

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 514.0115, F.S.; exempting certain property association
4 pools from Department of Health regulations; amending
5 s. 627.714, F.S.; prohibiting subrogation rights
6 against a condominium association under certain
7 circumstances; creating s. 712.065, F.S.; defining the
8 term "discriminatory restriction"; providing that
9 discriminatory restrictions are unlawful,
10 unenforceable, and void; providing that discriminatory
11 restrictions are extinguished and severed from
12 recorded title transactions; specifying that the
13 recording of certain notices does not reimpose or
14 preserve a discriminatory restriction; providing
15 requirements for a parcel owner to remove a
16 discriminatory restriction from a covenant or
17 restriction; amending s. 718.111, F.S.; requiring that
18 certain records be maintained for a specified time;
19 requiring associations to maintain official records in
20 a specified manner; requiring an association to
21 provide a checklist or affidavit relating to certain
22 records to certain persons; requiring such checklist
23 or affidavit to be maintained for a time certain;
24 creating a rebuttable presumption; prohibiting an
25 association from requiring certain actions relating to

26 | the inspection of records; revising requirements
27 | relating to the posting of digital copies of certain
28 | documents by certain condominium associations;
29 | amending s. 718.112, F.S.; authorizing a condominium
30 | association to extinguish discriminatory restrictions;
31 | revising calculation of a board member's term limit;
32 | providing requirements for certain notices; revising
33 | the fees an association may charge for transfers;
34 | deleting a prohibition against employing or
35 | contracting with certain service providers; amending
36 | s. 718.113, F.S.; defining the terms "natural gas
37 | fuel" and "natural gas fuel vehicle"; revising
38 | legislative findings; revising requirements for
39 | electric vehicle charging stations; providing
40 | requirements for the installation of natural gas fuel
41 | stations on property governed by condominium
42 | associations; amending s. 718.117, F.S.; conforming
43 | provisions to changes made by the act; amending s.
44 | 718.121, F.S.; providing when the installation of a
45 | natural gas fuel station may be the basis of a lien;
46 | amending s. 718.1255, F.S.; authorizing parties to
47 | initiate presuit mediation under certain
48 | circumstances; specifying when arbitration is binding
49 | on the parties; providing requirements for presuit
50 | mediation; amending s. 718.202, F.S.; revising use of

51 certain withdrawn escrow funds by developers; amending
52 s. 718.303, F.S.; revising requirements for certain
53 actions for failure to comply with specified
54 provisions; revising requirements for certain fines;
55 amending s. 718.501, F.S.; defining the term
56 "financial issue"; authorizing the Division of
57 Condominiums, Timeshares, and Mobile Homes to adopt
58 rules; amending s. 718.5014, F.S.; revising where the
59 principal office of the Office of the Condominium
60 Ombudsman must be maintained; amending s. 719.103,
61 F.S.; revising the definition of the term "unit" to
62 specify that an interest in a cooperative unit is an
63 interest in real property; amending s. 719.104, F.S.;
64 prohibiting an association from requiring certain
65 actions relating to the inspection of records;
66 amending s. 719.106, F.S.; revising provisions
67 relating to a quorum and voting rights for members
68 remotely participating in meetings; amending procedure
69 to challenge a board member recall; authorizing
70 cooperative associations to extinguish discriminatory
71 restrictions; amending s. 720.303, F.S.; authorizing
72 an association to adopt procedures for electronic
73 meeting notices; revising the documents that
74 constitute the official records of an association;
75 revising when a specified statement must be included

76 in an association's financial report; revising
77 requirements for such statement; revising when an
78 association is deemed to have provided for reserve
79 accounts; amending procedure to challenge a board
80 member recall; amending s. 720.304, F.S.; authorizing
81 a homeowner to display certain flags; amending s.
82 720.305, F.S.; providing requirements for certain
83 fines; amending s. 720.306, F.S.; revising
84 requirements for providing certain notices; providing
85 limitations on associations when a parcel owner
86 attempts to rent or lease his or her parcel; amending
87 the procedure for election disputes; amending s.
88 720.311, F.S.; amending the procedure for election
89 disputes; amending s. 720.3075, F.S.; authorizing
90 homeowners' associations to extinguish discriminatory
91 restrictions; providing an effective date.

92
93 Be It Enacted by the Legislature of the State of Florida:

94
95 Section 1. Paragraph (a) of subsection (2) of section
96 514.0115, Florida Statutes, is amended to read:

97 514.0115 Exemptions from supervision or regulation;
98 variances.—

99 (2) (a) Pools serving condominium, cooperative, and
100 homeowners' associations, as well as other property

101 associations, which have no more than 32 ~~condominium or~~
 102 ~~cooperative units or parcels and~~ which are not operated as a
 103 public lodging establishments are ~~establishment shall be~~ exempt
 104 from supervision under this chapter, except for water quality.

105 Section 2. Subsection (4) of section 627.714, Florida
 106 Statutes, is amended to read:

107 627.714 Residential condominium unit owner coverage; loss
 108 assessment coverage required.—

109 (4) Every individual unit owner's residential property
 110 policy must contain a provision stating that the coverage
 111 afforded by such policy is excess coverage over the amount
 112 recoverable under any other policy covering the same property.
 113 If a condominium association's insurance policy does not provide
 114 rights for subrogation against the unit owners in the
 115 association, an insurance policy issued to an individual unit
 116 owner located in the association may not provide rights of
 117 subrogation against the condominium association.

118 Section 3. Section 712.065, Florida Statutes, is created
 119 to read:

120 712.065 Extinguishment of discriminatory restrictions.—

121 (1) As used in this section, the term "discriminatory
 122 restriction" means a provision in a title transaction recorded
 123 in the state which restricts the ownership, occupancy, or use of
 124 any real property in this state by any natural person on the
 125 basis of a characteristic that has been held, or is held after

126 July 1, 2020, by the United States Supreme Court or the Florida
127 Supreme Court to be protected against discrimination under the
128 Fourteenth Amendment to the United States Constitution or under
129 s. 2, Art. I of the State Constitution, including race, color,
130 national origin, religion, gender, or physical disability.

131 (2) A discriminatory restriction is not enforceable in the
132 state, and a discriminatory restriction contained in a title
133 transaction recorded in the state is unlawful, unenforceable,
134 and void. A discriminatory restriction contained in a previously
135 recorded title transaction is extinguished and severed from the
136 recorded title transaction and the remainder of the title
137 transaction remains enforceable and effective. The recording of
138 a notice preserving or protecting interests or rights under s.
139 712.06 does not reimpose or preserve a discriminatory
140 restriction that is extinguished under this section.

141 (3) Upon request of a parcel owner, a discriminatory
142 restriction appearing in a covenant or restriction affecting the
143 parcel may be removed from the covenant or restriction by an
144 amendment approved by a majority vote of the board of directors
145 of the respective property owners' association or an owners'
146 association in which all owners may voluntarily join,
147 notwithstanding any other requirements for approval of an
148 amendment of the covenant or restriction. Unless the amendment
149 also changes other provisions of the covenant or restriction,
150 the recording of an amendment removing a discriminatory

151 restriction does not constitute a title transaction occurring
152 after the root of title for purposes of s. 712.03(4).

153 Section 4. Paragraph (a) of subsection (1) and paragraphs
154 (a), (b), (c), (f), and (g) of subsection (12) of section
155 718.111, Florida Statutes, are amended to read:

156 718.111 The association.—

157 (1) CORPORATE ENTITY.—

158 (a) The operation of the condominium shall be by the
159 association, which must be a Florida corporation for profit or a
160 Florida corporation not for profit. However, any association
161 which was in existence on January 1, 1977, need not be
162 incorporated. The owners of units shall be shareholders or
163 members of the association. The officers and directors of the
164 association have a fiduciary relationship to the unit owners. It
165 is the intent of the Legislature that nothing in this paragraph
166 shall be construed as providing for or removing a requirement of
167 a fiduciary relationship between any manager employed by the
168 association and the unit owners. An officer, director, or
169 manager may not solicit, offer to accept, or accept any thing or
170 service of value or kickback for which consideration has not
171 been provided for his or her own benefit or that of his or her
172 immediate family, from any person providing or proposing to
173 provide goods or services to the association. Any such officer,
174 director, or manager who knowingly so solicits, offers to
175 accept, or accepts any thing or service of value or kickback is

176 subject to a civil penalty pursuant to s. 718.501(2)(d) ~~s.~~
177 ~~718.501(1)(d)~~ and, if applicable, a criminal penalty as provided
178 in paragraph (d). However, this paragraph does not prohibit an
179 officer, director, or manager from accepting services or items
180 received in connection with trade fairs or education programs.
181 An association may operate more than one condominium.

182 (12) OFFICIAL RECORDS.—

183 (a) From the inception of the association, the association
184 shall maintain each of the following items, if applicable, which
185 constitutes the official records of the association:

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

188 2. A photocopy of the recorded declaration of condominium
189 of each condominium operated by the association and each
190 amendment to each declaration.

191 3. A photocopy of the recorded bylaws of the association
192 and each amendment to the bylaws.

193 4. A certified copy of the articles of incorporation of
194 the association, or other documents creating the association,
195 and each amendment thereto.

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

197 6. A book or books that contain the minutes of all
198 meetings of the association, the board of administration, and
199 the unit owners.

200 7. A current roster of all unit owners and their mailing

201 addresses, unit identifications, voting certifications, and, if
202 known, telephone numbers. The association shall also maintain
203 the e-mail addresses and facsimile numbers of unit owners
204 consenting to receive notice by electronic transmission. The e-
205 mail addresses and facsimile numbers are not accessible to unit
206 owners if consent to receive notice by electronic transmission
207 is not provided in accordance with sub-subparagraph (c)3.e.
208 However, the association is not liable for an inadvertent
209 disclosure of the e-mail address or facsimile number for
210 receiving electronic transmission of notices.

211 8. All current insurance policies of the association and
212 condominiums operated by the association.

213 9. A current copy of any management agreement, lease, or
214 other contract to which the association is a party or under
215 which the association or the unit owners have an obligation or
216 responsibility.

217 10. Bills of sale or transfer for all property owned by
218 the association.

219 11. Accounting records for the association and separate
220 accounting records for each condominium that the association
221 operates. Any person who knowingly or intentionally defaces or
222 destroys such records, or who knowingly or intentionally fails
223 to create or maintain such records, with the intent of causing
224 harm to the association or one or more of its members, is
225 personally subject to a civil penalty under s. 718.501(2)(d)

226 ~~pursuant to s. 718.501(1)(d)~~. The accounting records must
227 include, but are not limited to:

228 a. Accurate, itemized, and detailed records of all
229 receipts and expenditures.

230 b. A current account and a monthly, bimonthly, or
231 quarterly statement of the account for each unit designating the
232 name of the unit owner, the due date and amount of each
233 assessment, the amount paid on the account, and the balance due.

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

236 d. All contracts for work to be performed. Bids for work
237 to be performed are also considered official records and must be
238 maintained by the association for at least 1 year after receipt
239 of the bid.

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

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

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

249 ~~15. All other written records of the association not~~
250 ~~specifically included in the foregoing which are related to the~~

251 ~~operation of the association.~~

252 ~~15.16.~~ A copy of the inspection report as described in s.
253 718.301(4)(p).

254 ~~16.17.~~ Bids for materials, equipment, or services.

255 17. All other written records of the association not
256 specifically included in subparagraphs 1.-16. which are related
257 to the operation of the association.

258 (b) The official records specified in subparagraphs (a)1.-
259 6. must be permanently maintained from the inception of the
260 association. Bids for work to be performed or for materials,
261 equipment, or services must be maintained for at least 1 year
262 after receipt of the bid. All other official records must be
263 maintained within the state for at least 7 years, unless
264 otherwise provided by general law. All official records must be
265 maintained in a manner and format determined by the division so
266 that the records are easily accessible for inspection. The
267 records of the association shall be made available to a unit
268 owner within 45 miles of the condominium property or within the
269 county in which the condominium property is located within 10
270 working days after receipt of a written request by the board or
271 its designee. However, such distance requirement does not apply
272 to an association governing a timeshare condominium. This
273 paragraph may be complied with by having a copy of the official
274 records of the association available for inspection or copying
275 on the condominium property or association property, or the

276 association may offer the option of making the records available
277 to a unit owner electronically via the Internet or by allowing
278 the records to be viewed in electronic format on a computer
279 screen and printed upon request. The association is not
280 responsible for the use or misuse of the information provided to
281 an association member or his or her authorized representative in
282 ~~pursuant to the compliance~~ with requirements of this chapter
283 unless the association has an affirmative duty not to disclose
284 such information under ~~pursuant to~~ this chapter.

285 (c)1. The official records of the association are open to
286 inspection by any association member or the authorized
287 representative of such member at all reasonable times. The right
288 to inspect the records includes the right to make or obtain
289 copies, at the reasonable expense, if any, of the member or
290 authorized representative of such member. A renter of a unit
291 only has a right to inspect and copy the declaration of
292 condominium and association's bylaws and rules. The association
293 must provide a checklist to the member or the authorized
294 representative of such member of all records that are made
295 available for inspection and copying in response to a written
296 request. If any of the association's official records are not
297 available, such records must be identified on the checklist
298 provided to the person requesting the records. The checklist
299 must be signed by a manager licensed under part VIII of chapter
300 468 certifying that the checklist is accurate to the best of his

301 or her knowledge and belief or the association must provide the
302 person requesting the records a sworn affidavit attesting to the
303 veracity of the checklist executed by the person responding to
304 the written request on behalf of the association. The
305 association must maintain a copy of the checklist and affidavit,
306 if required, for at least 7 years. Delivery of the checklist and
307 affidavit, if required, to the person requesting the records
308 creates a rebuttable presumption that the association complied
309 with this paragraph. The division may adopt a rule outlining the
310 requirements of the checklist under this subparagraph. The
311 association may adopt reasonable rules regarding the frequency,
312 time, location, notice, and manner of record inspections and
313 copying, but may not require a member to demonstrate any purpose
314 or state any reason for the inspection. The failure of an
315 association to provide the records within 10 working days after
316 receipt of a written request creates a rebuttable presumption
317 that the association willfully failed to comply with this
318 paragraph. A unit owner who is denied access to official records
319 is entitled to the actual damages or minimum damages for the
320 association's willful failure to comply. Minimum damages are \$50
321 per calendar day for up to 10 days, beginning on the 11th
322 working day after receipt of the written request. The failure to
323 permit inspection entitles any person prevailing in an
324 enforcement action to recover reasonable attorney fees from the
325 person in control of the records who, directly or indirectly,

326 knowingly denied access to the records.

