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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/06/2017	.	
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The Committee on Regulated Industries (Garcia) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (3) and (9), paragraphs (a) and (c)  
of subsection (12), and subsection (13) of section 718.111,  
Florida Statutes, are amended, and paragraph (g) is added to  
subsection (12) of that section, to read:

718.111 The association.—

(3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,



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11 SUE, AND BE SUED; CONFLICT OF INTEREST.—

12       (a) The association may contract, sue, or be sued with  
13 respect to the exercise or nonexercise of its powers. For these  
14 purposes, the powers of the association include, but are not  
15 limited to, the maintenance, management, and operation of the  
16 condominium property. After control of the association is  
17 obtained by unit owners other than the developer, the  
18 association may institute, maintain, settle, or appeal actions  
19 or hearings in its name on behalf of all unit owners concerning  
20 matters of common interest to most or all unit owners,  
21 including, but not limited to, the common elements; the roof and  
22 structural components of a building or other improvements;  
23 mechanical, electrical, and plumbing elements serving an  
24 improvement or a building; representations of the developer  
25 pertaining to any existing or proposed commonly used facilities;  
26 and protesting ad valorem taxes on commonly used facilities and  
27 on units; and may defend actions in eminent domain or bring  
28 inverse condemnation actions. If the association has the  
29 authority to maintain a class action, the association may be  
30 joined in an action as representative of that class with  
31 reference to litigation and disputes involving the matters for  
32 which the association could bring a class action. Nothing herein  
33 limits any statutory or common-law right of any individual unit  
34 owner or class of unit owners to bring any action without  
35 participation by the association which may otherwise be  
36 available.

37       (b) An association may not hire an attorney that represents  
38 the management company of the association.

39       (9) PURCHASE OF UNITS.—The association has the power,



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40 unless prohibited by the declaration, articles of incorporation,  
41 or bylaws of the association, to purchase units in the  
42 condominium and to acquire and hold, lease, mortgage, and convey  
43 them. There shall be no limitation on the association's right to  
44 purchase a unit at a foreclosure sale resulting from the  
45 association's foreclosure of its lien for unpaid assessments, or  
46 to take title by deed in lieu of foreclosure. However, except  
47 for a timeshare condominium, a board member, manager, or  
48 management company may not purchase a unit at a foreclosure sale  
49 resulting from the association's foreclosure of its lien for  
50 unpaid assessments or take title by deed in lieu of foreclosure.

51 (12) OFFICIAL RECORDS.—

52 (a) From the inception of the association, the association  
53 shall maintain each of the following items, if applicable, which  
54 constitutes the official records of the association:

55 1. A copy of the plans, permits, warranties, and other  
56 items provided by the developer pursuant to s. 718.301(4).

57 2. A photocopy of the recorded declaration of condominium  
58 of each condominium operated by the association and each  
59 amendment to each declaration.

60 3. A photocopy of the recorded bylaws of the association  
61 and each amendment to the bylaws.

62 4. A certified copy of the articles of incorporation of the  
63 association, or other documents creating the association, and  
64 each amendment thereto.

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

66 6. A book or books that contain the minutes of all meetings  
67 of the association, the board of administration, and the unit  
68 owners, which minutes must be retained for at least 7 years.



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69           7. A current roster of all unit owners and their mailing  
70 addresses, unit identifications, voting certifications, and, if  
71 known, telephone numbers. The association shall also maintain  
72 the electronic mailing addresses and facsimile numbers of unit  
73 owners consenting to receive notice by electronic transmission.  
74 The electronic mailing addresses and facsimile numbers are not  
75 accessible to unit owners if consent to receive notice by  
76 electronic transmission is not provided in accordance with sub-  
77 subparagraph (c)5.e. subparagraph (e)5. However, the association  
78 is not liable for an inadvertent disclosure of the electronic  
79 mail address or facsimile number for receiving electronic  
80 transmission of notices.

81           8. All current insurance policies of the association and  
82 condominiums operated by the association.

83           9. A current copy of any management agreement, lease, or  
84 other contract to which the association is a party or under  
85 which the association or the unit owners have an obligation or  
86 responsibility.

87           10. Bills of sale or transfer for all property owned by the  
88 association.

89           11. Accounting records for the association and separate  
90 accounting records for each condominium that the association  
91 operates. All accounting records must be maintained for at least  
92 7 years. Any person who knowingly or intentionally defaces or  
93 destroys such records, or who knowingly or intentionally fails  
94 to create or maintain such records, with the intent of causing  
95 harm to the association or one or more of its members, is  
96 personally subject to a civil penalty pursuant to s.  
97 718.501(1)(d). The accounting records must include, but are not



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98 limited to:

99 a. Accurate, itemized, and detailed records of all receipts  
100 and expenditures.

101 b. A current account and a monthly, bimonthly, or quarterly  
102 statement of the account for each unit designating the name of  
103 the unit owner, the due date and amount of each assessment, the  
104 amount paid on the account, and the balance due.

