants; remedies.—

1167 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1168 ~~each~~ association is governed by, and must comply with the
1169 provisions of, this chapter, the declaration, the documents
1170 creating the association, and the association bylaws which are
1171 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1172 Actions at law or in equity for damages or for injunctive
1173 ~~relief~~, or both, for failure to comply with these provisions may
1174 be brought by the association or by a unit owner against:

1175 (a) The association.

1176 (b) A unit owner.

1177 (c) Directors designated by the developer, for actions
1178 taken by them before control of the association is assumed by
1179 unit owners other than the developer.

1180 (d) Any director who willfully and knowingly fails to
1181 comply with these provisions.

1182 (e) Any tenant leasing a unit, and any other invitee
1183 occupying a unit.

1184

1185 The prevailing party in any such action or in any action in
1186 which the purchaser claims a right of voidability based upon
1187 contractual provisions as required in s. 718.503(1)(a) is
1188 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1189 owner prevailing in an action between the association and the

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1190 unit owner under this subsection ~~section~~, in addition to
1191 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1192 recover additional amounts as determined by the court to be
1193 necessary to reimburse the unit owner for his or her share of
1194 assessments levied by the association to fund its expenses of
1195 the litigation. This relief does not exclude other remedies
1196 provided by law. Actions arising under this subsection are not
1197 considered ~~may not be deemed to be~~ actions for specific
1198 performance.

1199 (3) The association may levy reasonable fines for the
1200 failure of the owner of the unit or its occupant, licensee, or
1201 invitee to comply with any provision of the declaration, the
1202 association bylaws, or reasonable rules of the association. A
1203 fine may not become a lien against a unit. A fine may be levied
1204 by the board on the basis of each day of a continuing violation,
1205 with a single notice and opportunity for hearing before a
1206 committee as provided in paragraph (b). However, the fine may
1207 not exceed \$100 per violation, or \$1,000 in the aggregate.

1208 (b) A fine or suspension levied by the board of
1209 administration may not be imposed unless the board first
1210 provides at least 14 days' written notice to the unit owner and,
1211 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1212 unit owner sought to be fined or suspended, and an opportunity
1213 for a hearing before a committee of at least three members
1214 appointed by the board who are not officers, directors, or
1215 employees of the association, or the spouse, parent, child,
1216 brother, or sister of an officer, director, or employee. The
1217 role of the committee is limited to determining whether to
1218 confirm or reject the fine or suspension levied by the board. If

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1219 the committee does not approve the proposed fine or suspension
1220 by majority vote, the fine or suspension may not be imposed. If
1221 the proposed fine or suspension is approved by the committee,
1222 the fine payment is due 5 days after notice of the approved fine
1223 is provided to the unit owner and, if applicable, to any tenant,
1224 licensee, or invitee of the unit owner ~~the date of the committee~~
1225 ~~meeting at which the fine is approved.~~ The association must
1226 provide written notice of such fine or suspension by mail or
1227 hand delivery to the unit owner and, if applicable, to any
1228 tenant, licensee, or invitee of the unit owner.

1229 Section 9. Present subsections (1) and (2) of section
1230 718.501, Florida Statutes, are redesignated as subsections (2)
1231 and (3), respectively, a new subsection (1) is added to that
1232 section and paragraphs (h) and (j) of present subsection (1) of
1233 that section are amended, to read:

1234 718.501 Authority, responsibility, and duties of Division
1235 of Florida Condominiums, Timeshares, and Mobile Homes.—

1236 (1) As used in this section, the term "financial issue"
1237 means an issue related to operating budgets; reserve schedules;
1238 accounting records under s. 718.111(12)(a)11.; notices of
1239 meetings; minutes of meetings discussing budget or financial
1240 issues; assessments for common expenses, fees, or fines; the
1241 commingling of funds; and any other record necessary to
1242 determine the revenues and expenses of the association. The
1243 division may adopt rules to further define what a financial
1244 issue is under this section and may adopt a rule outlining the
1245 requirements of the checklist under s. 718.111(c)1.