327 2. Any person who knowingly or intentionally defaces or
328 destroys accounting records that are required by this chapter to
329 be maintained during the period for which such records are
330 required to be maintained, or who knowingly or intentionally
331 fails to create or maintain accounting records that are required
332 to be created or maintained, with the intent of causing harm to
333 the association or one or more of its members, is personally
334 subject to a civil penalty under s. 718.501(2)(d) ~~pursuant to s.~~
335 ~~718.501(1)(d)~~.

336 3. The association shall maintain an adequate number of
337 copies of the declaration, articles of incorporation, bylaws,
338 and rules, and all amendments to each of the foregoing, as well
339 as the question and answer sheet as described in s. 718.504 and
340 year-end financial information required under this section, on
341 the condominium property to ensure their availability to unit
342 owners and prospective purchasers, and may charge its actual
343 costs for preparing and furnishing these documents to those
344 requesting the documents. An association shall allow a member or
345 his or her authorized representative to use a portable device,
346 including a smartphone, tablet, portable scanner, or any other
347 technology capable of scanning or taking photographs, to make an
348 electronic copy of the official records in lieu of the
349 association's providing the member or his or her authorized
350 representative with a copy of such records. The association may

351 not charge a member or his or her authorized representative for
352 the use of a portable device. Notwithstanding this paragraph,
353 the following records are not accessible to unit owners:

354 a. Any record protected by the lawyer-client privilege as
355 described in s. 90.502 and any record protected by the work-
356 product privilege, including a record prepared by an association
357 attorney or prepared at the attorney's express direction, which
358 reflects a mental impression, conclusion, litigation strategy,
359 or legal theory of the attorney or the association, and which
360 was prepared exclusively for civil or criminal litigation or for
361 adversarial administrative proceedings, or which was prepared in
362 anticipation of such litigation or proceedings until the
363 conclusion of the litigation or proceedings.

364 b. Information obtained by an association in connection
365 with the approval of the lease, sale, or other transfer of a
366 unit.

367 c. Personnel records of association or management company
368 employees, including, but not limited to, disciplinary, payroll,
369 health, and insurance records. For purposes of this sub-
370 subparagraph, the term "personnel records" does not include
371 written employment agreements with an association employee or
372 management company, or budgetary or financial records that
373 indicate the compensation paid to an association employee.

374 d. Medical records of unit owners.

375 e. Social security numbers, driver license numbers, credit

376 card numbers, e-mail addresses, telephone numbers, facsimile
377 numbers, emergency contact information, addresses of a unit
378 owner other than as provided to fulfill the association's notice
379 requirements, and other personal identifying information of any
380 person, excluding the person's name, unit designation, mailing
381 address, property address, and any address, e-mail address, or
382 facsimile number provided to the association to fulfill the
383 association's notice requirements. Notwithstanding the
384 restrictions in this sub-subparagraph, an association may print
385 and distribute to unit ~~parcel~~ owners a directory containing the
386 name, unit ~~parcel~~ address, and all telephone numbers of each
387 unit ~~parcel~~ owner. However, an owner may exclude his or her
388 telephone numbers from the directory by so requesting in writing
389 to the association. An owner may consent in writing to the
390 disclosure of other contact information described in this sub-
391 subparagraph. The association is not liable for the inadvertent
392 disclosure of information that is protected under this sub-
393 subparagraph if the information is included in an official
394 record of the association and is voluntarily provided by an
395 owner and not requested by the association.

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

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

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

402 (f) An outgoing board or committee member must relinquish
 403 all official records and property of the association in his or
 404 her possession or under his or her control to the incoming board
 405 within 5 days after the election. The division shall impose a
 406 civil penalty as set forth in s. 718.501(2)(d)6. ~~s.~~
 407 ~~718.501(1)(d)6.~~ against an outgoing board or committee member
 408 who willfully and knowingly fails to relinquish such records and
 409 property.

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

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

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

419 (II) A website, application, or web portal operated by a
 420 third-party provider with whom the association owns, leases,
 421 rents, or otherwise obtains the right to operate a web page,
 422 subpage, web portal, ~~or~~ collection of subpages or web portals,
 423 or application which is dedicated to the association's
 424 activities and on which required notices, records, and documents
 425 may be posted or made available by the association.

426 b. The association's website or application must be
427 accessible through the Internet and must contain a subpage, web
428 portal, or other protected electronic location that is
429 inaccessible to the general public and accessible only to unit
430 owners and employees of the association.

431 c. Upon a unit owner's written request, the association
432 must provide the unit owner with a username and password and
433 access to the protected sections of the association's website or
434 application that contain any notices, records, or documents that
435 must be electronically provided.

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

439 a. The recorded declaration of condominium of each
440 condominium operated by the association and each amendment to
441 each declaration.

442 b. The recorded bylaws of the association and each
443 amendment to the bylaws.

444 c. The articles of incorporation of the association, or
445 other documents creating the association, and each amendment to
446 the articles of incorporation or other documents ~~thereto~~. The
447 copy posted pursuant to this sub-subparagraph must be a copy of
448 the articles of incorporation filed with the Department of
449 State.

450 d. The rules of the association.

451 e. A list of all executory contracts or documents to which
452 the association is a party or under which the association or the
453 unit owners have an obligation or responsibility and, after
454 bidding for the related materials, equipment, or services has
455 closed, a list of bids received by the association within the
456 past year. Summaries of bids for materials, equipment, or
457 services which exceed \$500 must be maintained on the website or
458 application for 1 year. In lieu of summaries, complete copies of
459 the bids may be posted.

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

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

465 h. The certification of each director required by s.
466 718.112(2)(d)4.b.

467 i. All contracts or transactions between the association
468 and any director, officer, corporation, firm, or association
469 that is not an affiliated condominium association or any other
470 entity in which an association director is also a director or
471 officer and financially interested.

472 j. Any contract or document regarding a conflict of
473 interest or possible conflict of interest as provided in ss.
474 468.436(2)(b)6. and 718.3027(3).

475 k. The notice of any unit owner meeting and the agenda for

476 the meeting, as required by s. 718.112(2)(d)3., no later than 14
477 days before the meeting. The notice must be posted in plain view
478 on the front page of the website or application, or on a
479 separate subpage of the website or application labeled "Notices"
480 which is conspicuously visible and linked from the front page.
481 The association must also post on its website or application any
482 document to be considered and voted on by the owners during the
483 meeting or any document listed on the agenda at least 7 days
484 before the meeting at which the document or the information
485 within the document will be considered.

486 1. Notice of any board meeting, the agenda, and any other
487 document required for the meeting as required by s.
488 718.112(2)(c), which must be posted no later than the date
489 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

490 3. The association shall ensure that the information and
491 records described in paragraph (c), which are not allowed to be
492 accessible to unit owners, are not posted on the association's
493 website or application. If protected information or information
494 restricted from being accessible to unit owners is included in
495 documents that are required to be posted on the association's
496 website or application, the association shall ensure the
497 information is redacted before posting the documents ~~online~~.
498 Notwithstanding the foregoing, the association or its agent is
499 not liable for disclosing information that is protected or
500 restricted under ~~pursuant to~~ this paragraph unless such

501 disclosure was made with a knowing or intentional disregard of
502 the protected or restricted nature of such information.

503 4. The failure of the association to post information
504 required under subparagraph 2. is not in and of itself
505 sufficient to invalidate any action or decision of the
506 association's board or its committees.

507 Section 5. Paragraphs (d), (i), (j), (k), and (p) of
508 subsection (2) of section 718.112, Florida Statutes, are
509 amended, and paragraph (c) is added to subsection (1) of that
510 section, to read:

511 718.112 Bylaws.—

512 (1) GENERALLY.—

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

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

518 (d) Unit owner meetings.—

519 1. An annual meeting of the unit owners must be held at
520 the location provided in the association bylaws and, if the
521 bylaws are silent as to the location, the meeting must be held
522 within 45 miles of the condominium property. However, such
523 distance requirement does not apply to an association governing
524 a timeshare condominium.

525 2. Unless the bylaws provide otherwise, a vacancy on the

526 board caused by the expiration of a director's term must be
527 filled by electing a new board member, and the election must be
528 by secret ballot. An election is not required if the number of
529 vacancies equals or exceeds the number of candidates. For
530 purposes of this paragraph, the term "candidate" means an
531 eligible person who has timely submitted the written notice, as
532 described in sub-subparagraph 4.a., of his or her intention to
533 become a candidate. Except in a timeshare or nonresidential
534 condominium, or if the staggered term of a board member does not
535 expire until a later annual meeting, or if all members' terms
536 would otherwise expire but there are no candidates, the terms of
537 all board members expire at the annual meeting, and such members
538 may stand for reelection unless prohibited by the bylaws. Board
539 members may serve terms longer than 1 year if permitted by the
540 bylaws or articles of incorporation. A board member may not
541 serve more than 8 consecutive years unless approved by an
542 affirmative vote of unit owners representing two-thirds of all
543 votes cast in the election or unless there are not enough
544 eligible candidates to fill the vacancies on the board at the
545 time of the vacancy. Only board service that occurs on or after
546 July 1, 2018, may be used when calculating a board member's term
547 limit. If the number of board members whose terms expire at the
548 annual meeting equals or exceeds the number of candidates, the
549 candidates become members of the board effective upon the
550 adjournment of the annual meeting. Unless the bylaws provide

551 otherwise, any remaining vacancies shall be filled by the
552 affirmative vote of the majority of the directors making up the
553 newly constituted board even if the directors constitute less
554 than a quorum or there is only one director. In a residential
555 condominium association of more than 10 units or in a
556 residential condominium association that does not include
557 timeshare units or timeshare interests, co-owners of a unit may
558 not serve as members of the board of directors at the same time
559 unless they own more than one unit or unless there are not
560 enough eligible candidates to fill the vacancies on the board at
561 the time of the vacancy. A unit owner in a residential
562 condominium desiring to be a candidate for board membership must
563 comply with sub-subparagraph 4.a. and must be eligible to be a
564 candidate to serve on the board of directors at the time of the
565 deadline for submitting a notice of intent to run in order to
566 have his or her name listed as a proper candidate on the ballot
567 or to serve on the board. A person who has been suspended or
568 removed by the division under this chapter, or who is delinquent
569 in the payment of any monetary obligation due to the
570 association, is not eligible to be a candidate for board
571 membership and may not be listed on the ballot. A person who has
572 been convicted of any felony in this state or in a United States
573 District or Territorial Court, or who has been convicted of any
574 offense in another jurisdiction which would be considered a
575 felony if committed in this state, is not eligible for board

576 membership unless such felon's civil rights have been restored
577 for at least 5 years as of the date such person seeks election
578 to the board. The validity of an action by the board is not
579 affected if it is later determined that a board member is
580 ineligible for board membership due to having been convicted of
581 a felony. This subparagraph does not limit the term of a member
582 of the board of a nonresidential or timeshare condominium.

583 3. The bylaws must provide the method of calling meetings
584 of unit owners, including annual meetings. Written notice of an
585 annual meeting must include an agenda; ~~it must~~ be mailed, hand
586 delivered, or electronically transmitted to each unit owner at
587 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
588 a conspicuous place on the condominium property at least 14
589 continuous days before the annual meeting. Written notice of a
590 meeting other than an annual meeting must include an agenda; be
591 mailed, hand delivered, or electronically transmitted to each
592 unit owner; and be posted in a conspicuous place on the
593 condominium property in accordance with the minimum period of
594 time for posting a notice as set forth in the bylaws, and if the
595 bylaws do not provide such notice requirements, then at least 14
596 continuous days before the meeting. Upon notice to the unit
597 owners, the board shall, by duly adopted rule, designate a
598 specific location on the condominium property where all notices
599 of unit owner meetings must be posted. This requirement does not
600 apply if there is no condominium property for posting notices.

601 In lieu of, or in addition to, the physical posting of meeting
602 notices, the association may, by reasonable rule, adopt a
603 procedure for conspicuously posting and repeatedly broadcasting
604 the notice and the agenda on a closed-circuit cable television
605 system serving the condominium association. However, if
606 broadcast notice is used in lieu of a notice posted physically
607 on the condominium property, the notice and agenda must be
608 broadcast at least four times every broadcast hour of each day
609 that a posted notice is otherwise required under this section.
610 If broadcast notice is provided, the notice and agenda must be
611 broadcast in a manner and for a sufficient continuous length of
612 time so as to allow an average reader to observe the notice and
613 read and comprehend the entire content of the notice and the
614 agenda. In addition to any of the authorized means of providing
615 notice of a meeting of the board, the association may, by rule,
616 adopt a procedure for conspicuously posting the meeting notice
617 and the agenda on a website serving the condominium association
618 for at least the minimum period of time for which a notice of a
619 meeting is also required to be physically posted on the
620 condominium property. Any rule adopted shall, in addition to
621 other matters, include a requirement that the association send
622 an electronic notice in the same manner as a notice for a
623 meeting of the members, which must include a hyperlink to the
624 website where the notice is posted, to unit owners whose e-mail
625 addresses are included in the association's official records.