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

107 d. All contracts for work to be performed. Bids for work to  
108 be performed are also considered official records and must be  
109 maintained by the association.

110 12. Ballots, sign-in sheets, voting proxies, and all other  
111 papers relating to voting by unit owners, which must be  
112 maintained for 1 year from the date of the election, vote, or  
113 meeting to which the document relates, notwithstanding paragraph  
114 (b).

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

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

119 15. All other written records of the association not  
120 specifically included in the foregoing which are related to the  
121 operation of the association.

122 16. A copy of the inspection report as described in s.  
123 718.301(4)(p).

124 17. Bids for materials, equipment, or services.

125 (c)1. The official records of the association are open to  
126 inspection by any association member or the authorized



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127 representative of such member at all reasonable times. The right  
128 to inspect the records includes the right to make or obtain  
129 copies, at the reasonable expense, if any, of the member or  
130 authorized representative of such member. A renter of a unit has  
131 a right to inspect and copy the association's bylaws and rules.

132 The association may adopt reasonable rules regarding the  
133 frequency, time, location, notice, and manner of record  
134 inspections and copying. The failure of an association to  
135 provide the records within 10 working days after receipt of a  
136 written request creates a rebuttable presumption that the  
137 association willfully failed to comply with this paragraph. A  
138 unit owner who is denied access to official records is entitled  
139 to the actual damages or minimum damages for the association's  
140 willful failure to comply. Minimum damages are \$50 per calendar  
141 day for up to 10 days, beginning on the 11th working day after  
142 receipt of the written request. The failure to permit inspection  
143 entitles any person prevailing in an enforcement action to  
144 recover reasonable attorney fees from the person in control of  
145 the records who, directly or indirectly, knowingly denied access  
146 to the records.

147 2. Any director or member of the board or association who  
148 knowingly, willfully, and repeatedly violates subparagraph 1.  
149 commits a misdemeanor of the second degree, punishable as  
150 provided in s. 775.082 or s. 775.083. For purposes of this  
151 subparagraph, the term "repeatedly violates" means more than two  
152 violations within a 12-month period.

153 3. Any person who knowingly or intentionally defaces or  
154 destroys accounting records that are required by this chapter to  
155 be maintained during the period for which such records are



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156 required to be maintained, or who knowingly or intentionally  
157 fails to create or maintain accounting records that are required  
158 to be created or maintained, with the intent of causing harm to  
159 the association or one or more of its members, commits a  
160 misdemeanor of the first degree, punishable as provided in s.  
161 775.082 or s. 775.083.

162 4. Any person who willfully and knowingly refuses to  
163 release or otherwise produce association records with the intent  
164 of facilitating the commission of a crime or avoiding or  
165 escaping detection, arrest, trial, or punishment for a crime  
166 commits a felony of the third degree, punishable as provided in  
167 s. 775.082, s. 775.083, or s. 775.084 ~~is personally subject to a~~  
168 ~~civil penalty pursuant to s. 718.501(1)(d).~~

169 5. The association shall maintain an adequate number of  
170 copies of the declaration, articles of incorporation, bylaws,  
171 and rules, and all amendments to each of the foregoing, as well  
172 as the question and answer sheet as described in s. 718.504 and  
173 year-end financial information required under this section, on  
174 the condominium property to ensure their availability to unit  
175 owners and prospective purchasers, and may charge its actual  
176 costs for preparing and furnishing these documents to those  
177 requesting the documents. An association shall allow a member or  
178 his or her authorized representative to use a portable device,  
179 including a smartphone, tablet, portable scanner, or any other  
180 technology capable of scanning or taking photographs, to make an  
181 electronic copy of the official records in lieu of the  
182 association's providing the member or his or her authorized  
183 representative with a copy of such records. The association may  
184 not charge a member or his or her authorized representative for



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185 the use of a portable device. Notwithstanding this paragraph,  
186 the following records are not accessible to unit owners:

187 ~~a.1.~~ Any record protected by the lawyer-client privilege as  
188 described in s. 90.502 and any record protected by the work-  
189 product privilege, including a record prepared by an association  
190 attorney or prepared at the attorney's express direction, which  
191 reflects a mental impression, conclusion, litigation strategy,  
192 or legal theory of the attorney or the association, and which  
193 was prepared exclusively for civil or criminal litigation or for  
194 adversarial administrative proceedings, or which was prepared in  
195 anticipation of such litigation or proceedings until the  
196 conclusion of the litigation or proceedings.

197 ~~b.2.~~ Information obtained by an association in connection  
198 with the approval of the lease, sale, or other transfer of a  
199 unit.

200 ~~c.3.~~ Personnel records of association or management company  
201 employees, including, but not limited to, disciplinary, payroll,  
202 health, and insurance records. For purposes of this sub-  
203 subparagraph ~~subparagraph~~, the term "personnel records" does not  
204 include written employment agreements with an association  
205 employee or management company, or budgetary or financial  
206 records that indicate the compensation paid to an association  
207 employee.