1246 (2) The division may enforce and ensure compliance with the
1247 provisions of this chapter and rules relating to the

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1248 development, construction, sale, lease, ownership, operation,
1249 and management of residential condominium units. In performing
1250 its duties, the division has complete jurisdiction to
1251 investigate complaints and enforce compliance with respect to
1252 associations that are still under developer control or the
1253 control of a bulk assignee or bulk buyer pursuant to part VII of
1254 this chapter and complaints against developers, bulk assignees,
1255 or bulk buyers involving improper turnover or failure to
1256 turnover, pursuant to s. 718.301. However, after turnover has
1257 occurred, the division has jurisdiction to investigate
1258 complaints related only to financial issues, elections, and the
1259 maintenance of and unit owner access to association records
1260 under ~~pursuant to~~ s. 718.111(12).

1261 (h) The division shall furnish each association that pays
1262 the fees required by paragraph (3)(a) ~~(2)(a)~~ a copy of this
1263 chapter, as amended, and the rules adopted thereto on an annual
1264 basis.

1265 (j) The division shall provide training and educational
1266 programs for condominium association board members and unit
1267 owners. The training may, in the division's discretion, include
1268 web-based electronic media, and live training and seminars in
1269 various locations throughout the state. The division may review
1270 and approve education and training programs for board members
1271 and unit owners offered by providers and shall maintain a
1272 current list of approved programs and providers and make such
1273 list available to board members and unit owners in a reasonable
1274 and cost-effective manner. The division may adopt rules to
1275 establish requirements for the training and educational programs
1276 required in this paragraph.

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1277 Section 10. Section 718.5014, Florida Statutes, is amended
1278 to read:

1279 718.5014 Ombudsman location.—The ombudsman shall maintain
1280 his or her principal office in a Leon County ~~on the premises of~~
1281 ~~the division or, if suitable space cannot be provided there, at~~
1282 ~~another~~ place convenient to the offices of the division which
1283 will enable the ombudsman to expeditiously carry out the duties
1284 and functions of his or her office. The ombudsman may establish
1285 branch offices elsewhere in the state upon the concurrence of
1286 the Governor.

1287 Section 11. Subsection (25) of section 719.103, Florida
1288 Statutes, is amended to read:

1289 719.103 Definitions.—As used in this chapter:

1290 (25) "Unit" means a part of the cooperative property which
1291 is subject to exclusive use and possession. A unit may be
1292 improvements, land, or land and improvements together, as
1293 specified in the cooperative documents. An interest in a unit is
1294 an interest in real property.

1295 Section 12. Paragraph (c) of subsection (2) of section
1296 719.104, Florida Statutes, is amended to read:

1297 719.104 Cooperatives; access to units; records; financial
1298 reports; assessments; purchase of leases.—

1299 (2) OFFICIAL RECORDS.—

1300 (c) The official records of the association are open to
1301 inspection by any association member or the authorized
1302 representative of such member at all reasonable times. The right
1303 to inspect the records includes the right to make or obtain
1304 copies, at the reasonable expense, if any, of the association
1305 member. The association may adopt reasonable rules regarding the