626 Unless a unit owner waives in writing the right to receive
627 notice of the annual meeting, such notice must be hand
628 delivered, mailed, or electronically transmitted to each unit
629 owner. Notice for meetings and notice for all other purposes
630 must be mailed to each unit owner at the address last furnished
631 to the association by the unit owner, or hand delivered to each
632 unit owner. However, if a unit is owned by more than one person,
633 the association must provide notice to the address that the
634 developer identifies for that purpose and thereafter as one or
635 more of the owners of the unit advise the association in
636 writing, or if no address is given or the owners of the unit do
637 not agree, to the address provided on the deed of record. An
638 officer of the association, or the manager or other person
639 providing notice of the association meeting, must provide an
640 affidavit or United States Postal Service certificate of
641 mailing, to be included in the official records of the
642 association affirming that the notice was mailed or hand
643 delivered in accordance with this provision.

644 4. The members of the board of a residential condominium
645 shall be elected by written ballot or voting machine. Proxies
646 may not be used in electing the board in general elections or
647 elections to fill vacancies caused by recall, resignation, or
648 otherwise, unless otherwise provided in this chapter. This
649 subparagraph does not apply to an association governing a
650 timeshare condominium.

651 a. At least 60 days before a scheduled election, the
652 association shall mail, deliver, or electronically transmit, by
653 separate association mailing or included in another association
654 mailing, delivery, or transmission, including regularly
655 published newsletters, to each unit owner entitled to a vote, a
656 first notice of the date of the election. A unit owner or other
657 eligible person desiring to be a candidate for the board must
658 give written notice of his or her intent to be a candidate to
659 the association at least 40 days before a scheduled election.
660 Together with the written notice and agenda as set forth in
661 subparagraph 3., the association shall mail, deliver, or
662 electronically transmit a second notice of the election to all
663 unit owners entitled to vote, together with a ballot that lists
664 all candidates not less than 14 days or more than 34 days before
665 the date of the election. Upon request of a candidate, an
666 information sheet, no larger than 8 1/2 inches by 11 inches,
667 which must be furnished by the candidate at least 35 days before
668 the election, must be included with the mailing, delivery, or
669 transmission of the ballot, with the costs of mailing, delivery,
670 or electronic transmission and copying to be borne by the
671 association. The association is not liable for the contents of
672 the information sheets prepared by the candidates. In order to
673 reduce costs, the association may print or duplicate the
674 information sheets on both sides of the paper. The division
675 shall by rule establish voting procedures consistent with this

676 sub-subparagraph, including rules establishing procedures for
677 giving notice by electronic transmission and rules providing for
678 the secrecy of ballots. Elections shall be decided by a
679 plurality of ballots cast. There is no quorum requirement;
680 however, at least 20 percent of the eligible voters must cast a
681 ballot in order to have a valid election. A unit owner may not
682 authorize any other person to vote his or her ballot, and any
683 ballots improperly cast are invalid. A unit owner who violates
684 this provision may be fined by the association in accordance
685 with s. 718.303. A unit owner who needs assistance in casting
686 the ballot for the reasons stated in s. 101.051 may obtain such
687 assistance. The regular election must occur on the date of the
688 annual meeting. Notwithstanding this sub-subparagraph, an
689 election is not required unless more candidates file notices of
690 intent to run or are nominated than board vacancies exist.

691 b. Within 90 days after being elected or appointed to the
692 board of an association of a residential condominium, each newly
693 elected or appointed director shall certify in writing to the
694 secretary of the association that he or she has read the
695 association's declaration of condominium, articles of
696 incorporation, bylaws, and current written policies; that he or
697 she will work to uphold such documents and policies to the best
698 of his or her ability; and that he or she will faithfully
699 discharge his or her fiduciary responsibility to the
700 association's members. In lieu of this written certification,

701 within 90 days after being elected or appointed to the board,
702 the newly elected or appointed director may submit a certificate
703 of having satisfactorily completed the educational curriculum
704 administered by a division-approved condominium education
705 provider within 1 year before or 90 days after the date of
706 election or appointment. The written certification or
707 educational certificate is valid and does not have to be
708 resubmitted as long as the director serves on the board without
709 interruption. A director of an association of a residential
710 condominium who fails to timely file the written certification
711 or educational certificate is suspended from service on the
712 board until he or she complies with this sub-subparagraph. The
713 board may temporarily fill the vacancy during the period of
714 suspension. The secretary shall cause the association to retain
715 a director's written certification or educational certificate
716 for inspection by the members for 5 years after a director's
717 election or the duration of the director's uninterrupted tenure,
718 whichever is longer. Failure to have such written certification
719 or educational certificate on file does not affect the validity
720 of any board action.

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

723 5. Any approval by unit owners called for by this chapter
724 or the applicable declaration or bylaws, including, but not
725 limited to, the approval requirement in s. 718.111(8), must be

726 | made at a duly noticed meeting of unit owners and is subject to
727 | all requirements of this chapter or the applicable condominium
728 | documents relating to unit owner decisionmaking, except that
729 | unit owners may take action by written agreement, without
730 | meetings, on matters for which action by written agreement
731 | without meetings is expressly allowed by the applicable bylaws
732 | or declaration or any law that provides for such action.

733 | 6. Unit owners may waive notice of specific meetings if
734 | allowed by the applicable bylaws or declaration or any law.
735 | Notice of meetings of the board of administration, unit owner
736 | meetings, except unit owner meetings called to recall board
737 | members under paragraph (j), and committee meetings may be given
738 | by electronic transmission to unit owners who consent to receive
739 | notice by electronic transmission. A unit owner who consents to
740 | receiving notices by electronic transmission is solely
741 | responsible for removing or bypassing filters that block receipt
742 | of mass e-mails ~~emails~~ sent to members on behalf of the
743 | association in the course of giving electronic notices.

744 | 7. Unit owners have the right to participate in meetings
745 | of unit owners with reference to all designated agenda items.
746 | However, the association may adopt reasonable rules governing
747 | the frequency, duration, and manner of unit owner participation.

748 | 8. A unit owner may tape record or videotape a meeting of
749 | the unit owners subject to reasonable rules adopted by the
750 | division.

751 9. Unless otherwise provided in the bylaws, any vacancy
752 occurring on the board before the expiration of a term may be
753 filled by the affirmative vote of the majority of the remaining
754 directors, even if the remaining directors constitute less than
755 a quorum, or by the sole remaining director. In the alternative,
756 a board may hold an election to fill the vacancy, in which case
757 the election procedures must conform to sub-subparagraph 4.a.
758 unless the association governs 10 units or fewer and has opted
759 out of the statutory election process, in which case the bylaws
760 of the association control. Unless otherwise provided in the
761 bylaws, a board member appointed or elected under this section
762 shall fill the vacancy for the unexpired term of the seat being
763 filled. Filling vacancies created by recall is governed by
764 paragraph (j) and rules adopted by the division.

765 10. This chapter does not limit the use of general or
766 limited proxies, require the use of general or limited proxies,
767 or require the use of a written ballot or voting machine for any
768 agenda item or election at any meeting of a timeshare
769 condominium association or nonresidential condominium
770 association.

771
772 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
773 association of 10 or fewer units may, by affirmative vote of a
774 majority of the total voting interests, provide for different
775 voting and election procedures in its bylaws, which may be by a

776 proxy specifically delineating the different voting and election
777 procedures. The different voting and election procedures may
778 provide for elections to be conducted by limited or general
779 proxy.

780 (i) Transfer fees.~~An association may not~~ no charge a fee
781 ~~shall be made by the association or any body thereof~~ in
782 connection with the sale, mortgage, lease, sublease, or other
783 transfer of a unit unless the association is required to approve
784 such transfer and a fee for such approval is provided for in the
785 declaration, articles, or bylaws. Any such fee may be preset,
786 but may not ~~in no event may such fee~~ exceed \$150 ~~\$100~~ per
787 applicant other than spouses or parent and dependent child, who
788 ~~husband/wife or parent/dependent child, which~~ are considered one
789 applicant. However, if the lease or sublease is a renewal of a
790 lease or sublease with the same lessee or sublessee, a charge
791 may not ~~no charge shall~~ be made. Such fees shall be adjusted
792 every 5 years in an amount equal to the total of the annual
793 increases for that 5-year period in the Consumer Price Index for
794 All Urban Consumers, U.S. City Average, All Items. The
795 Department of Business and Professional Regulation shall
796 periodically calculate the fees, rounded to the nearest dollar,
797 and publish the amounts, as adjusted, on its website. The
798 foregoing notwithstanding, an association may, if the authority
799 to do so appears in the declaration, articles, or bylaws,
800 require that a prospective lessee place a security deposit, in

801 an amount not to exceed the equivalent of 1 month's rent, into
802 an escrow account maintained by the association. The security
803 deposit shall protect against damages to the common elements or
804 association property. Payment of interest, claims against the
805 deposit, refunds, and disputes under this paragraph shall be
806 handled in the same fashion as provided in part II of chapter
807 83.

808 (j) Recall of board members.—Subject to s. 718.301, any
809 member of the board of administration may be recalled and
810 removed from office with or without cause by the vote or
811 agreement in writing by a majority of all the voting interests.
812 A special meeting of the unit owners to recall a member or
813 members of the board of administration may be called by 10
814 percent of the voting interests giving notice of the meeting as
815 required for a meeting of unit owners, and the notice shall
816 state the purpose of the meeting. Electronic transmission may
817 not be used as a method of giving notice of a meeting called in
818 whole or in part for this purpose.

819 1. If the recall is approved by a majority of all voting
820 interests by a vote at a meeting, the recall will be effective
821 as provided in this paragraph. The board shall duly notice and
822 hold a board meeting within 5 full business days after the
823 adjournment of the unit owner meeting to recall one or more
824 board members. Such member or members shall be recalled
825 effective immediately upon conclusion of the board meeting,

826 provided that the recall is facially valid. A recalled member
827 must turn over to the board, within 10 full business days after
828 the vote, any and all records and property of the association in
829 their possession.

830 2. If the proposed recall is by an agreement in writing by
831 a majority of all voting interests, the agreement in writing or
832 a copy thereof shall be served on the association by certified
833 mail or by personal service in the manner authorized by chapter
834 48 and the Florida Rules of Civil Procedure. The board of
835 administration shall duly notice and hold a meeting of the board
836 within 5 full business days after receipt of the agreement in
837 writing. Such member or members shall be recalled effective
838 immediately upon the conclusion of the board meeting, provided
839 that the recall is facially valid. A recalled member must turn
840 over to the board, within 10 full business days, any and all
841 records and property of the association in their possession.

842 3. If the board fails to duly notice and hold a board
843 meeting within 5 full business days after service of an
844 agreement in writing or within 5 full business days after the
845 adjournment of the unit owner recall meeting, the recall is
846 ~~shall be~~ deemed effective and the board members so recalled
847 shall turn over to the board within 10 full business days after
848 the vote any and all records and property of the association.

849 4. If the board fails to duly notice and hold the required
850 meeting or at the conclusion of the meeting determines that the

851 recall is not facially valid, the unit owner representative may
852 file a petition or court action under ~~pursuant to~~ s. 718.1255
853 challenging the board's failure to act or challenging the
854 board's determination on facial validity. The petition or action
855 must be filed within 60 days after the expiration of the
856 applicable 5-full-business-day period. The review of a petition
857 or action under this subparagraph is limited to the sufficiency
858 of service on the board and the facial validity of the written
859 agreement or ballots filed.

860 5. If a vacancy occurs on the board as a result of a
861 recall or removal and less than a majority of the board members
862 are removed, the vacancy may be filled by the affirmative vote
863 of a majority of the remaining directors, notwithstanding any
864 provision to the contrary contained in this subsection. If
865 vacancies occur on the board as a result of a recall and a
866 majority or more of the board members are removed, the vacancies
867 shall be filled in accordance with procedural rules to be
868 adopted by the division, which rules need not be consistent with
869 this subsection. The rules must provide procedures governing the
870 conduct of the recall election as well as the operation of the
871 association during the period after a recall but before the
872 recall election.

873 6. A board member who has been recalled may file a
874 petition or court action under ~~pursuant to~~ s. 718.1255
875 challenging the validity of the recall. The petition or action

876 must be filed within 60 days after the recall. The association
877 and the unit owner representative shall be named as the
878 respondents. The petition or action may challenge the facial
879 validity of the written agreement or ballots filed or the
880 substantial compliance with the procedural requirements for the
881 recall. If the arbitrator or court determines the recall was
882 invalid, the petitioning board member shall immediately be
883 reinstated and the recall is null and void. A board member who
884 is successful in challenging a recall is entitled to recover
885 reasonable attorney fees and costs from the respondents. The
886 arbitrator or court may award reasonable attorney fees and costs
887 to the respondents if they prevail, if the arbitrator or court
888 makes a finding that the petitioner's claim is frivolous.

889 7. The division or a court of competent jurisdiction may
890 not accept for filing a recall petition or court action, whether
891 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
892 subparagraph 4., or subparagraph 6. when there are 60 or fewer
893 days until the scheduled reelection of the board member sought
894 to be recalled or when 60 or fewer days have elapsed since the
895 election of the board member sought to be recalled.

896 (k) Alternative dispute resolution ~~Arbitration~~.—There must
897 ~~shall~~ be a provision for mandatory alternative dispute
898 resolution ~~nonbinding arbitration~~ as provided for in s. 718.1255
899 for any residential condominium.