208 ~~d.4.~~ Medical records of unit owners.

209 ~~e.5.~~ Social security numbers, driver license numbers,  
210 credit card numbers, e-mail addresses, telephone numbers,  
211 facsimile numbers, emergency contact information, addresses of a  
212 unit owner other than as provided to fulfill the association's  
213 notice requirements, and other personal identifying information





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214 of any person, excluding the person's name, unit designation,  
215 mailing address, property address, and any address, e-mail  
216 address, or facsimile number provided to the association to  
217 fulfill the association's notice requirements. Notwithstanding  
218 the restrictions in this sub-subparagraph ~~subparagraph~~, an  
219 association may print and distribute to parcel owners a  
220 directory containing the name, parcel address, and all telephone  
221 numbers of each parcel owner. However, an owner may exclude his  
222 or her telephone numbers from the directory by so requesting in  
223 writing to the association. An owner may consent in writing to  
224 the disclosure of other contact information described in this  
225 sub-subparagraph ~~subparagraph~~. The association is not liable for  
226 the inadvertent disclosure of information that is protected  
227 under this sub-subparagraph ~~subparagraph~~ if the information is  
228 included in an official record of the association and is  
229 voluntarily provided by an owner and not requested by the  
230 association.

231 f.6. Electronic security measures that are used by the  
232 association to safeguard data, including passwords.

233 g.7. The software and operating system used by the  
234 association which allow the manipulation of data, even if the  
235 owner owns a copy of the same software used by the association.  
236 The data is part of the official records of the association.

237 (g)1. By October 1, 2017, an association with 500 or more  
238 units which does not manage timeshare units shall post digital  
239 copies of the documents specified in subparagraph 2. on its  
240 website.

241 a. The association's website must be:

242 (I) An independent website or web portal wholly owned and



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243 operated by the association; or

244 (II) A website or web portal operated by a third-party  
245 provider with whom the association owns, leases, rents, or  
246 otherwise obtains the right to operate a web page, subpage, web  
247 portal, or collection of subpages or web portals dedicated to  
248 the association's activities and on which required notices,  
249 records, and documents may be posted by the association.

250 b. The association's website must be accessible through the  
251 Internet and must contain a subpage, web portal, or other  
252 protected electronic location that is inaccessible to the  
253 general public and accessible only to unit owners and employees  
254 of the association.

255 c. Upon a unit owner's written request, the association  
256 must provide the unit owner with a username and password and  
257 access to the protected sections of the association's website  
258 that contain any notices, records, or documents that must be  
259 electronically provided.

260 2. A current copy of the following documents must be posted  
261 in digital format on the association's website:

262 a. The recorded declaration of condominium of each  
263 condominium operated by the association and each amendment to  
264 each declaration.

265 b. The recorded bylaws of the association and each  
266 amendment to the bylaws.

267 c. The articles of incorporation of the association, or  
268 other documents creating the association, and each amendment  
269 thereto. The copy posted pursuant to this sub-subparagraph must  
270 be a copy of the articles of incorporation filed with the  
271 Department of State.



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- 272 d. The rules of the association.
- 273 e. Any management agreement, lease, or other contract to  
274 which the association is a party or under which the association  
275 or the unit owners have an obligation or responsibility.  
276 Summaries of bids for materials, equipment, or services must be  
277 maintained on the website for 1 year.
- 278 f. The annual budget required by s. 718.112(2)(f) and any  
279 proposed budget to be considered at the annual meeting.
- 280 g. The financial report required by subsection (13) and any  
281 proposed financial report to be considered at a meeting.
- 282 h. The certification of each director required by s.  
283 718.112(2)(d)4.b.
- 284 i. All contracts or transactions between the association  
285 and any director, officer, corporation, firm, or association  
286 that is not an affiliated condominium association or any other  
287 entity in which an association director is also a director or  
288 officer and financially interested.
- 289 j. Any contract or document regarding a conflict of  
290 interest or possible conflict of interest as provided in ss.  
291 468.436(2) and 718.3026(3).
- 292 k. The notice of any unit owner meeting and the agenda for  
293 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
294 days before the meeting. The notice must be posted in plain view  
295 on the front page of the website, or on a separate subpage of  
296 the website labeled "Notices" which is conspicuously visible and  
297 linked from the front page. The association must also post on  
298 its website any document to be considered and voted on by the  
299 owners during the meeting or any document listed on the agenda  
300 at least 7 days before the meeting at which the document or the



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301 information within the document will be considered.

302 1. Notice of any board meeting, and the agenda and any  
303 other document required for the meeting as required by s.  
304 718.112(2) (c), which must be posted no later than the date  
305 required for notice pursuant to s. 718.112(2) (c).