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1306 frequency, time, location, notice, and manner of record
1307 inspections and copying, but may not require a member to
1308 demonstrate any purpose or state any reason for the inspection.
1309 The failure of an association to provide the records within 10
1310 working days after receipt of a written request creates a
1311 rebuttable presumption that the association willfully failed to
1312 comply with this paragraph. A member ~~unit-owner~~ who is denied
1313 access to official records is entitled to the actual damages or
1314 minimum damages for the association's willful failure to comply.
1315 The minimum damages are \$50 per calendar day for up to 10 days,
1316 beginning on the 11th working day after receipt of the written
1317 request. The failure to permit inspection entitles any person
1318 prevailing in an enforcement action to recover reasonable
1319 attorney fees from the person in control of the records who,
1320 directly or indirectly, knowingly denied access to the records.
1321 Any person who knowingly or intentionally defaces or destroys
1322 accounting records that are required by this chapter to be
1323 maintained during the period for which such records are required
1324 to be maintained, or who knowingly or intentionally fails to
1325 create or maintain accounting records that are required to be
1326 created or maintained, with the intent of causing harm to the
1327 association or one or more of its members, is personally subject
1328 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1329 association shall maintain an adequate number of copies of the
1330 declaration, articles of incorporation, bylaws, and rules, and
1331 all amendments to each of the foregoing, as well as the question
1332 and answer sheet as described in s. 719.504 and year-end
1333 financial information required by the department, on the
1334 cooperative property to ensure their availability to members

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1335 ~~unit owners~~ and prospective purchasers, and may charge its
1336 actual costs for preparing and furnishing these documents to
1337 those requesting the same. An association shall allow a member
1338 or his or her authorized representative to use a portable
1339 device, including a smartphone, tablet, portable scanner, or any
1340 other technology capable of scanning or taking photographs, to
1341 make an electronic copy of the official records in lieu of the
1342 association providing the member or his or her authorized
1343 representative with a copy of such records. The association may
1344 not charge a member or his or her authorized representative for
1345 the use of a portable device. Notwithstanding this paragraph,
1346 the following records shall not be accessible to members ~~unit~~
1347 ~~owners~~:

1348 1. Any record protected by the lawyer-client privilege as
1349 described in s. 90.502 and any record protected by the work-
1350 product privilege, including any record prepared by an
1351 association attorney or prepared at the attorney's express
1352 direction which reflects a mental impression, conclusion,
1353 litigation strategy, or legal theory of the attorney or the
1354 association, and which was prepared exclusively for civil or
1355 criminal litigation or for adversarial administrative
1356 proceedings, or which was prepared in anticipation of such
1357 litigation or proceedings until the conclusion of the litigation
1358 or proceedings.

1359 2. Information obtained by an association in connection
1360 with the approval of the lease, sale, or other transfer of a
1361 unit.

1362 3. Personnel records of association or management company
1363 employees, including, but not limited to, disciplinary, payroll,

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1364 health, and insurance records. For purposes of this
1365 subparagraph, the term "personnel records" does not include
1366 written employment agreements with an association employee or
1367 management company, or budgetary or financial records that
1368 indicate the compensation paid to an association employee.

1369 4. Medical records of unit owners.

1370 5. Social security numbers, driver license numbers, credit
1371 card numbers, e-mail addresses, telephone numbers, facsimile
1372 numbers, emergency contact information, addresses of a unit
1373 owner other than as provided to fulfill the association's notice
1374 requirements, and other personal identifying information of any
1375 person, excluding the person's name, unit designation, mailing
1376 address, property address, and any address, e-mail address, or
1377 facsimile number provided to the association to fulfill the
1378 association's notice requirements. Notwithstanding the
1379 restrictions in this subparagraph, an association may print and
1380 distribute to unit parcel owners a directory containing the
1381 name, unit parcel address, and all telephone numbers of each
1382 unit parcel owner. However, an owner may exclude his or her
1383 telephone numbers from the directory by so requesting in writing
1384 to the association. An owner may consent in writing to the
1385 disclosure of other contact information described in this
1386 subparagraph. The association is not liable for the inadvertent
1387 disclosure of information that is protected under this
1388 subparagraph if the information is included in an official
1389 record of the association and is voluntarily provided by an
1390 owner and not requested by the association.

1391 6. Electronic security measures that are used by the
1392 association to safeguard data, including passwords.

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1393 7. The software and operating system used by the
1394 association which allow the manipulation of data, even if the
1395 owner owns a copy of the same software used by the association.
1396 The data is part of the official records of the association.