900 ~~(p) Service providers; conflicts of interest.—An~~

901 ~~association, which is not a timeshare condominium association,~~
902 ~~may not employ or contract with any service provider that is~~
903 ~~owned or operated by a board member or with any person who has a~~
904 ~~financial relationship with a board member or officer, or a~~
905 ~~relative within the third degree of consanguinity by blood or~~
906 ~~marriage of a board member or officer. This paragraph does not~~
907 ~~apply to a service provider in which a board member or officer,~~
908 ~~or a relative within the third degree of consanguinity by blood~~
909 ~~or marriage of a board member or officer, owns less than 1~~
910 ~~percent of the equity shares.~~

911 Section 6. Subsection (8) of section 718.113, Florida
912 Statutes, is amended to read:

913 718.113 Maintenance; limitation upon improvement; display
914 of flag; hurricane shutters and protection; display of religious
915 decorations.-

916 (8) The Legislature finds that the use of electric and
917 natural gas fuel vehicles conserves and protects the state's
918 environmental resources, provides significant economic savings
919 to drivers, and serves an important public interest. The
920 participation of condominium associations is essential to the
921 state's efforts to conserve and protect the state's
922 environmental resources and provide economic savings to drivers.
923 For purposes of this subsection, the term "natural gas fuel" has
924 the same meaning as in s. 206.9951, and the term "natural gas
925 fuel vehicle" means any motor vehicle, as defined in s. 320.01,

926 that is powered by natural gas fuel. Therefore, the installation
927 of an electric vehicle charging station or natural gas fuel
928 station shall be governed as follows:

929 (a) A declaration of condominium or restrictive covenant
930 may not prohibit or be enforced so as to prohibit any unit owner
931 from installing an electric vehicle charging station or natural
932 gas fuel station within the boundaries of the unit owner's
933 limited common element or exclusively designated parking area.
934 The board of administration of a condominium association may not
935 prohibit a unit owner from installing an electric vehicle
936 charging station for an electric vehicle, as defined in s.
937 320.01, or a natural gas fuel station for a natural gas fuel
938 vehicle within the boundaries of his or her limited common
939 element or exclusively designated parking area. The installation
940 of such charging or fuel stations are subject to the provisions
941 of this subsection.

942 (b) The installation may not cause irreparable damage to
943 the condominium property.

944 (c) The electricity for the electric vehicle charging
945 station or natural gas fuel station must be separately metered
946 or metered by an embedded meter and payable by the unit owner
947 installing such charging or fuel station or by his or her
948 successor.

949 (d) The cost for supply and storage of the natural gas
950 fuel must be paid by the unit owner installing the natural gas

951 fuel station or by his or her successor.

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

958 (f)~~(e)~~ If the unit owner or his or her successor decides
959 there is no longer a need for the electronic vehicle charging
960 station or natural gas fuel station, such person is responsible
961 for the cost of removal of such ~~the electronic vehicle~~ charging
962 or fuel station. The association may enforce payment of such
963 costs under ~~pursuant to~~ s. 718.116.

964 (g) The unit owner installing, maintaining, or removing
965 the electric vehicle charging station or natural gas fuel
966 station is responsible for complying with all federal, state, or
967 local laws and regulations applicable to such installation,
968 maintenance, or removal.

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

970 1. Comply with bona fide safety requirements, consistent
971 with applicable building codes or recognized safety standards,
972 for the protection of persons and property.

973 2. Comply with reasonable architectural standards adopted
974 by the association that govern the dimensions, placement, or
975 external appearance of the electric vehicle charging station or

976 | natural gas fuel station, provided that such standards may not
 977 | prohibit the installation of such charging or fuel station or
 978 | substantially increase the cost thereof.

979 | 3. Engage the services of a licensed and registered firm
 980 | ~~electrical contractor or engineer~~ familiar with the installation
 981 | or removal and core requirements of an electric vehicle charging
 982 | station or natural gas fuel station.

983 | 4. Provide a certificate of insurance naming the
 984 | association as an additional insured on the owner's insurance
 985 | policy for any claim related to the installation, maintenance,
 986 | or use of the electric vehicle charging station or natural gas
 987 | fuel station within 14 days after receiving the association's
 988 | approval to install such charging or fuel station or notice to
 989 | provide such a certificate.

990 | 5. Reimburse the association for the actual cost of any
 991 | increased insurance premium amount attributable to the electric
 992 | vehicle charging station or natural gas fuel station within 14
 993 | days after receiving the association's insurance premium
 994 | invoice.

995 | (i) ~~(g)~~ The association provides an implied easement across
 996 | the common elements of the condominium property to the unit
 997 | owner for purposes of ~~the installation of the~~ electric vehicle
 998 | charging station or natural gas fuel station installation, and
 999 | the furnishing of electrical power or natural gas fuel supply,
 1000 | including any necessary equipment, to such charging or fuel

1001 station, subject to the requirements of this subsection.

1002 Section 7. Subsection (16) of section 718.117, Florida

1003 Statutes, is amended to read:

1004 718.117 Termination of condominium.—

1005 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest

1006 a plan of termination by initiating a petition in accordance

1007 with ~~for mandatory nonbinding arbitration pursuant to s.~~

1008 718.1255 within 90 days after the date the plan is recorded. A

1009 unit owner or lienor may only contest the fairness and

1010 reasonableness of the apportionment of the proceeds from the

1011 sale among the unit owners, that the liens of the first

1012 mortgages of unit owners other than the bulk owner have not or

1013 will not be satisfied to the extent required by subsection (3),

1014 or that the required vote to approve the plan was not obtained.

1015 A unit owner or lienor who does not contest the plan within the

1016 90-day period is barred from asserting or prosecuting a claim

1017 against the association, the termination trustee, any unit

1018 owner, or any successor in interest to the condominium property.

1019 In an action contesting a plan of termination, the person

1020 contesting the plan has the burden of pleading and proving that

1021 the apportionment of the proceeds from the sale among the unit

1022 owners was not fair and reasonable or that the required vote was

1023 not obtained. The apportionment of sale proceeds is presumed

1024 fair and reasonable if it was determined pursuant to the methods

1025 prescribed in subsection (12). If the petition is filed with the

1026 | division for arbitration, the arbitrator shall determine the
 1027 | rights and interests of the parties in the apportionment of the
 1028 | sale proceeds. If the arbitrator determines that the
 1029 | apportionment of sales proceeds is not fair and reasonable, the
 1030 | arbitrator may void the plan or may modify the plan to apportion
 1031 | the proceeds in a fair and reasonable manner pursuant to this
 1032 | section based upon the proceedings and order the modified plan
 1033 | of termination to be implemented. If the arbitrator determines
 1034 | that the plan was not properly approved, or that the procedures
 1035 | to adopt the plan were not properly followed, the arbitrator may
 1036 | void the plan or grant other relief it deems just and proper.
 1037 | The arbitrator shall automatically void the plan upon a finding
 1038 | that any of the disclosures required in subparagraph (3)(c)5.
 1039 | are omitted, misleading, incomplete, or inaccurate. Any
 1040 | challenge to a plan, other than a challenge that the required
 1041 | vote was not obtained, does not affect title to the condominium
 1042 | property or the vesting of the condominium property in the
 1043 | trustee, but shall only be a claim against the proceeds of the
 1044 | plan. In any such action, the prevailing party shall recover
 1045 | reasonable attorney fees and costs.

1046 | Section 8. Subsection (2) of section 718.121, Florida
 1047 | Statutes, is amended to read:

1048 | 718.121 Liens.—

1049 | (2) Labor performed on or materials furnished to a unit
 1050 | may ~~shall~~ not be the basis for the filing of a lien under

1051 ~~pursuant to~~ part I of chapter 713, the Construction Lien Law,
 1052 against the unit or condominium parcel of any unit owner not
 1053 expressly consenting to or requesting the labor or materials.
 1054 Labor performed on or materials furnished for the installation
 1055 of a natural gas fuel station or an electronic vehicle charging
 1056 station under ~~pursuant to~~ s. 718.113(8) may not be the basis for
 1057 filing a lien under part I of chapter 713 against the
 1058 association, but such a lien may be filed against the unit
 1059 owner. Labor performed on or materials furnished to the common
 1060 elements are not the basis for a lien on the common elements,
 1061 but if authorized by the association, the labor or materials are
 1062 deemed to be performed or furnished with the express consent of
 1063 each unit owner and may be the basis for the filing of a lien
 1064 against all condominium parcels in the proportions for which the
 1065 owners are liable for common expenses.

1066 Section 9. Subsections (5) and (6) of section 718.1255,
 1067 Florida Statutes, are renumbered as subsections (6) and (7),
 1068 respectively, subsection (2) and paragraph (a) of subsection (4)
 1069 of that section are amended, and a new subsection (5) is added
 1070 to that section, to read:

1071 718.1255 Alternative dispute resolution; ~~voluntary~~
 1072 mediation; ~~mandatory~~ nonbinding arbitration; legislative
 1073 findings.—

1074 (2) ~~VOLUNTARY~~ MEDIATION.—~~Voluntary~~ Mediation through
 1075 Citizen Dispute Settlement Centers as provided for in s. 44.201

1076 is encouraged.

1077 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF

1078 DISPUTES.—The Division of Florida Condominiums, Timeshares, and

1079 Mobile Homes of the Department of Business and Professional

1080 Regulation may employ full-time attorneys to act as arbitrators

1081 to conduct the arbitration hearings provided by this chapter.

1082 The division may also certify attorneys who are not employed by

1083 the division to act as arbitrators to conduct the arbitration

1084 hearings provided by this chapter. A ~~No~~ person may not be

1085 employed by the department as a full-time arbitrator unless he

1086 or she is a member in good standing of The Florida Bar. A person

1087 may only be certified by the division to act as an arbitrator if

1088 he or she has been a member in good standing of The Florida Bar

1089 for at least 5 years and has mediated or arbitrated at least 10

1090 disputes involving condominiums in this state during the 3 years

1091 immediately preceding the date of application, mediated or

1092 arbitrated at least 30 disputes in any subject area in this

1093 state during the 3 years immediately preceding the date of

1094 application, or attained board certification in real estate law

1095 or condominium and planned development law from The Florida Bar.

1096 Arbitrator certification is valid for 1 year. An arbitrator who

1097 does not maintain the minimum qualifications for initial

1098 certification may not have his or her certification renewed. The

1099 department may not enter into a legal services contract for an

1100 arbitration hearing under this chapter with an attorney who is

1101 not a certified arbitrator unless a certified arbitrator is not
1102 available within 50 miles of the dispute. The department shall
1103 adopt rules of procedure to govern such arbitration hearings
1104 including mediation incident thereto. The decision of an
1105 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1106 ~~be~~ deemed final agency action. Nothing in this provision shall
1107 be construed to foreclose parties from proceeding in a trial de
1108 novo unless the parties have agreed that the arbitration is
1109 binding. If judicial proceedings are initiated, the final
1110 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1111 the trial de novo.

1112 (a) Before ~~Prior to~~ the institution of court litigation, a
1113 party to a dispute, other than an election or recall dispute,
1114 shall either petition the division for nonbinding arbitration or
1115 initiate presuit mediation as provided in subsection (5).
1116 Arbitration is binding on the parties if all parties in
1117 arbitration agree to be bound in a writing filed in arbitration.
1118 The petition must be accompanied by a filing fee in the amount
1119 of \$50. Filing fees collected under this section must be used to
1120 defray the expenses of the alternative dispute resolution
1121 program.

1122 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1123 nonbinding arbitration as set forth in subsections (1)-(4), a
1124 party may submit a dispute to presuit mediation in accordance
1125 with s. 720.311. Election and recall disputes are not eligible

1126 | for mediation and such disputes must be arbitrated by the
 1127 | division or filed in a court of competent jurisdiction.

1128 | Section 10. Subsection (3) of section 718.202, Florida
 1129 | Statutes, is amended to read:

1130 | 718.202 Sales or reservation deposits prior to closing.—

1131 | (3) If the contract for sale of the condominium unit so
 1132 | provides, the developer may withdraw escrow funds in excess of
 1133 | 10 percent of the purchase price from the special account
 1134 | required by subsection (2) when the construction of improvements
 1135 | has begun. He or she may use the funds for the actual costs
 1136 | incurred by the developer in the ~~actual~~ construction and
 1137 | development of the condominium property in which the unit to be
 1138 | sold is located. For purposes of this subsection, the term
 1139 | "actual costs" includes, but is not limited to, expenditures for
 1140 | demolition, site clearing, permit fees, impact fees, and utility
 1141 | reservation fees, as well as architectural, engineering, and
 1142 | surveying fees that directly relate to construction and
 1143 | development of the condominium property. However, no part of
 1144 | these funds may be used for salaries, commissions, or expenses
 1145 | of salespersons; ~~or~~ for advertising, marketing, or promotional
 1146 | purposes; or for loan fees, costs or interest, attorney fees,
 1147 | accounting fees, or insurance. A contract which permits use of
 1148 | the advance payments for these purposes shall include the
 1149 | following legend conspicuously printed or stamped in boldfaced
 1150 | type on the first page of the contract and immediately above the

1151 place for the signature of the buyer: ANY PAYMENT IN EXCESS OF
1152 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO
1153 CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION
1154 PURPOSES BY THE DEVELOPER.

1155 Section 11. Subsection (1) and paragraph (b) of subsection
1156 (3) of section 718.303, Florida Statutes, are amended to read:

1157 718.303 Obligations of owners and occupants; remedies.—

1158 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1159 ~~each~~ association is governed by, and must comply with the
1160 provisions of, this chapter, the declaration, the documents
1161 creating the association, and the association bylaws which are
1162 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1163 Actions at law or in equity ~~for damages or for injunctive~~
1164 ~~relief~~, or both, for failure to comply with these provisions may
1165 be brought by the association or by a unit owner against:

1166 (a) The association.

1167 (b) A unit owner.

1168 (c) Directors designated by the developer, for actions
1169 taken by them before control of the association is assumed by
1170 unit owners other than the developer.

1171 (d) Any director who willfully and knowingly fails to
1172 comply with these provisions.

1173 (e) Any tenant leasing a unit, and any other invitee
1174 occupying a unit.