306 3. The association shall ensure that the information and  
307 records described in paragraph (c), which are not permitted to  
308 be accessible to unit owners, are not posted on the  
309 association's website. If protected information or information  
310 restricted from being accessible to unit owners is included in  
311 documents that are required to be posted on the association's  
312 website, the association shall ensure the information is  
313 redacted before posting the documents online.

314 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
315 the fiscal year, or annually on a date provided in the bylaws,  
316 the association shall prepare and complete, or contract for the  
317 preparation and completion of, a financial report for the  
318 preceding fiscal year. Within 21 days after the final financial  
319 report is completed by the association or received from the  
320 third party, but not later than 120 days after the end of the  
321 fiscal year or other date as provided in the bylaws, the  
322 association shall mail to each unit owner at the address last  
323 furnished to the association by the unit owner, or hand deliver  
324 to each unit owner, a copy of the most recent financial report  
325 or a notice that a copy of the most recent financial report will  
326 be mailed or hand delivered to the unit owner, without charge,  
327 within 5 business days after ~~upon~~ receipt of a written request  
328 from the unit owner. The division shall adopt rules setting  
329 forth uniform accounting principles and standards to be used by



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330 all associations and addressing the financial reporting  
331 requirements for multicondominium associations. The rules must  
332 include, but not be limited to, standards for presenting a  
333 summary of association reserves, including a good faith estimate  
334 disclosing the annual amount of reserve funds that would be  
335 necessary for the association to fully fund reserves for each  
336 reserve item based on the straight-line accounting method. This  
337 disclosure is not applicable to reserves funded via the pooling  
338 method. In adopting such rules, the division shall consider the  
339 number of members and annual revenues of an association.

340 Financial reports shall be prepared as follows:

341 (a) An association that meets the criteria of this  
342 paragraph shall prepare a complete set of financial statements  
343 in accordance with generally accepted accounting principles. The  
344 financial statements must be based upon the association's total  
345 annual revenues, as follows:

346 1. An association with total annual revenues of \$150,000 or  
347 more, but less than \$300,000, shall prepare compiled financial  
348 statements.

349 2. An association with total annual revenues of at least  
350 \$300,000, but less than \$500,000, shall prepare reviewed  
351 financial statements.

352 3. An association with total annual revenues of \$500,000 or  
353 more shall prepare audited financial statements.

354 (b)1. An association with total annual revenues of less  
355 than \$150,000 shall prepare a report of cash receipts and  
356 expenditures.

357 2. An association that operates fewer than 50 units,  
358 regardless of the association's annual revenues, shall prepare a



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359 report of cash receipts and expenditures in lieu of financial  
360 statements required by paragraph (a).

361 3. A report of cash receipts and disbursements must  
362 disclose the amount of receipts by accounts and receipt  
363 classifications and the amount of expenses by accounts and  
364 expense classifications, including, but not limited to, the  
365 following, as applicable: costs for security, professional and  
366 management fees and expenses, taxes, costs for recreation  
367 facilities, expenses for refuse collection and utility services,  
368 expenses for lawn care, costs for building maintenance and  
369 repair, insurance costs, administration and salary expenses, and  
370 reserves accumulated and expended for capital expenditures,  
371 deferred maintenance, and any other category for which the  
372 association maintains reserves.

373 (c) An association may prepare, without a meeting of or  
374 approval by the unit owners:

375 1. Compiled, reviewed, or audited financial statements, if  
376 the association is required to prepare a report of cash receipts  
377 and expenditures;

378 2. Reviewed or audited financial statements, if the  
379 association is required to prepare compiled financial  
380 statements; or

381 3. Audited financial statements if the association is  
382 required to prepare reviewed financial statements.

383 (d) If approved by a majority of the voting interests  
384 present at a properly called meeting of the association, an  
385 association may prepare:

386 1. A report of cash receipts and expenditures in lieu of a  
387 compiled, reviewed, or audited financial statement;



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388           2. A report of cash receipts and expenditures or a compiled  
389 financial statement in lieu of a reviewed or audited financial  
390 statement; or

391           3. A report of cash receipts and expenditures, a compiled  
392 financial statement, or a reviewed financial statement in lieu  
393 of an audited financial statement.

394

395 Such meeting and approval must occur before the end of the  
396 fiscal year and is effective only for the fiscal year in which  
397 the vote is taken, except that the approval may also be  
398 effective for the following fiscal year. If the developer has  
399 not turned over control of the association, all unit owners,  
400 including the developer, may vote on issues related to the  
401 preparation of the association's financial reports, from the  
402 date of incorporation of the association through the end of the  
403 second fiscal year after the fiscal year in which the  
404 certificate of a surveyor and mapper is recorded pursuant to s.  
405 718.104(4)(e) or an instrument that transfers title to a unit in  
406 the condominium which is not accompanied by a recorded  
407 assignment of developer rights in favor of the grantee of such  
408 unit is recorded, whichever occurs first. Thereafter, all unit  
409 owners except the developer may vote on such issues until  
410 control is turned over to the association by the developer. Any  
411 audit or review prepared under this section shall be paid for by  
412 the developer if done before turnover of control of the  
413 association. An association may not waive the financial  
414 reporting requirements of this section for more than 3  
415 consecutive years.