1397 Section 13. Paragraph (b) of subsection (1) of section
1398 719.106, Florida Statutes, is amended, and subsection (3) is
1399 added to that section, to read:

1400 719.106 Bylaws; cooperative ownership.—

1401 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1402 documents shall provide for the following, and if they do not,
1403 they shall be deemed to include the following:

1404 (b) *Quorum; voting requirements; proxies.*—

1405 1. Unless otherwise provided in the bylaws, the percentage
1406 of voting interests required to constitute a quorum at a meeting
1407 of the members shall be a majority of voting interests, and
1408 decisions shall be made by owners of a majority of the voting
1409 interests. Unless otherwise provided in this chapter, or in the
1410 articles of incorporation, bylaws, or other cooperative
1411 documents, and except as provided in subparagraph (d)1.,
1412 decisions shall be made by owners of a majority of the voting
1413 interests represented at a meeting at which a quorum is present.

1414 2. Except as specifically otherwise provided herein, after
1415 January 1, 1992, unit owners may not vote by general proxy, but
1416 may vote by limited proxies substantially conforming to a
1417 limited proxy form adopted by the division. Limited proxies and
1418 general proxies may be used to establish a quorum. Limited
1419 proxies shall be used for votes taken to waive or reduce
1420 reserves in accordance with subparagraph (j)2., for votes taken
1421 to waive the financial reporting requirements of s.

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1422 719.104(4)(b), for votes taken to amend the articles of
1423 incorporation or bylaws pursuant to this section, and for any
1424 other matter for which this chapter requires or permits a vote
1425 of the unit owners. Except as provided in paragraph (d), after
1426 January 1, 1992, no proxy, limited or general, shall be used in
1427 the election of board members. General proxies may be used for
1428 other matters for which limited proxies are not required, and
1429 may also be used in voting for nonsubstantive changes to items
1430 for which a limited proxy is required and given. Notwithstanding
1431 the provisions of this section, unit owners may vote in person
1432 at unit owner meetings. Nothing contained herein shall limit the
1433 use of general proxies or require the use of limited proxies or
1434 require the use of limited proxies for any agenda item or
1435 election at any meeting of a timeshare cooperative.

1436 3. Any proxy given shall be effective only for the specific
1437 meeting for which originally given and any lawfully adjourned
1438 meetings thereof. In no event shall any proxy be valid for a
1439 period longer than 90 days after the date of the first meeting
1440 for which it was given. Every proxy shall be revocable at any
1441 time at the pleasure of the unit owner executing it.

1442 4. A member of the board of administration or a committee
1443 may submit in writing his or her agreement or disagreement with
1444 any action taken at a meeting that the member did not attend.
1445 This agreement or disagreement may not be used as a vote for or
1446 against the action taken and may not be used for the purposes of
1447 creating a quorum.

1448 5. A board or committee member participating in a meeting
1449 via telephone, real-time video conferencing, or similar real-
1450 time electronic or video communication counts toward a quorum,

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1451 ~~and such member may vote as if physically present~~ ~~When some or~~
1452 ~~all of the board or committee members meet by telephone~~
1453 ~~conference, those board or committee members attending by~~
1454 ~~telephone conference may be counted toward obtaining a quorum~~
1455 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1456 used ~~utilized~~ so that the conversation of such ~~those board or~~
1457 ~~committee members attending by telephone~~ may be heard by the
1458 board or committee members attending in person, as well as by
1459 any unit owners present at a meeting.

1460 (3) GENERALLY.—The association may extinguish a
1461 discriminatory restriction, as defined in s. 712.065(1),
1462 pursuant to s. 712.065.