1175

1176 The prevailing party in any such action or in any action in
 1177 which the purchaser claims a right of voidability based upon
 1178 contractual provisions as required in s. 718.503(1)(a) is
 1179 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
 1180 owner prevailing in an action between the association and the
 1181 unit owner under this subsection ~~section~~, in addition to
 1182 recovering his or her reasonable attorney ~~attorney's~~ fees, may
 1183 recover additional amounts as determined by the court to be
 1184 necessary to reimburse the unit owner for his or her share of
 1185 assessments levied by the association to fund its expenses of
 1186 the litigation. This relief does not exclude other remedies
 1187 provided by law. Actions arising under this subsection are not
 1188 considered ~~may not be deemed to be~~ actions for specific
 1189 performance.

1190 (3) The association may levy reasonable fines for the
 1191 failure of the owner of the unit or its occupant, licensee, or
 1192 invitee to comply with any provision of the declaration, the
 1193 association bylaws, or reasonable rules of the association. A
 1194 fine may not become a lien against a unit. A fine may be levied
 1195 by the board on the basis of each day of a continuing violation,
 1196 with a single notice and opportunity for hearing before a
 1197 committee as provided in paragraph (b). However, the fine may
 1198 not exceed \$100 per violation, or \$1,000 in the aggregate.

1199 (b) A fine or suspension levied by the board of
 1200 administration may not be imposed unless the board first

1201 provides at least 14 days' written notice to the unit owner and,
 1202 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
 1203 unit owner sought to be fined or suspended, and an opportunity
 1204 for a hearing before a committee of at least three members
 1205 appointed by the board who are not officers, directors, or
 1206 employees of the association, or the spouse, parent, child,
 1207 brother, or sister of an officer, director, or employee. The
 1208 role of the committee is limited to determining whether to
 1209 confirm or reject the fine or suspension levied by the board. If
 1210 the committee does not approve the proposed fine or suspension
 1211 by majority vote, the fine or suspension may not be imposed. If
 1212 the proposed fine or suspension is approved by the committee,
 1213 the fine payment is due 5 days after notice of the approved fine
 1214 is provided to the unit owner and, if applicable, to any tenant,
 1215 licensee, or invitee of the unit owner ~~the date of the committee~~
 1216 ~~meeting at which the fine is approved~~. The association must
 1217 provide written notice of such fine or suspension by mail or
 1218 hand delivery to the unit owner and, if applicable, to any
 1219 tenant, licensee, or invitee of the unit owner.

1220 Section 12. Section 718.501, Florida Statutes, is amended
 1221 to read:

1222 718.501 Authority, responsibility, and duties of Division
 1223 of Florida Condominiums, Timeshares, and Mobile Homes.—

1224 (1) As used in this section, the term "financial issue"
 1225 means an issue related to operating budgets; reserve schedules;

1226 accounting records under s. 718.111(12)(a)11.; notices of
 1227 meetings; minutes of meetings discussing budget or financial
 1228 issues; assessments for common expenses, fees, or fines; the
 1229 commingling of funds; and any other record necessary to
 1230 determine the revenues and expenses of the association. The
 1231 division may adopt rules to further define what a financial
 1232 issue is under this section.

1233 (2)~~(1)~~ The division may enforce and ensure compliance with
 1234 ~~the provisions of~~ this chapter and rules relating to the
 1235 development, construction, sale, lease, ownership, operation,
 1236 and management of residential condominium units. In performing
 1237 its duties, the division has complete jurisdiction to
 1238 investigate complaints and enforce compliance with respect to
 1239 associations that are still under developer control or the
 1240 control of a bulk assignee or bulk buyer pursuant to part VII of
 1241 this chapter and complaints against developers, bulk assignees,
 1242 or bulk buyers involving improper turnover or failure to
 1243 turnover, pursuant to s. 718.301. However, after turnover has
 1244 occurred, the division has jurisdiction to investigate
 1245 complaints related only to financial issues, elections, and the
 1246 maintenance of and unit owner access to association records
 1247 under ~~pursuant to~~ s. 718.111(12).

1248 (a)1. The division may make necessary public or private
 1249 investigations within or outside this state to determine whether
 1250 any person has violated this chapter or any rule or order

1251 hereunder, to aid in the enforcement of this chapter, or to aid
1252 in the adoption of rules or forms.

1253 2. The division may submit any official written report,
1254 worksheet, or other related paper, or a duly certified copy
1255 thereof, compiled, prepared, drafted, or otherwise made by and
1256 duly authenticated by a financial examiner or analyst to be
1257 admitted as competent evidence in any hearing in which the
1258 financial examiner or analyst is available for cross-examination
1259 and attests under oath that such documents were prepared as a
1260 result of an examination or inspection conducted pursuant to
1261 this chapter.

1262 (b) The division may require or permit any person to file
1263 a statement in writing, under oath or otherwise, as the division
1264 determines, as to the facts and circumstances concerning a
1265 matter to be investigated.

1266 (c) For the purpose of any investigation under this
1267 chapter, the division director or any officer or employee
1268 designated by the division director may administer oaths or
1269 affirmations, subpoena witnesses and compel their attendance,
1270 take evidence, and require the production of any matter which is
1271 relevant to the investigation, including the existence,
1272 description, nature, custody, condition, and location of any
1273 books, documents, or other tangible things and the identity and
1274 location of persons having knowledge of relevant facts or any
1275 other matter reasonably calculated to lead to the discovery of

1276 material evidence. Upon the failure by a person to obey a
1277 subpoena or to answer questions propounded by the investigating
1278 officer and upon reasonable notice to all affected persons, the
1279 division may apply to the circuit court for an order compelling
1280 compliance.

1281 (d) Notwithstanding any remedies available to unit owners
1282 and associations, if the division has reasonable cause to
1283 believe that a violation of any provision of this chapter or
1284 related rule has occurred, the division may institute
1285 enforcement proceedings in its own name against any developer,
1286 bulk assignee, bulk buyer, association, officer, or member of
1287 the board of administration, or its assignees or agents, as
1288 follows:

1289 1. The division may permit a person whose conduct or
1290 actions may be under investigation to waive formal proceedings
1291 and enter into a consent proceeding whereby orders, rules, or
1292 letters of censure or warning, whether formal or informal, may
1293 be entered against the person.

1294 2. The division may issue an order requiring the
1295 developer, bulk assignee, bulk buyer, association, developer-
1296 designated officer, or developer-designated member of the board
1297 of administration, developer-designated assignees or agents,
1298 bulk assignee-designated assignees or agents, bulk buyer-
1299 designated assignees or agents, community association manager,
1300 or community association management firm to cease and desist

1301 from the unlawful practice and take such affirmative action as
1302 in the judgment of the division carry out the purposes of this
1303 chapter. If the division finds that a developer, bulk assignee,
1304 bulk buyer, association, officer, or member of the board of
1305 administration, or its assignees or agents, is violating or is
1306 about to violate any provision of this chapter, any rule adopted
1307 or order issued by the division, or any written agreement
1308 entered into with the division, and presents an immediate danger
1309 to the public requiring an immediate final order, it may issue
1310 an emergency cease and desist order reciting with particularity
1311 the facts underlying such findings. The emergency cease and
1312 desist order is effective for 90 days. If the division begins
1313 nonemergency cease and desist proceedings, the emergency cease
1314 and desist order remains effective until the conclusion of the
1315 proceedings under ss. 120.569 and 120.57.

1316 3. If a developer, bulk assignee, or bulk buyer, fails to
1317 pay any restitution determined by the division to be owed, plus
1318 any accrued interest at the highest rate permitted by law,
1319 within 30 days after expiration of any appellate time period of
1320 a final order requiring payment of restitution or the conclusion
1321 of any appeal thereof, whichever is later, the division must
1322 bring an action in circuit or county court on behalf of any
1323 association, class of unit owners, lessees, or purchasers for
1324 restitution, declaratory relief, injunctive relief, or any other
1325 available remedy. The division may also temporarily revoke its

1326 acceptance of the filing for the developer to which the
1327 restitution relates until payment of restitution is made.

1328 4. The division may petition the court for appointment of
1329 a receiver or conservator. If appointed, the receiver or
1330 conservator may take action to implement the court order to
1331 ensure the performance of the order and to remedy any breach
1332 thereof. In addition to all other means provided by law for the
1333 enforcement of an injunction or temporary restraining order, the
1334 circuit court may impound or sequester the property of a party
1335 defendant, including books, papers, documents, and related
1336 records, and allow the examination and use of the property by
1337 the division and a court-appointed receiver or conservator.

1338 5. The division may apply to the circuit court for an
1339 order of restitution whereby the defendant in an action brought
1340 under ~~pursuant to~~ subparagraph 4. is ordered to make restitution
1341 of those sums shown by the division to have been obtained by the
1342 defendant in violation of this chapter. At the option of the
1343 court, such restitution is payable to the conservator or
1344 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1345 to the persons whose funds or assets were obtained in violation
1346 of this chapter.

1347 6. The division may impose a civil penalty against a
1348 developer, bulk assignee, or bulk buyer, or association, or its
1349 assignee or agent, for any violation of this chapter or related
1350 rule. The division may impose a civil penalty individually

1351 against an officer or board member who willfully and knowingly
 1352 violates ~~a provision of~~ this chapter, adopted rule, or a final
 1353 order of the division; may order the removal of such individual
 1354 as an officer or from the board of administration or as an
 1355 officer of the association; and may prohibit such individual
 1356 from serving as an officer or on the board of a community
 1357 association for a period of time. The term "willfully and
 1358 knowingly" means that the division informed the officer or board
 1359 member that his or her action or intended action violates this
 1360 chapter, a rule adopted under this chapter, or a final order of
 1361 the division and that the officer or board member refused to
 1362 comply with the requirements of this chapter, a rule adopted
 1363 under this chapter, or a final order of the division. The
 1364 division, before initiating formal agency action under chapter
 1365 120, must afford the officer or board member an opportunity to
 1366 voluntarily comply, and an officer or board member who complies
 1367 within 10 days is not subject to a civil penalty. A penalty may
 1368 be imposed on the basis of each day of continuing violation, but
 1369 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
 1370 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
 1371 applicable to possible violations or to categories of violations
 1372 of this chapter or rules adopted by the division. The guidelines
 1373 must specify a meaningful range of civil penalties for each such
 1374 violation of the statute and rules and must be based upon the
 1375 harm caused by the violation, the repetition of the violation,

1376 and upon such other factors deemed relevant by the division. For
1377 example, the division may consider whether the violations were
1378 committed by a developer, bulk assignee, or bulk buyer, or
1379 owner-controlled association, the size of the association, and
1380 other factors. The guidelines must designate the possible
1381 mitigating or aggravating circumstances that justify a departure
1382 from the range of penalties provided by the rules. It is the
1383 legislative intent that minor violations be distinguished from
1384 those which endanger the health, safety, or welfare of the
1385 condominium residents or other persons and that such guidelines
1386 provide reasonable and meaningful notice to the public of likely
1387 penalties that may be imposed for proscribed conduct. This
1388 subsection does not limit the ability of the division to
1389 informally dispose of administrative actions or complaints by
1390 stipulation, agreed settlement, or consent order. All amounts
1391 collected shall be deposited with the Chief Financial Officer to
1392 the credit of the Division of Florida Condominiums, Timeshares,
1393 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1394 bulk buyer fails to pay the civil penalty and the amount deemed
1395 to be owed to the association, the division shall issue an order
1396 directing that such developer, bulk assignee, or bulk buyer
1397 cease and desist from further operation until such time as the
1398 civil penalty is paid or may pursue enforcement of the penalty
1399 in a court of competent jurisdiction. If an association fails to
1400 pay the civil penalty, the division shall pursue enforcement in

1401 a court of competent jurisdiction, and the order imposing the
1402 civil penalty or the cease and desist order is not effective
1403 until 20 days after the date of such order. Any action commenced
1404 by the division shall be brought in the county in which the
1405 division has its executive offices or in the county where the
1406 violation occurred.

1407 7. If a unit owner presents the division with proof that
1408 the unit owner has requested access to official records in
1409 writing by certified mail, and that after 10 days the unit owner
1410 again made the same request for access to official records in
1411 writing by certified mail, and that more than 10 days has
1412 elapsed since the second request and the association has still
1413 failed or refused to provide access to official records as
1414 required by this chapter, the division shall issue a subpoena
1415 requiring production of the requested records where the records
1416 are kept pursuant to s. 718.112.

1417 8. In addition to subparagraph 6., the division may seek
1418 the imposition of a civil penalty through the circuit court for
1419 any violation for which the division may issue a notice to show
1420 cause under paragraph (r). The civil penalty shall be at least
1421 \$500 but no more than \$5,000 for each violation. The court may
1422 also award to the prevailing party court costs and reasonable
1423 attorney ~~attorney's~~ fees and, if the division prevails, may also
1424 award reasonable costs of investigation.

1425 (e) The division may prepare and disseminate a prospectus

1426 and other information to assist prospective owners, purchasers,
1427 lessees, and developers of residential condominiums in assessing
1428 the rights, privileges, and duties pertaining thereto.

1429 (f) The division may adopt rules to administer and enforce
1430 ~~the provisions of~~ this chapter.

1431 (g) The division shall establish procedures for providing
1432 notice to an association and the developer, bulk assignee, or
1433 bulk buyer during the period in which the developer, bulk
1434 assignee, or bulk buyer controls the association if the division
1435 is considering the issuance of a declaratory statement with
1436 respect to the declaration of condominium or any related
1437 document governing such condominium community.

1438 (h) The division shall furnish each association that pays
1439 the fees required by paragraph (3) (a) ~~(2) (a)~~ a copy of this
1440 chapter, as amended, and the rules adopted thereto on an annual
1441 basis.

1442 (i) The division shall annually provide each association
1443 with a summary of declaratory statements and formal legal
1444 opinions relating to the operations of condominiums which were
1445 rendered by the division during the previous year.