416           (e) If the division determines that an association has not



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417 mailed or hand delivered to the unit owner a copy of the most  
418 recent financial report within 5 business days after receipt of  
419 a written request from the unit owner, the unit owner may give  
420 notice to the division of the association's failure to comply.  
421 Upon notification, the division shall give notice to the  
422 association that the association must mail or hand deliver the  
423 copy of the most recent financial report to the unit owner and  
424 the division within 5 business days after such notice. Any  
425 association that fails to comply with the division's request may  
426 not waive the financial reporting requirement provided in  
427 paragraph (d). A financial report received by the division  
428 pursuant to this paragraph shall be maintained, and the division  
429 shall provide a copy of such report to an association member  
430 upon his or her request.

431 Section 2. Paragraphs (d) and (j) of subsection (2) of  
432 section 718.112, Florida Statutes, are amended, and paragraph  
433 (p) is added to that subsection, to read:

434 718.112 Bylaws.—

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

438 (d) *Unit owner meetings.*—

439 1. An annual meeting of the unit owners shall be held at  
440 the location provided in the association bylaws and, if the  
441 bylaws are silent as to the location, the meeting shall be held  
442 within 45 miles of the condominium property. However, such  
443 distance requirement does not apply to an association governing  
444 a timeshare condominium.

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





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446 board caused by the expiration of a director's term shall be  
447 filled by electing a new board member, and the election must be  
448 by secret ballot. An election is not required if the number of  
449 vacancies equals or exceeds the number of candidates. For  
450 purposes of this paragraph, the term "candidate" means an  
451 eligible person who has timely submitted the written notice, as  
452 described in sub-subparagraph 4.a., of his or her intention to  
453 become a candidate. Except in a timeshare or nonresidential  
454 condominium, or if the staggered term of a board member does not  
455 expire until a later annual meeting, or if all members' terms  
456 would otherwise expire but there are no candidates, the terms of  
457 all board members expire at the annual meeting, and such members  
458 may stand for reelection unless prohibited by the bylaws. ~~If the~~  
459 ~~bylaws or articles of incorporation permit terms of no more than~~  
460 ~~2 years, the association~~ Board members may serve 2-year terms if  
461 permitted by the bylaws or articles of incorporation. A board  
462 member may not serve more than four consecutive 2-year terms,  
463 unless approved by an affirmative vote of two-thirds of the  
464 total voting interests of the association. If the number of  
465 board members whose terms expire at the annual meeting equals or  
466 exceeds the number of candidates, the candidates become members  
467 of the board effective upon the adjournment of the annual  
468 meeting. Unless the bylaws provide otherwise, any remaining  
469 vacancies shall be filled by the affirmative vote of the  
470 majority of the directors making up the newly constituted board  
471 even if the directors constitute less than a quorum or there is  
472 only one director. In a residential condominium association of  
473 more than 10 units or in a residential condominium association  
474 that does not include timeshare units or timeshare interests,



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475 coowners of a unit may not serve as members of the board of  
476 directors at the same time unless they own more than one unit or  
477 unless there are not enough eligible candidates to fill the  
478 vacancies on the board at the time of the vacancy. A unit owner  
479 in a residential condominium desiring to be a candidate for  
480 board membership must comply with sub-subparagraph 4.a. and must  
481 be eligible to be a candidate to serve on the board of directors  
482 at the time of the deadline for submitting a notice of intent to  
483 run in order to have his or her name listed as a proper  
484 candidate on the ballot or to serve on the board. A person who  
485 has been suspended or removed by the division under this  
486 chapter, or who is delinquent in the payment of any monetary  
487 obligation due to the association, is not eligible to be a  
488 candidate for board membership and may not be listed on the  
489 ballot. A person who has been convicted of any felony in this  
490 state or in a United States District or Territorial Court, or  
491 who has been convicted of any offense in another jurisdiction  
492 which would be considered a felony if committed in this state,  
493 is not eligible for board membership unless such felon's civil  
494 rights have been restored for at least 5 years as of the date  
495 such person seeks election to the board. The validity of an  
496 action by the board is not affected if it is later determined  
497 that a board member is ineligible for board membership due to  
498 having been convicted of a felony. This subparagraph does not  
499 limit the term of a member of the board of a nonresidential  
500 condominium.