1463 Section 14. Paragraph (1) of subsection (4) of section
1464 720.303, Florida Statutes, is redesignated as paragraph (m), a
1465 new paragraph (1) is added to that subsection, and paragraph (c)
1466 of subsection (2), present paragraph (1) of subsection (4), and
1467 paragraphs (c) and (d) of subsection (6) of that section are
1468 amended, to read:

1469 720.303 Association powers and duties; meetings of board;
1470 official records; budgets; financial reporting; association
1471 funds; recalls.—

1472 (2) BOARD MEETINGS.—

1473 (c) The bylaws shall provide the following for giving
1474 notice to parcel owners and members of all board meetings and,
1475 if they do not do so, shall be deemed to include the following:

1476 1. Notices of all board meetings must be posted in a
1477 conspicuous place in the community at least 48 hours in advance
1478 of a meeting, except in an emergency. In the alternative, if
1479 notice is not posted in a conspicuous place in the community,

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1480 notice of each board meeting must be mailed or delivered to each
1481 member at least 7 days before the meeting, except in an
1482 emergency. Notwithstanding this general notice requirement, for
1483 communities with more than 100 members, the association bylaws
1484 may provide for a reasonable alternative to posting or mailing
1485 of notice for each board meeting, including publication of
1486 notice, provision of a schedule of board meetings, or the
1487 conspicuous posting and repeated broadcasting of the notice on a
1488 closed-circuit cable television system serving the homeowners'
1489 association. However, if broadcast notice is used in lieu of a
1490 notice posted physically in the community, the notice must be
1491 broadcast at least four times every broadcast hour of each day
1492 that a posted notice is otherwise required. When broadcast
1493 notice is provided, the notice and agenda must be broadcast in a
1494 manner and for a sufficient continuous length of time so as to
1495 allow an average reader to observe the notice and read and
1496 comprehend the entire content of the notice and the agenda. In
1497 addition to any of the authorized means of providing notice of a
1498 meeting of the board, the association may adopt, by rule, a
1499 procedure for conspicuously posting the meeting notice and the
1500 agenda on the association's website for at least the minimum
1501 period of time for which a notice of a meeting is also required
1502 to be physically posted on the association property. Any such
1503 rule must require the association to send to members whose e-
1504 mail addresses are included in the association's official
1505 records an electronic notice in the same manner as is required
1506 for a notice of a meeting of the members. Such notice must
1507 include a hyperlink to the website where the notice is posted.
1508 The association may provide notice by electronic transmission in

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1509 a manner authorized by law for meetings of the board of
1510 directors, committee meetings requiring notice under this
1511 section, and annual and special meetings of the members to any
1512 member who has provided a facsimile number or e-mail address to
1513 the association to be used for such purposes; however, a member
1514 must consent in writing to receiving notice by electronic
1515 transmission.

1516 2. An assessment may not be levied at a board meeting
1517 unless the notice of the meeting includes a statement that
1518 assessments will be considered and the nature of the
1519 assessments. Written notice of any meeting at which special
1520 assessments will be considered or at which amendments to rules
1521 regarding parcel use will be considered must be mailed,
1522 delivered, or electronically transmitted to the members and
1523 parcel owners and posted conspicuously on the property or
1524 broadcast on closed-circuit cable television not less than 14
1525 days before the meeting.

1526 3. Directors may not vote by proxy or by secret ballot at
1527 board meetings, except that secret ballots may be used in the
1528 election of officers. This subsection also applies to the
1529 meetings of any committee or other similar body, when a final
1530 decision will be made regarding the expenditure of association
1531 funds, and to any body vested with the power to approve or
1532 disapprove architectural decisions with respect to a specific
1533 parcel of residential property owned by a member of the
1534 community.

1535 (4) OFFICIAL RECORDS.—The association shall maintain each
1536 of the following items, when applicable, which constitute the
1537 official records of the association:

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1538 (1) Ballots, sign-in sheets, voting proxies, and all other
1539 papers and electronic records relating to voting by parcel
1540 owners, which must be maintained for at least 1 year after the
1541 date of the election, vote, or meeting.