1446 (j) The division shall provide training and educational
1447 programs for condominium association board members and unit
1448 owners. The training may, in the division's discretion, include
1449 web-based electronic media, and live training and seminars in
1450 various locations throughout the state. The division may review

1451 and approve education and training programs for board members
1452 and unit owners offered by providers and shall maintain a
1453 current list of approved programs and providers and make such
1454 list available to board members and unit owners in a reasonable
1455 and cost-effective manner. The division may adopt rules to
1456 establish requirements for the training and educational programs
1457 required in this paragraph.

1458 (k) The division shall maintain a toll-free telephone
1459 number accessible to condominium unit owners.

1460 (l) The division shall develop a program to certify both
1461 volunteer and paid mediators to provide mediation of condominium
1462 disputes. The division shall provide, upon request, a list of
1463 such mediators to any association, unit owner, or other
1464 participant in alternative dispute resolution ~~arbitration~~
1465 proceedings under s. 718.1255 requesting a copy of the list. The
1466 division shall include on the list of volunteer mediators only
1467 the names of persons who have received at least 20 hours of
1468 training in mediation techniques or who have mediated at least
1469 20 disputes. In order to become initially certified by the
1470 division, paid mediators must be certified by the Supreme Court
1471 to mediate court cases in county or circuit courts. However, the
1472 division may adopt, by rule, additional factors for the
1473 certification of paid mediators, which must be related to
1474 experience, education, or background. Any person initially
1475 certified as a paid mediator by the division must, in order to

1476 continue to be certified, comply with the factors or
1477 requirements adopted by rule.

1478 (m) If a complaint is made, the division must conduct its
1479 inquiry with due regard for the interests of the affected
1480 parties. Within 30 days after receipt of a complaint, the
1481 division shall acknowledge the complaint in writing and notify
1482 the complainant whether the complaint is within the jurisdiction
1483 of the division and whether additional information is needed by
1484 the division from the complainant. The division shall conduct
1485 its investigation and, within 90 days after receipt of the
1486 original complaint or of timely requested additional
1487 information, take action upon the complaint. However, the
1488 failure to complete the investigation within 90 days does not
1489 prevent the division from continuing the investigation,
1490 accepting or considering evidence obtained or received after 90
1491 days, or taking administrative action if reasonable cause exists
1492 to believe that a violation of this chapter or a rule has
1493 occurred. If an investigation is not completed within the time
1494 limits established in this paragraph, the division shall, on a
1495 monthly basis, notify the complainant in writing of the status
1496 of the investigation. When reporting its action to the
1497 complainant, the division shall inform the complainant of any
1498 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57.

1499 (n) Condominium association directors, officers, and
1500 employees; condominium developers; bulk assignees, bulk buyers,

1501 and community association managers; and community association
 1502 management firms have an ongoing duty to reasonably cooperate
 1503 with the division in any investigation under ~~pursuant to~~ this
 1504 section. The division shall refer to local law enforcement
 1505 authorities any person whom the division believes has altered,
 1506 destroyed, concealed, or removed any record, document, or thing
 1507 required to be kept or maintained by this chapter with the
 1508 purpose to impair its verity or availability in the department's
 1509 investigation.

1510 (o) The division may:

- 1511 1. Contract with agencies in this state or other
- 1512 jurisdictions to perform investigative functions; or
- 1513 2. Accept grants-in-aid from any source.

1514 (p) The division shall cooperate with similar agencies in
 1515 other jurisdictions to establish uniform filing procedures and
 1516 forms, public offering statements, advertising standards, and
 1517 rules and common administrative practices.

1518 (q) The division shall consider notice to a developer,
 1519 bulk assignee, or bulk buyer to be complete when it is delivered
 1520 to the address of the developer, bulk assignee, or bulk buyer
 1521 currently on file with the division.

1522 (r) In addition to its enforcement authority, the division
 1523 may issue a notice to show cause, which must provide for a
 1524 hearing, upon written request, in accordance with chapter 120.

1525 (s) The division shall submit to the Governor, the

1526 President of the Senate, the Speaker of the House of
1527 Representatives, and the chairs of the legislative
1528 appropriations committees an annual report that includes, but
1529 need not be limited to, the number of training programs provided
1530 for condominium association board members and unit owners, the
1531 number of complaints received by type, the number and percent of
1532 complaints acknowledged in writing within 30 days and the number
1533 and percent of investigations acted upon within 90 days in
1534 accordance with paragraph (m), and the number of investigations
1535 exceeding the 90-day requirement. The annual report must also
1536 include an evaluation of the division's core business processes
1537 and make recommendations for improvements, including statutory
1538 changes. The report shall be submitted by September 30 following
1539 the end of the fiscal year.

1540 (3) (a) ~~(2) (a)~~ Each condominium association which operates
1541 more than two units shall pay to the division an annual fee in
1542 the amount of \$4 for each residential unit in condominiums
1543 operated by the association. If the fee is not paid by March 1,
1544 the association shall be assessed a penalty of 10 percent of the
1545 amount due, and the association will not have standing to
1546 maintain or defend any action in the courts of this state until
1547 the amount due, plus any penalty, is paid.

1548 (b) All fees shall be deposited in the Division of Florida
1549 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1550 provided by law.

1551 Section 13. Section 718.5014, Florida Statutes, is amended
 1552 to read:

1553 718.5014 Ombudsman location.—The ombudsman shall maintain
 1554 his or her principal office in a Leon County ~~on the premises of~~
 1555 ~~the division or, if suitable space cannot be provided there, at~~
 1556 ~~another~~ place convenient to the offices of the division which
 1557 will enable the ombudsman to expeditiously carry out the duties
 1558 and functions of his or her office. The ombudsman may establish
 1559 branch offices elsewhere in the state upon the concurrence of
 1560 the Governor.

1561 Section 14. Subsection (25) of section 719.103, Florida
 1562 Statutes, is amended to read:

1563 719.103 Definitions.—As used in this chapter:

1564 (25) "Unit" means a part of the cooperative property which
 1565 is subject to exclusive use and possession. A unit may be
 1566 improvements, land, or land and improvements together, as
 1567 specified in the cooperative documents. An interest in a unit is
 1568 an interest in real property.

1569 Section 15. Paragraph (c) of subsection (2) of section
 1570 719.104, Florida Statutes, is amended to read:

1571 719.104 Cooperatives; access to units; records; financial
 1572 reports; assessments; purchase of leases.—

1573 (2) OFFICIAL RECORDS.—

1574 (c) The official records of the association are open to
 1575 inspection by any association member or the authorized

1576 representative of such member at all reasonable times. The right
1577 to inspect the records includes the right to make or obtain
1578 copies, at the reasonable expense, if any, of the association
1579 member. The association may adopt reasonable rules regarding the
1580 frequency, time, location, notice, and manner of record
1581 inspections and copying, but may not require a member to
1582 demonstrate any purpose or state any reason for the inspection.
1583 The failure of an association to provide the records within 10
1584 working days after receipt of a written request creates a
1585 rebuttable presumption that the association willfully failed to
1586 comply with this paragraph. A member ~~unit-owner~~ who is denied
1587 access to official records is entitled to the actual damages or
1588 minimum damages for the association's willful failure to comply.
1589 The minimum damages are \$50 per calendar day for up to 10 days,
1590 beginning on the 11th working day after receipt of the written
1591 request. The failure to permit inspection entitles any person
1592 prevailing in an enforcement action to recover reasonable
1593 attorney fees from the person in control of the records who,
1594 directly or indirectly, knowingly denied access to the records.
1595 Any person who knowingly or intentionally defaces or destroys
1596 accounting records that are required by this chapter to be
1597 maintained during the period for which such records are required
1598 to be maintained, or who knowingly or intentionally fails to
1599 create or maintain accounting records that are required to be
1600 created or maintained, with the intent of causing harm to the

1601 association or one or more of its members, is personally subject
1602 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1603 association shall maintain an adequate number of copies of the
1604 declaration, articles of incorporation, bylaws, and rules, and
1605 all amendments to each of the foregoing, as well as the question
1606 and answer sheet as described in s. 719.504 and year-end
1607 financial information required by the department, on the
1608 cooperative property to ensure their availability to members
1609 ~~unit owners~~ and prospective purchasers, and may charge its
1610 actual costs for preparing and furnishing these documents to
1611 those requesting the same. An association shall allow a member
1612 or his or her authorized representative to use a portable
1613 device, including a smartphone, tablet, portable scanner, or any
1614 other technology capable of scanning or taking photographs, to
1615 make an electronic copy of the official records in lieu of the
1616 association providing the member or his or her authorized
1617 representative with a copy of such records. The association may
1618 not charge a member or his or her authorized representative for
1619 the use of a portable device. Notwithstanding this paragraph,
1620 the following records shall not be accessible to members ~~unit~~
1621 ~~owners~~:

1622 1. Any record protected by the lawyer-client privilege as
1623 described in s. 90.502 and any record protected by the work-
1624 product privilege, including any record prepared by an
1625 association attorney or prepared at the attorney's express

1626 direction which reflects a mental impression, conclusion,
1627 litigation strategy, or legal theory of the attorney or the
1628 association, and which was prepared exclusively for civil or
1629 criminal litigation or for adversarial administrative
1630 proceedings, or which was prepared in anticipation of such
1631 litigation or proceedings until the conclusion of the litigation
1632 or proceedings.

1633 2. Information obtained by an association in connection
1634 with the approval of the lease, sale, or other transfer of a
1635 unit.

1636 3. Personnel records of association or management company
1637 employees, including, but not limited to, disciplinary, payroll,
1638 health, and insurance records. For purposes of this
1639 subparagraph, the term "personnel records" does not include
1640 written employment agreements with an association employee or
1641 management company, or budgetary or financial records that
1642 indicate the compensation paid to an association employee.

1643 4. Medical records of unit owners.

1644 5. Social security numbers, driver license numbers, credit
1645 card numbers, e-mail addresses, telephone numbers, facsimile
1646 numbers, emergency contact information, addresses of a unit
1647 owner other than as provided to fulfill the association's notice
1648 requirements, and other personal identifying information of any
1649 person, excluding the person's name, unit designation, mailing
1650 address, property address, and any address, e-mail address, or

1651 facsimile number provided to the association to fulfill the
1652 association's notice requirements. Notwithstanding the
1653 restrictions in this subparagraph, an association may print and
1654 distribute to unit ~~parcel~~ owners a directory containing the
1655 name, unit ~~parcel~~ address, and all telephone numbers of each
1656 unit ~~parcel~~ owner. However, an owner may exclude his or her
1657 telephone numbers from the directory by so requesting in writing
1658 to the association. An owner may consent in writing to the
1659 disclosure of other contact information described in this
1660 subparagraph. The association is not liable for the inadvertent
1661 disclosure of information that is protected under this
1662 subparagraph if the information is included in an official
1663 record of the association and is voluntarily provided by an
1664 owner and not requested by the association.

1665 6. Electronic security measures that are used by the
1666 association to safeguard data, including passwords.

1667 7. The software and operating system used by the
1668 association which allow the manipulation of data, even if the
1669 owner owns a copy of the same software used by the association.
1670 The data is part of the official records of the association.

1671 Section 16. Paragraphs (b), (f), and (l) of subsection (1)
1672 of section 719.106, Florida Statutes, are amended, and
1673 subsection (3) is added to that section, to read:

1674 719.106 Bylaws; cooperative ownership.—

1675 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative

1676 documents shall provide for the following, and if they do not,
1677 they shall be deemed to include the following:

1678 (b) Quorum; voting requirements; proxies.-

1679 1. Unless otherwise provided in the bylaws, the percentage
1680 of voting interests required to constitute a quorum at a meeting
1681 of the members shall be a majority of voting interests, and
1682 decisions shall be made by owners of a majority of the voting
1683 interests. Unless otherwise provided in this chapter, or in the
1684 articles of incorporation, bylaws, or other cooperative
1685 documents, and except as provided in subparagraph (d)1.,
1686 decisions shall be made by owners of a majority of the voting
1687 interests represented at a meeting at which a quorum is present.

1688 2. Except as specifically otherwise provided herein, after
1689 January 1, 1992, unit owners may not vote by general proxy, but
1690 may vote by limited proxies substantially conforming to a
1691 limited proxy form adopted by the division. Limited proxies and
1692 general proxies may be used to establish a quorum. Limited
1693 proxies shall be used for votes taken to waive or reduce
1694 reserves in accordance with subparagraph (j)2., for votes taken
1695 to waive the financial reporting requirements of s.

1696 719.104(4)(b), for votes taken to amend the articles of
1697 incorporation or bylaws pursuant to this section, and for any
1698 other matter for which this chapter requires or permits a vote
1699 of the unit owners. Except as provided in paragraph (d), after
1700 January 1, 1992, no proxy, limited or general, shall be used in

1701 the election of board members. General proxies may be used for
1702 other matters for which limited proxies are not required, and
1703 may also be used in voting for nonsubstantive changes to items
1704 for which a limited proxy is required and given. Notwithstanding
1705 the provisions of this section, unit owners may vote in person
1706 at unit owner meetings. Nothing contained herein shall limit the
1707 use of general proxies or require the use of limited proxies or
1708 require the use of limited proxies for any agenda item or
1709 election at any meeting of a timeshare cooperative.

1710 3. Any proxy given shall be effective only for the
1711 specific meeting for which originally given and any lawfully
1712 adjourned meetings thereof. In no event shall any proxy be valid
1713 for a period longer than 90 days after the date of the first
1714 meeting for which it was given. Every proxy shall be revocable
1715 at any time at the pleasure of the unit owner executing it.

1716 4. A member of the board of administration or a committee
1717 may submit in writing his or her agreement or disagreement with
1718 any action taken at a meeting that the member did not attend.
1719 This agreement or disagreement may not be used as a vote for or
1720 against the action taken and may not be used for the purposes of
1721 creating a quorum.