501         3. The bylaws must provide the method of calling meetings  
502 of unit owners, including annual meetings. Written notice must  
503 include an agenda, must be mailed, hand delivered, or



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504 electronically transmitted to each unit owner at least 14 days  
505 before the annual meeting, and must be posted in a conspicuous  
506 place on the condominium property at least 14 continuous days  
507 before the annual meeting. Upon notice to the unit owners, the  
508 board shall, by duly adopted rule, designate a specific location  
509 on the condominium property or association property where all  
510 notices of unit owner meetings shall be posted. This requirement  
511 does not apply if there is no condominium property or  
512 association property for posting notices. In lieu of, or in  
513 addition to, the physical posting of meeting notices, the  
514 association may, by reasonable rule, adopt a procedure for  
515 conspicuously posting and repeatedly broadcasting the notice and  
516 the agenda on a closed-circuit cable television system serving  
517 the condominium association. However, if broadcast notice is  
518 used in lieu of a notice posted physically on the condominium  
519 property, the notice and agenda must be broadcast at least four  
520 times every broadcast hour of each day that a posted notice is  
521 otherwise required under this section. If broadcast notice is  
522 provided, the notice and agenda must be broadcast in a manner  
523 and for a sufficient continuous length of time so as to allow an  
524 average reader to observe the notice and read and comprehend the  
525 entire content of the notice and the agenda. Unless a unit owner  
526 waives in writing the right to receive notice of the annual  
527 meeting, such notice must be hand delivered, mailed, or  
528 electronically transmitted to each unit owner. Notice for  
529 meetings and notice for all other purposes must be mailed to  
530 each unit owner at the address last furnished to the association  
531 by the unit owner, or hand delivered to each unit owner.  
532 However, if a unit is owned by more than one person, the



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533 association must provide notice to the address that the  
534 developer identifies for that purpose and thereafter as one or  
535 more of the owners of the unit advise the association in  
536 writing, or if no address is given or the owners of the unit do  
537 not agree, to the address provided on the deed of record. An  
538 officer of the association, or the manager or other person  
539 providing notice of the association meeting, must provide an  
540 affidavit or United States Postal Service certificate of  
541 mailing, to be included in the official records of the  
542 association affirming that the notice was mailed or hand  
543 delivered in accordance with this provision.

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

551 a. At least 60 days before a scheduled election, the  
552 association shall mail, deliver, or electronically transmit, by  
553 separate association mailing or included in another association  
554 mailing, delivery, or transmission, including regularly  
555 published newsletters, to each unit owner entitled to a vote, a  
556 first notice of the date of the election. A unit owner or other  
557 eligible person desiring to be a candidate for the board must  
558 give written notice of his or her intent to be a candidate to  
559 the association at least 40 days before a scheduled election.  
560 Together with the written notice and agenda as set forth in  
561 subparagraph 3., the association shall mail, deliver, or



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562 electronically transmit a second notice of the election to all  
563 unit owners entitled to vote, together with a ballot that lists  
564 all candidates. Upon request of a candidate, an information  
565 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
566 furnished by the candidate at least 35 days before the election,  
567 must be included with the mailing, delivery, or transmission of  
568 the ballot, with the costs of mailing, delivery, or electronic  
569 transmission and copying to be borne by the association. The  
570 association is not liable for the contents of the information  
571 sheets prepared by the candidates. In order to reduce costs, the  
572 association may print or duplicate the information sheets on  
573 both sides of the paper. The division shall by rule establish  
574 voting procedures consistent with this sub-subparagraph,  
575 including rules establishing procedures for giving notice by  
576 electronic transmission and rules providing for the secrecy of  
577 ballots. Elections shall be decided by a plurality of ballots  
578 cast. There is no quorum requirement; however, at least 20  
579 percent of the eligible voters must cast a ballot in order to  
580 have a valid election. A unit owner may not permit any other  
581 person to vote his or her ballot, and any ballots improperly  
582 cast are invalid. A unit owner who violates this provision may  
583 be fined by the association in accordance with s. 718.303. A  
584 unit owner who needs assistance in casting the ballot for the  
585 reasons stated in s. 101.051 may obtain such assistance. The  
586 regular election must occur on the date of the annual meeting.  
587 Notwithstanding this sub-subparagraph, an election is not  
588 required unless more candidates file notices of intent to run or  
589 are nominated than board vacancies exist.

590       b. Within 90 days after being elected or appointed to the



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591 board of an association of a residential condominium, each newly  
592 elected or appointed director shall certify in writing to the  
593 secretary of the association that he or she has read the  
594 association's declaration of condominium, articles of  
595 incorporation, bylaws, and current written policies; that he or  
596 she will work to uphold such documents and policies to the best  
597 of his or her ability; and that he or she will faithfully  
598 discharge his or her fiduciary responsibility to the  
599 association's members. In lieu of this written certification,  
600 within 90 days after being elected or appointed to the board,  
601 the newly elected or appointed director may submit a certificate  
602 of having satisfactorily completed the educational curriculum  
603 administered by a division-approved condominium education  
604 provider within 1 year before or 90 days after the date of  
605 election or appointment. The written certification or  
606 educational certificate is valid and does not have to be  
607 resubmitted as long as the director serves on the board without  
608 interruption. A director of an association of a residential  
609 condominium who fails to timely file the written certification  
610 or educational certificate is suspended from service on the  
611 board until he or she complies with this sub-subparagraph. The  
612 board may temporarily fill the vacancy during the period of  
613 suspension. The secretary shall cause the association to retain  
614 a director's written certification or educational certificate  
615 for inspection by the members for 5 years after a director's  
616 election or the duration of the director's uninterrupted tenure,  
617 whichever is longer. Failure to have such written certification  
618 or educational certificate on file does not affect the validity  
619 of any board action.