1542 (m) ~~(1)~~ All other ~~written~~ records of the association not
1543 specifically included in this subsection ~~the foregoing~~ which are
1544 related to the operation of the association.

1545 (6) BUDGETS.—

1546 (c)1. If the budget of the association does not provide for
1547 reserve accounts pursuant to paragraph (d), or the declaration
1548 of covenants, articles, or bylaws do not obligate the developer
1549 to create reserves, and the association is responsible for the
1550 repair and maintenance of capital improvements that may result
1551 in a special assessment if reserves are not provided or not
1552 fully funded, then each financial report for the preceding
1553 fiscal year required by subsection (7) must contain the
1554 following statement in conspicuous type:

1555
1556 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
1557 FULLY FUNDING RESERVE ACCOUNTS FOR CAPITAL
1558 EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT
1559 IN SPECIAL ASSESSMENTS REGARDING THOSE ITEMS. OWNERS
1560 MAY ELECT TO PROVIDE FOR FULLY FUNDING RESERVE
1561 ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA
1562 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF
1563 THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE
1564 OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

1565
1566 2. If the budget of the association does provide for

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1567 funding accounts for deferred expenditures, including, but not
1568 limited to, funds for capital expenditures and deferred
1569 maintenance, but such accounts are not created or established
1570 pursuant to paragraph (d), each financial report for the
1571 preceding fiscal year required under subsection (7) must also
1572 contain the following statement in conspicuous type:
1573

1574 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED
1575 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
1576 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
1577 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
1578 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
1579 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
1580 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT
1581 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
1582 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
1583 ACCORDANCE WITH THAT STATUTE.

1584 (d) An association is deemed to have provided for reserve
1585 accounts ~~if reserve accounts have been initially established by~~
1586 ~~the developer or if the membership of the association~~
1587 ~~affirmatively elects to provide for reserves. If reserve~~
1588 ~~accounts are established by the developer, the budget must~~
1589 ~~designate the components for which the reserve accounts may be~~
1590 ~~used. If reserve accounts are not initially provided by the~~
1591 ~~developer, the membership of the association may elect to do so~~
1592 upon the affirmative approval of a majority of the total voting
1593 interests of the association. Such approval may be obtained by
1594 vote of the members at a duly called meeting of the membership
1595 or by the written consent of a majority of the total voting

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1596 interests of the association. The approval action of the
1597 membership must state that reserve accounts shall be provided
1598 for in the budget and must designate the components for which
1599 the reserve accounts are to be established. Upon approval by the
1600 membership, the board of directors shall include the required
1601 reserve accounts in the budget in the next fiscal year following
1602 the approval and each year thereafter. Once established as
1603 provided in this subsection, the reserve accounts must be funded
1604 or maintained or have their funding waived in the manner
1605 provided in paragraph (f).

1606 Section 15. Subsections (1) and (2) of section 720.305,
1607 Florida Statutes, are amended to read:

1608 720.305 Obligations of members; remedies at law or in
1609 equity; levy of fines and suspension of use rights.—

1610 (1) Each member and the member's tenants, guests, and
1611 invitees, and each association, are governed by, and must comply
1612 with, this chapter and, the governing documents of the
1613 community, ~~and the rules of the association~~. Actions at law or
1614 in equity, or both, to redress alleged failure or refusal to
1615 comply with these provisions may be brought by the association
1616 or by any member against:

1617 (a) The association;

1618 (b) A member;

1619 (c) Any director or officer of an association who willfully
1620 and knowingly fails to comply with these provisions; and

1621 (d) Any tenants, guests, or invitees occupying a parcel or
1622 using the common areas.

1623
1624 The prevailing party in any such litigation is entitled to

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1625 recover reasonable attorney fees and costs. A member prevailing
1626 in an action between the association and the member under this
1627 section, in addition to recovering his or her reasonable
1628 attorney fees, may recover additional amounts as determined by
1629 the court to be necessary to reimburse the member for his or her
1630 share of assessments levied by the association to fund its
1631 expenses of the litigation. This relief does not exclude other
1632 remedies provided by law. This section does not deprive any
1633 person of any other available right or remedy.