1722 5. A board or committee member participating in a meeting
1723 via telephone, real-time video conferencing, or similar real-
1724 time electronic or video communication counts toward a quorum,
1725 and such member may vote as if physically present ~~When some or~~

1726 ~~all of the board or committee members meet by telephone~~
1727 ~~conference, those board or committee members attending by~~
1728 ~~telephone conference may be counted toward obtaining a quorum~~
1729 ~~and may vote by telephone. A telephone speaker must shall be~~
1730 ~~used utilized so that the conversation of such those board or~~
1731 ~~committee members attending by telephone may be heard by the~~
1732 board or committee members attending in person, as well as by
1733 any unit owners present at a meeting.

1734 (f) Recall of board members.—Subject to s. 719.301, any
1735 member of the board of administration may be recalled and
1736 removed from office with or without cause by the vote or
1737 agreement in writing by a majority of all the voting interests.
1738 A special meeting of the voting interests to recall any member
1739 of the board of administration may be called by 10 percent of
1740 the unit owners giving notice of the meeting as required for a
1741 meeting of unit owners, and the notice shall state the purpose
1742 of the meeting. Electronic transmission may not be used as a
1743 method of giving notice of a meeting called in whole or in part
1744 for this purpose.

1745 1. If the recall is approved by a majority of all voting
1746 interests by a vote at a meeting, the recall shall be effective
1747 as provided in this paragraph. The board shall duly notice and
1748 hold a board meeting within 5 full business days after the
1749 adjournment of the unit owner meeting to recall one or more
1750 board members. At the meeting, the board shall either certify

1751 the recall, in which case such member or members shall be
1752 recalled effective immediately and shall turn over to the board
1753 within 5 full business days any and all records and property of
1754 the association in their possession, or shall proceed as set
1755 forth in subparagraph 3.

1756 2. If the proposed recall is by an agreement in writing by
1757 a majority of all voting interests, the agreement in writing or
1758 a copy thereof shall be served on the association by certified
1759 mail or by personal service in the manner authorized by chapter
1760 48 and the Florida Rules of Civil Procedure. The board of
1761 administration shall duly notice and hold a meeting of the board
1762 within 5 full business days after receipt of the agreement in
1763 writing. At the meeting, the board shall either certify the
1764 written agreement to recall members of the board, in which case
1765 such members shall be recalled effective immediately and shall
1766 turn over to the board, within 5 full business days, any and all
1767 records and property of the association in their possession, or
1768 proceed as described in subparagraph 3.

1769 3. If the board determines not to certify the written
1770 agreement to recall members of the board, or does not certify
1771 the recall by a vote at a meeting, the board shall, within 5
1772 full business days after the board meeting, file with the
1773 division a petition for binding arbitration under ~~pursuant to~~
1774 ~~the procedures of~~ s. 719.1255 or file an action with a court of
1775 competent jurisdiction. For purposes of this paragraph, the unit

1776 owners who voted at the meeting or who executed the agreement in
1777 writing shall constitute one party under the petition for
1778 arbitration or in a court action. If the arbitrator or court
1779 certifies the recall as to any member of the board, the recall
1780 is ~~shall be~~ effective upon the mailing of the final order of
1781 arbitration to the association or the final order of the court.
1782 If the association fails to comply with the order of the court
1783 or the arbitrator, the division may take action under ~~pursuant~~
1784 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
1785 any and all records and property of the association in the
1786 member's possession within 5 full business days after the
1787 effective date of the recall.

1788 4. If the board fails to duly notice and hold a board
1789 meeting within 5 full business days after service of an
1790 agreement in writing or within 5 full business days after the
1791 adjournment of the unit owner recall meeting, the recall is
1792 ~~shall be~~ deemed effective and the board members so recalled
1793 shall immediately turn over to the board any and all records and
1794 property of the association.

1795 5. If the board fails to duly notice and hold the required
1796 meeting or fails to file the required petition or action, the
1797 unit owner representative may file a petition under ~~pursuant to~~
1798 s. 719.1255 or file an action in a court of competent
1799 jurisdiction challenging the board's failure to act. The
1800 petition or action must be filed within 60 days after the

1801 expiration of the applicable 5-full-business-day period. The
1802 review of a petition or action under this subparagraph is
1803 limited to the sufficiency of service on the board and the
1804 facial validity of the written agreement or ballots filed.

1805 6. If a vacancy occurs on the board as a result of a
1806 recall and less than a majority of the board members are
1807 removed, the vacancy may be filled by the affirmative vote of a
1808 majority of the remaining directors, notwithstanding any
1809 provision to the contrary contained in this chapter. If
1810 vacancies occur on the board as a result of a recall and a
1811 majority or more of the board members are removed, the vacancies
1812 shall be filled in accordance with procedural rules to be
1813 adopted by the division, which rules need not be consistent with
1814 this chapter. The rules must provide procedures governing the
1815 conduct of the recall election as well as the operation of the
1816 association during the period after a recall but before the
1817 recall election.

1818 7. A board member who has been recalled may file a
1819 petition under ~~pursuant to~~ s. 719.1255 or file an action in a
1820 court of competent jurisdiction challenging the validity of the
1821 recall. The petition or action must be filed within 60 days
1822 after the recall is deemed certified. The association and the
1823 unit owner representative shall be named as the respondents.

1824 8. The division or court may not accept for filing a
1825 recall petition or action, whether filed under ~~pursuant to~~

1826 subparagraph 1., subparagraph 2., subparagraph 5., or
1827 subparagraph 7. and regardless of whether the recall was
1828 certified, when there are 60 or fewer days until the scheduled
1829 reelection of the board member sought to be recalled or when 60
1830 or fewer days have not elapsed since the election of the board
1831 member sought to be recalled.

1832 (1) Alternative dispute resolution ~~Arbitration~~.—There
1833 shall be a provision for mandatory nonbinding alternative
1834 dispute resolution ~~arbitration~~ of internal disputes arising from
1835 the operation of the cooperative in accordance with s. 719.1255.

1836 (3) GENERALLY.—The association may extinguish a
1837 discriminatory restriction as provided under s. 712.065.

1838 Section 17. Paragraph (1) of subsection (4) of section
1839 720.303, Florida Statutes, is redesignated as paragraph (m),
1840 paragraph (c) of subsection (2), present paragraph (1) of
1841 subsection (4), paragraphs (c) and (d) of subsection (6), and
1842 paragraphs (b), (d), (g), (k), and (l) of subsection (10) are
1843 amended, and a new paragraph (1) is added to subsection (4) of
1844 that section, to read:

1845 720.303 Association powers and duties; meetings of board;
1846 official records; budgets; financial reporting; association
1847 funds; recalls.—

1848 (2) BOARD MEETINGS.—

1849 (c) The bylaws shall provide the following for giving
1850 notice to parcel owners and members of all board meetings and,

1851 if they do not do so, shall be deemed to include the following:
1852 1. Notices of all board meetings must be posted in a
1853 conspicuous place in the community at least 48 hours in advance
1854 of a meeting, except in an emergency. In the alternative, if
1855 notice is not posted in a conspicuous place in the community,
1856 notice of each board meeting must be mailed or delivered to each
1857 member at least 7 days before the meeting, except in an
1858 emergency. Notwithstanding this general notice requirement, for
1859 communities with more than 100 members, the association bylaws
1860 may provide for a reasonable alternative to posting or mailing
1861 of notice for each board meeting, including publication of
1862 notice, provision of a schedule of board meetings, or the
1863 conspicuous posting and repeated broadcasting of the notice on a
1864 closed-circuit cable television system serving the homeowners'
1865 association. However, if broadcast notice is used in lieu of a
1866 notice posted physically in the community, the notice must be
1867 broadcast at least four times every broadcast hour of each day
1868 that a posted notice is otherwise required. When broadcast
1869 notice is provided, the notice and agenda must be broadcast in a
1870 manner and for a sufficient continuous length of time so as to
1871 allow an average reader to observe the notice and read and
1872 comprehend the entire content of the notice and the agenda. In
1873 addition to any of the authorized means of providing notice of a
1874 meeting of the board, the association may, by rule, adopt a
1875 procedure for conspicuously posting the meeting notice and the

1876 agenda on the association's website or an application that can
1877 be downloaded on a mobile device for at least the minimum period
1878 of time for which a notice of a meeting is also required to be
1879 physically posted on the association property. Any rule adopted
1880 shall, in addition to other matters, include a requirement that
1881 the association send an electronic notice in the same manner as
1882 is required for a notice of a meeting of the members, which must
1883 include a hyperlink to the website or such mobile application at
1884 which the notice is posted, to members whose e-mail addresses
1885 are included in the association's official records. The
1886 association may provide notice by electronic transmission in a
1887 manner authorized by law for meetings of the board of directors,
1888 committee meetings requiring notice under this section, and
1889 annual and special meetings of the members to any member who has
1890 provided a facsimile number or e-mail address to the association
1891 to be used for such purposes; however, a member must consent in
1892 writing to receiving notice by electronic transmission.

1893 2. An assessment may not be levied at a board meeting
1894 unless the notice of the meeting includes a statement that
1895 assessments will be considered and the nature of the
1896 assessments. Written notice of any meeting at which special
1897 assessments will be considered or at which amendments to rules
1898 regarding parcel use will be considered must be mailed,
1899 delivered, or electronically transmitted to the members and
1900 parcel owners and posted conspicuously on the property or

1901 broadcast on closed-circuit cable television not less than 14
 1902 days before the meeting.

1903 3. Directors may not vote by proxy or by secret ballot at
 1904 board meetings, except that secret ballots may be used in the
 1905 election of officers. This subsection also applies to the
 1906 meetings of any committee or other similar body, when a final
 1907 decision will be made regarding the expenditure of association
 1908 funds, and to any body vested with the power to approve or
 1909 disapprove architectural decisions with respect to a specific
 1910 parcel of residential property owned by a member of the
 1911 community.

1912 (4) OFFICIAL RECORDS.—The association shall maintain each
 1913 of the following items, when applicable, which constitute the
 1914 official records of the association:

1915 (1) Ballots, sign-in sheets, voting proxies, and all other
 1916 papers and electronic records relating to voting by parcel
 1917 owners, which must be maintained for at least 1 year after the
 1918 date of the election, vote, or meeting.

1919 (m)~~(l)~~ All other written records of the association not
 1920 specifically included in this subsection ~~the foregoing~~ which are
 1921 related to the operation of the association.

1922 (6) BUDGETS.—

1923 (c)1. If the budget of the association does not provide
 1924 for reserve accounts under ~~pursuant to~~ paragraph (d), or the
 1925 declaration of covenants, articles, or bylaws do not obligate

1926 | the developer to create reserves, and the association is
 1927 | responsible for the repair and maintenance of capital
 1928 | improvements that may result in a special assessment if reserves
 1929 | are not provided or not fully funded, then each financial report
 1930 | for the preceding fiscal year required by subsection (7) must
 1931 | contain the following statement in conspicuous type:

1932 |
 1933 | THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
 1934 | RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
 1935 | MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
 1936 | THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
 1937 | RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
 1938 | STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
 1939 | VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
 1940 | MEETING OR BY WRITTEN CONSENT.

1941 | 2. If the budget of the association does provide for
 1942 | funding accounts for deferred expenditures, including, but not
 1943 | limited to, funds for capital expenditures and deferred
 1944 | maintenance, but such accounts are not created or established
 1945 | under ~~pursuant to~~ paragraph (d), each financial report for the
 1946 | preceding fiscal year required under subsection (7) must also
 1947 | contain the following statement in conspicuous type:

1948 | THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
 1949 | DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
 1950 | AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED

1951 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
1952 TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION
1953 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
1954 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
1955 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

1956 (d) An association is deemed to have provided for reserve
1957 accounts ~~if reserve accounts have been initially established by~~
1958 ~~the developer or if the membership of the association~~
1959 ~~affirmatively elects to provide for reserves. If reserve~~
1960 ~~accounts are established by the developer, the budget must~~
1961 ~~designate the components for which the reserve accounts may be~~
1962 ~~used. If reserve accounts are not initially provided by the~~
1963 ~~developer, the membership of the association may elect to do so~~
1964 upon the affirmative approval of a majority of the total voting
1965 interests of the association. Such approval may be obtained by
1966 vote of the members at a duly called meeting of the membership
1967 or by the written consent of a majority of the total voting
1968 interests of the association. The approval action of the
1969 membership must state that reserve accounts shall be provided
1970 for in the budget and must designate the components for which
1971 the reserve accounts are to be established. Upon approval by the
1972 membership, the board of directors shall include the required
1973 reserve accounts in the budget in the next fiscal year following
1974 the approval and each year thereafter. Once established as
1975 provided in this subsection, the reserve accounts must be funded

1976 or maintained or have their funding waived in the manner
 1977 provided in paragraph (f).

1978 (10) RECALL OF DIRECTORS.—

1979 (b)1. Board directors may be recalled by an agreement in
 1980 writing or by written ballot without a membership meeting. The
 1981 agreement in writing or the written ballots, or a copy thereof,
 1982 shall be served on the association by certified mail or by
 1983 personal service in the manner authorized by chapter 48 and the
 1984 Florida Rules of Civil Procedure.

1985 2. The board shall duly notice and hold a meeting of the
 1986 board within 5 full business days after receipt of the agreement
 1987 in writing or written ballots. At the meeting, the board shall
 1988 either certify the written ballots or written agreement to
 1989 recall a director or directors of the board, in which case such
 1990 director or directors shall be recalled effective immediately
 1991 and shall turn over to the board within 5 full business days any
 1992 and all records and property of the association in their
 1993 possession, or proceed as described in paragraph (d).

1994 3. When it is determined by the department pursuant to
 1995 binding arbitration proceedings or the court in an action filed
 1996 in a court of competent jurisdiction that an initial recall
 1997 effort was defective, written recall agreements or written
 1998 ballots used in the first recall effort and not found to be
 1999 defective may be reused in one subsequent recall effort.
 2000 However, in no event is a written agreement or written ballot

2001 valid for more than 120 days after it has been signed by the
2002 member.