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

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

632           6. Unit owners may waive notice of specific meetings if  
633 allowed by the applicable bylaws or declaration or any law.  
634 Notice of meetings of the board of administration, unit owner  
635 meetings, except unit owner meetings called to recall board  
636 members under paragraph (j), and committee meetings may be given  
637 by electronic transmission to unit owners who consent to receive  
638 notice by electronic transmission.

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

643           8. A unit owner may tape record or videotape a meeting of  
644 the unit owners subject to reasonable rules adopted by the  
645 division.

646           9. Unless otherwise provided in the bylaws, any vacancy  
647 occurring on the board before the expiration of a term may be  
648 filled by the affirmative vote of the majority of the remaining



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649 directors, even if the remaining directors constitute less than  
650 a quorum, or by the sole remaining director. In the alternative,  
651 a board may hold an election to fill the vacancy, in which case  
652 the election procedures must conform to sub-subparagraph 4.a.  
653 unless the association governs 10 units or fewer and has opted  
654 out of the statutory election process, in which case the bylaws  
655 of the association control. Unless otherwise provided in the  
656 bylaws, a board member appointed or elected under this section  
657 shall fill the vacancy for the unexpired term of the seat being  
658 filled. Filling vacancies created by recall is governed by  
659 paragraph (j) and rules adopted by the division.

660       10. This chapter does not limit the use of general or  
661 limited proxies, require the use of general or limited proxies,  
662 or require the use of a written ballot or voting machine for any  
663 agenda item or election at any meeting of a timeshare  
664 condominium association or nonresidential condominium  
665 association.

666  
667 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
668 association of 10 or fewer units may, by affirmative vote of a  
669 majority of the total voting interests, provide for different  
670 voting and election procedures in its bylaws, which may be by a  
671 proxy specifically delineating the different voting and election  
672 procedures. The different voting and election procedures may  
673 provide for elections to be conducted by limited or general  
674 proxy.

675       (j) *Recall of board members.*—Subject to s. 718.301, any  
676 member of the board of administration may be recalled and  
677 removed from office with or without cause by the vote or





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678 agreement in writing by a majority of all the voting interests.  
679 A special meeting of the unit owners to recall a member or  
680 members of the board of administration may be called by 10  
681 percent of the voting interests giving notice of the meeting as  
682 required for a meeting of unit owners, and the notice shall  
683 state the purpose of the meeting. Electronic transmission may  
684 not be used as a method of giving notice of a meeting called in  
685 whole or in part for this purpose.

686 1. If the recall is approved by a majority of all voting  
687 interests by a vote at a meeting, the recall will be effective  
688 as provided in this paragraph. The board shall duly notice and  
689 hold a board meeting within 5 full business days after the  
690 adjournment of the unit owner meeting to recall one or more  
691 board members. ~~At the meeting, the board shall either certify~~  
692 ~~the recall, in which case~~ Such member or members shall be  
693 recalled effective immediately and shall turn over to the board  
694 within 10 ~~5~~ full business days after the vote any and all  
695 records and property of the association in their possession, ~~or~~  
696 ~~shall proceed as set forth in subparagraph 3.~~

697 2. If the proposed recall is by an agreement in writing by  
698 a majority of all voting interests, the agreement in writing or  
699 a copy thereof shall be served on the association by certified  
700 mail or by personal service in the manner authorized by chapter  
701 48 and the Florida Rules of Civil Procedure. The board of  
702 administration shall duly notice and hold a meeting of the board  
703 within 5 full business days after receipt of the agreement in  
704 writing. ~~At the meeting, the board shall either certify the~~  
705 ~~written agreement to recall a member or members of the board, in~~  
706 ~~which case such member or members shall be recalled effective~~



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707 ~~immediately and shall turn over to the board within 5 full~~  
708 ~~business days any and all records and property of the~~  
709 ~~association in their possession, or proceed as described in~~  
710 ~~subparagraph 3.~~