1634 (2) An ~~The~~ association may levy reasonable fines. A fine
1635 may not exceed \$100 per violation against any member or any
1636 member's tenant, guest, or invitee for the failure of the owner
1637 of the parcel or its occupant, licensee, or invitee to comply
1638 with any provision of the declaration, the association bylaws,
1639 or reasonable rules of the association unless otherwise provided
1640 in the governing documents. A fine may be levied by the board
1641 for each day of a continuing violation, with a single notice and
1642 opportunity for hearing, except that the fine may not exceed
1643 \$1,000 in the aggregate unless otherwise provided in the
1644 governing documents. A fine of less than \$1,000 may not become a
1645 lien against a parcel. In any action to recover a fine, the
1646 prevailing party is entitled to reasonable attorney fees and
1647 costs from the nonprevailing party as determined by the court.

1648 (a) An association may suspend, for a reasonable period of
1649 time, the right of a member, or a member's tenant, guest, or
1650 invitee, to use common areas and facilities for the failure of
1651 the owner of the parcel or its occupant, licensee, or invitee to
1652 comply with any provision of the declaration, the association
1653 bylaws, or reasonable rules of the association. This paragraph

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1654 does not apply to that portion of common areas used to provide
1655 access or utility services to the parcel. A suspension may not
1656 prohibit an owner or tenant of a parcel from having vehicular
1657 and pedestrian ingress to and egress from the parcel, including,
1658 but not limited to, the right to park.

1659 (b) A fine or suspension levied by the board of
1660 administration may not be imposed unless the board first
1661 provides at least 14 days' notice to the parcel owner and, if
1662 applicable, any occupant, licensee, or invitee of the parcel
1663 owner, sought to be fined or suspended and an opportunity for a
1664 hearing before a committee of at least three members appointed
1665 by the board who are not officers, directors, or employees of
1666 the association, or the spouse, parent, child, brother, or
1667 sister of an officer, director, or employee. If the committee,
1668 by majority vote, does not approve a proposed fine or
1669 suspension, the proposed fine or suspension may not be imposed.
1670 The role of the committee is limited to determining whether to
1671 confirm or reject the fine or suspension levied by the board. If
1672 the proposed fine or suspension levied by the board is approved
1673 by the committee, the fine payment is due 5 days after notice of
1674 the approved fine is provided to the parcel owner and, if
1675 applicable, to any occupant, licensee, or invitee of the parcel
1676 owner the date of the committee meeting at which the fine is
1677 ~~approved~~. The association must provide written notice of such
1678 fine or suspension by mail or hand delivery to the parcel owner
1679 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
1680 of the parcel owner.

1681 Section 16. Paragraph (g) of subsection (1) of section
1682 720.306, Florida Statutes, is amended to read:

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1683 720.306 Meetings of members; voting and election
1684 procedures; amendments.—

1685 (1) QUORUM; AMENDMENTS.—

1686 (g) A notice required under this section must be mailed or
1687 delivered to the address identified as the parcel owner's
1688 mailing address in the official records of the association as
1689 required under s. 720.303(4) ~~on the property appraiser's website~~
1690 ~~for the county in which the parcel is located~~, or electronically
1691 transmitted in a manner authorized by the association if the
1692 parcel owner has consented, in writing, to receive notice by
1693 electronic transmission.

1694 Section 17. Subsection (6) is added to section 720.3075,
1695 Florida Statutes, to read:

1696 720.3075 Prohibited clauses in association documents.—

1697 (6) The association may extinguish a discriminatory
1698 restriction, as defined in s. 712.065(1), pursuant to s.
1699 712.065.

1700 Section 18. This act shall take effect July 1, 2020.