2003 4. Any rescission or revocation of a member's written
2004 recall ballot or agreement must be in writing and, in order to
2005 be effective, must be delivered to the association before the
2006 association is served with the written recall agreements or
2007 ballots.

2008 5. The agreement in writing or ballot shall list at least
2009 as many possible replacement directors as there are directors
2010 subject to the recall, when at least a majority of the board is
2011 sought to be recalled; the person executing the recall
2012 instrument may vote for as many replacement candidates as there
2013 are directors subject to the recall.

2014 (d) If the board determines not to certify the written
2015 agreement or written ballots to recall a director or directors
2016 of the board or does not certify the recall by a vote at a
2017 meeting, the board shall, within 5 full business days after the
2018 meeting, file an action with a court of competent jurisdiction
2019 or file with the department a petition for binding arbitration
2020 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2021 and 718.1255 and the rules adopted thereunder. For the purposes
2022 of this section, the members who voted at the meeting or who
2023 executed the agreement in writing shall constitute one party
2024 under the petition for arbitration or in a court action. If the
2025 arbitrator or court certifies the recall as to any director or

2026 | directors of the board, the recall will be effective upon the
 2027 | final order of the court or the mailing of the final order of
 2028 | arbitration to the association. The director or directors so
 2029 | recalled shall deliver to the board any and all records of the
 2030 | association in their possession within 5 full business days
 2031 | after the effective date of the recall.

2032 | (g) If the board fails to duly notice and hold the
 2033 | required meeting or fails to file the required petition or
 2034 | action, the parcel unit owner representative may file a petition
 2035 | or a court action under ~~pursuant to~~ s. 718.1255 challenging the
 2036 | board's failure to act. The petition or action must be filed
 2037 | within 60 days after the expiration of the applicable 5-full-
 2038 | business-day period. The review of a petition or action under
 2039 | this paragraph is limited to the sufficiency of service on the
 2040 | board and the facial validity of the written agreement or
 2041 | ballots filed.

2042 | (k) A board member who has been recalled may file an
 2043 | action with a court of competent jurisdiction or a petition
 2044 | under ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules
 2045 | adopted challenging the validity of the recall. The petition or
 2046 | action must be filed within 60 days after the recall is deemed
 2047 | certified. The association and the parcel unit owner
 2048 | representative shall be named as respondents.

2049 | (l) The division or a court of competent jurisdiction may
 2050 | not accept for filing a recall petition or action, whether filed

2051 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2052 or paragraph (k) and regardless of whether the recall was
2053 certified, when there are 60 or fewer days until the scheduled
2054 reelection of the board member sought to be recalled or when 60
2055 or fewer days have not elapsed since the election of the board
2056 member sought to be recalled.

2057 Section 18. Paragraphs (a) and (b) of subsection (2) of
2058 section 720.304, Florida Statutes, are amended to read:

2059 720.304 Right of owners to peaceably assemble; display of
2060 flag; SLAPP suits prohibited.—

2061 (2) (a) Any homeowner may display one portable, removable
2062 United States flag or official flag of the State of Florida in a
2063 respectful manner, and one portable, removable official flag, in
2064 a respectful manner, not larger than 4 1/2 feet by 6 feet, which
2065 represents any state, as defined in s. 624.08, or the United
2066 States Army, Navy, Air Force, Marine Corps, or Coast Guard, or a
2067 POW-MIA flag, regardless of any covenants, restrictions, bylaws,
2068 rules, or requirements of the association.

2069 (b) Any homeowner may erect a freestanding flagpole no
2070 more than 20 feet high on any portion of the homeowner's real
2071 property, regardless of any covenants, restrictions, bylaws,
2072 rules, or requirements of the association, if the flagpole does
2073 not obstruct sightlines at intersections and is not erected
2074 within or upon an easement. The homeowner may further display in
2075 a respectful manner from that flagpole, regardless of any

2076 covenants, restrictions, bylaws, rules, or requirements of the
 2077 association, one official United States flag, not larger than 4
 2078 1/2 feet by 6 feet, and may additionally display one official
 2079 flag of the State of Florida, any other state, as defined in s.
 2080 624.08, or the United States Army, Navy, Air Force, Marines, or
 2081 Coast Guard, or a POW-MIA flag. Such additional flag must be
 2082 equal in size to or smaller than the United States flag. The
 2083 flagpole and display are subject to all building codes, zoning
 2084 setbacks, and other applicable governmental regulations,
 2085 including, but not limited to, noise and lighting ordinances in
 2086 the county or municipality in which the flagpole is erected and
 2087 all setback and locational criteria contained in the governing
 2088 documents.

2089 Section 19. Subsections (1) and (2) of section 720.305,
 2090 Florida Statutes, are amended to read:

2091 720.305 Obligations of members; remedies at law or in
 2092 equity; levy of fines and suspension of use rights.—

2093 (1) Each member and the member's tenants, guests, and
 2094 invitees, and each association, are governed by, and must comply
 2095 with, this chapter and~~7~~ the governing documents of the
 2096 community,~~and the rules of the association.~~ Actions at law or
 2097 in equity, or both, to redress alleged failure or refusal to
 2098 comply with these provisions may be brought by the association
 2099 or by any member against:

2100 (a) The association;

2101 (b) A member;

2102 (c) Any director or officer of an association who

2103 willfully and knowingly fails to comply with these provisions;

2104 and

2105 (d) Any tenants, guests, or invitees occupying a parcel or

2106 using the common areas.

2107

2108 The prevailing party in any such litigation is entitled to

2109 recover reasonable attorney fees and costs. A member prevailing

2110 in an action between the association and the member under this

2111 section, in addition to recovering his or her reasonable

2112 attorney fees, may recover additional amounts as determined by

2113 the court to be necessary to reimburse the member for his or her

2114 share of assessments levied by the association to fund its

2115 expenses of the litigation. This relief does not exclude other

2116 remedies provided by law. This section does not deprive any

2117 person of any other available right or remedy.

2118 (2) An ~~The~~ association may levy reasonable fines. A fine

2119 may not exceed \$100 per violation against any member or any

2120 member's tenant, guest, or invitee for the failure of the owner

2121 of the parcel or its occupant, licensee, or invitee to comply

2122 with any provision of the declaration, the association bylaws,

2123 or reasonable rules of the association unless otherwise provided

2124 in the governing documents. A fine may be levied by the board

2125 for each day of a continuing violation, with a single notice and

2126 opportunity for hearing, except that the fine may not exceed
2127 \$1,000 in the aggregate unless otherwise provided in the
2128 governing documents. A fine of less than \$1,000 may not become a
2129 lien against a parcel. In any action to recover a fine, the
2130 prevailing party is entitled to reasonable attorney fees and
2131 costs from the nonprevailing party as determined by the court.

2132 (a) An association may suspend, for a reasonable period of
2133 time, the right of a member, or a member's tenant, guest, or
2134 invitee, to use common areas and facilities for the failure of
2135 the owner of the parcel or its occupant, licensee, or invitee to
2136 comply with any provision of the declaration, the association
2137 bylaws, or reasonable rules of the association. This paragraph
2138 does not apply to that portion of common areas used to provide
2139 access or utility services to the parcel. A suspension may not
2140 prohibit an owner or tenant of a parcel from having vehicular
2141 and pedestrian ingress to and egress from the parcel, including,
2142 but not limited to, the right to park.

2143 (b) A fine or suspension levied by the board of
2144 administration may not be imposed unless the board first
2145 provides at least 14 days' notice to the parcel owner and, if
2146 applicable, any occupant, licensee, or invitee of the parcel
2147 owner, sought to be fined or suspended and an opportunity for a
2148 hearing before a committee of at least three members appointed
2149 by the board who are not officers, directors, or employees of
2150 the association, or the spouse, parent, child, brother, or

2151 sister of an officer, director, or employee. If the committee,
 2152 by majority vote, does not approve a proposed fine or
 2153 suspension, the proposed fine or suspension may not be imposed.
 2154 The role of the committee is limited to determining whether to
 2155 confirm or reject the fine or suspension levied by the board. If
 2156 the proposed fine or suspension levied by the board is approved
 2157 by the committee, the fine payment is due 5 days after notice of
 2158 the approved fine is provided to the parcel owner and, if
 2159 applicable, to any occupant, licensee, or invitee of the parcel
 2160 owner ~~the date of the committee meeting at which the fine is~~
 2161 ~~approved~~. The association must provide written notice of such
 2162 fine or suspension by mail or hand delivery to the parcel owner
 2163 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
 2164 of the parcel owner.

2165 Section 20. Paragraph (g) of subsection (1) and paragraph
 2166 (c) of subsection (9) of section 720.306, Florida Statutes, are
 2167 amended, and paragraph (h) is added to subsection (1) of that
 2168 section, to read:

2169 720.306 Meetings of members; voting and election
 2170 procedures; amendments.—

2171 (1) QUORUM; AMENDMENTS.—

2172 (g) A notice required under this section must be mailed or
 2173 delivered to the address identified as the parcel owner's
 2174 mailing address in the official records of the association as
 2175 required under s. 720.303(4) ~~on the property appraiser's website~~

2176 ~~for the county in which the parcel is located,~~ or electronically
2177 transmitted in a manner authorized by the association if the
2178 parcel owner has consented, in writing, to receive notice by
2179 electronic transmission.

2180 (h)1. Except as provided herein, an amendment to a
2181 governing document enacted after July 1, 2020, which prohibits a
2182 parcel owner from renting his or her parcel, alters the
2183 authorized duration of a rental term, or specifies or limits the
2184 number of times that a parcel owner may rent his or her parcel
2185 during a specified period, applies only to a parcel owner who
2186 consents, individually or through a representative, to the
2187 amendment, and to parcel owners who acquire title to a parcel
2188 after the effective date of the amendment.

2189 2. Notwithstanding subparagraph 1., an association may
2190 amend its governing documents to prohibit or regulate rental
2191 durations that are for terms of less than 6 months and to
2192 prohibit a parcel owner from renting his or parcel more than
2193 three times in a calendar year. Such amendments apply to all
2194 parcel owners.

2195 3. This paragraph does not affect the amendment
2196 restrictions for associations of 15 or fewer parcel owners as
2197 provided in s. 720.303(1).

2198 4. For purposes of this paragraph, a change of ownership
2199 does not occur when a parcel owner conveys the parcel to an
2200 affiliated entity or when beneficial ownership of the parcel

2201 does not change. For purposes of this paragraph, the term
 2202 "affiliated entity" means an entity which controls, is
 2203 controlled by, or is under common control with the parcel owner
 2204 or that becomes a parent or successor entity by reason of
 2205 transfer, merger, consolidation, public offering,
 2206 reorganization, dissolution or sale of stock, or transfer of
 2207 membership partnership interests. For a conveyance to be
 2208 recognized as one made to an affiliated entity, the entity must
 2209 furnish the association a document certifying that this
 2210 paragraph applies, as well as providing any organizational
 2211 documents for the parcel owner and the affiliated entity that
 2212 support the representations in the certificate, as requested by
 2213 the association.

2214 (9) ELECTIONS AND BOARD VACANCIES.—

2215 (c) Any election dispute between a member and an
 2216 association must be submitted to ~~mandatory~~ binding arbitration
 2217 with the division or filed with a court of competent
 2218 jurisdiction. Such proceedings that are submitted to binding
 2219 arbitration with the division must be conducted in the manner
 2220 provided by s. 718.1255 and the procedural rules adopted by the
 2221 division. Unless otherwise provided in the bylaws, any vacancy
 2222 occurring on the board before the expiration of a term may be
 2223 filled by an affirmative vote of the majority of the remaining
 2224 directors, even if the remaining directors constitute less than
 2225 a quorum, or by the sole remaining director. In the alternative,

2226 a board may hold an election to fill the vacancy, in which case
 2227 the election procedures must conform to the requirements of the
 2228 governing documents. Unless otherwise provided in the bylaws, a
 2229 board member appointed or elected under this section is
 2230 appointed for the unexpired term of the seat being filled.
 2231 Filling vacancies created by recall is governed by s.
 2232 720.303(10) and rules adopted by the division.

2233 Section 21. Subsection (1) of section 720.311, Florida
 2234 Statutes, is amended to read:

2235 720.311 Dispute resolution.—

2236 (1) The Legislature finds that alternative dispute
 2237 resolution has made progress in reducing court dockets and
 2238 trials and in offering a more efficient, cost-effective option
 2239 to litigation. The filing of any petition for arbitration or the
 2240 serving of a demand for presuit mediation as provided for in
 2241 this section shall toll the applicable statute of limitations.
 2242 Any recall dispute filed with the department under ~~pursuant to~~
 2243 s. 720.303(10) shall be conducted by the department in
 2244 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
 2245 and the rules adopted by the division. In addition, the
 2246 department shall conduct ~~mandatory~~ binding arbitration of
 2247 election disputes between a member and an association in
 2248 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
 2249 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
 2250 not eligible for presuit mediation; these disputes must ~~shall~~ be

2251 arbitrated by the department or filed in a court of competent
2252 jurisdiction. At the conclusion of an arbitration ~~the~~
2253 proceeding, the department shall charge the parties a fee in an
2254 amount adequate to cover all costs and expenses incurred by the
2255 department in conducting the proceeding. Initially, the
2256 petitioner shall remit a filing fee of at least \$200 to the
2257 department. The fees paid to the department shall become a
2258 recoverable cost in the arbitration proceeding, and the
2259 prevailing party in an arbitration proceeding shall recover its
2260 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2261 reasonable by the arbitrator. The department shall adopt rules
2262 to effectuate the purposes of this section.

2263 Section 22. Subsection (6) is added to section 720.3075,
2264 Florida Statutes, to read:

2265 720.3075 Prohibited clauses in association documents.—

2266 (6) The association may extinguish a discriminatory
2267 restriction as provided in s. 712.065.

2268 Section 23. This act shall take effect July 1, 2020.