711 ~~3. If the board determines not to certify the written~~  
712 ~~agreement to recall a member or members of the board, or does~~  
713 ~~not certify the recall by a vote at a meeting, The board shall,~~  
714 ~~within 5 full business days after the meeting, file with the~~  
715 ~~division a petition for arbitration pursuant to the procedures~~  
716 ~~in s. 718.1255. For the purposes of this section, the unit~~  
717 ~~owners who voted at the meeting or who executed the agreement in~~  
718 ~~writing shall constitute one party under the petition for~~  
719 ~~arbitration. If the arbitrator certifies the recall as to any~~  
720 ~~member or members of the board, the recall will be effective~~  
721 ~~upon mailing of the final order of arbitration to the~~  
722 ~~association. If the association fails to comply with the order~~  
723 ~~of the arbitrator, the division may take action pursuant to s.~~  
724 ~~718.501. Any member or members so recalled shall deliver to the~~  
725 ~~board any and all records of the association in their possession~~  
726 ~~within 5 full business days after the effective date of the~~  
727 ~~recall.~~

728 ~~3.4.~~ If the board fails to duly notice and hold a board  
729 meeting within 5 full business days after service of an  
730 agreement in writing or within 5 full business days after the  
731 adjournment of the unit owner recall meeting, the recall shall  
732 be deemed effective and the board members so recalled shall  
733 immediately turn over to the board within 10 full business days  
734 after the vote any and all records and property of the  
735 association.



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736           ~~4.5.~~ If the board fails to duly notice and hold the  
737 required meeting or fails to file the required petition, the  
738 unit owner representative may file a petition pursuant to s.  
739 718.1255 challenging the board's failure to act. The petition  
740 must be filed within 60 days after the expiration of the  
741 applicable 5-full-business-day period. The review of a petition  
742 under this subparagraph is limited to the sufficiency of service  
743 on the board and the facial validity of the written agreement or  
744 ballots filed.

745           ~~5.6.~~ If a vacancy occurs on the board as a result of a  
746 recall or removal and less than a majority of the board members  
747 are removed, the vacancy may be filled by the affirmative vote  
748 of a majority of the remaining directors, notwithstanding any  
749 provision to the contrary contained in this subsection. If  
750 vacancies occur on the board as a result of a recall and a  
751 majority or more of the board members are removed, the vacancies  
752 shall be filled in accordance with procedural rules to be  
753 adopted by the division, which rules need not be consistent with  
754 this subsection. The rules must provide procedures governing the  
755 conduct of the recall election as well as the operation of the  
756 association during the period after a recall but before the  
757 recall election.

758           ~~6.7.~~ A board member who has been recalled may file a  
759 petition pursuant to s. 718.1255 challenging the validity of the  
760 recall. The petition must be filed within 60 days after the  
761 recall ~~is deemed certified~~. The association and the unit owner  
762 representative shall be named as the respondents.

763           ~~7.8.~~ The division may not accept for filing a recall  
764 petition, whether filed pursuant to subparagraph 1.,



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765 subparagraph 2., subparagraph 4. 5., or subparagraph 6. 7. ~~and~~  
766 ~~regardless of whether the recall was certified,~~ when there are  
767 60 or fewer days until the scheduled reelection of the board  
768 member sought to be recalled or when 60 or fewer days have  
769 elapsed since the election of the board member sought to be  
770 recalled.

771 (p) Service providers; conflicts of interest.—An  
772 association that is not a timeshare condominium association may  
773 not employ or contract with any service provider that is owned  
774 or operated by a board member or with any person who has a  
775 financial relationship with a board member or officer.

776 Section 3. Subsection (4) of section 718.1255, Florida  
777 Statutes, is amended to read:

778 718.1255 Alternative dispute resolution; voluntary  
779 mediation; mandatory nonbinding arbitration; legislative  
780 findings.—

781 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
782 DISPUTES.—The Division of Florida Condominiums, Timeshares, and  
783 Mobile Homes of the Department of Business and Professional  
784 Regulation may ~~shall~~ employ full-time attorneys to act as  
785 arbitrators to conduct the arbitration hearings provided by this  
786 chapter. The division may also certify attorneys who are not  
787 employed by the division to act as arbitrators to conduct the  
788 arbitration hearings provided by this chapter ~~section~~. No person  
789 may be employed by the department as a full-time arbitrator  
790 unless he or she is a member in good standing of The Florida  
791 Bar. A person may only be certified by the division to act as an  
792 arbitrator if he or she has been a member in good standing of  
793 The Florida Bar for at least 5 years and has mediated or



794 arbitrated at least 10 disputes involving condominiums in this  
795 state during the 3 years immediately preceding the date of  
796 application, mediated or arbitrated at least 30 disputes in any  
797 subject area in this state during the 3 years immediately  
798 preceding the date of application, or attained board  
799 certification in real estate law or condominium and planned  
800 development law from The Florida Bar. Arbitrator certification  
801 is valid for 1 year. An arbitrator who does not maintain the  
802 minimum qualifications for initial certification may not have  
803 his or her certification renewed. The department may not enter  
804 into a legal services contract for an arbitration hearing under  
805 this chapter with an attorney who is not a certified arbitrator  
806 unless a certified arbitrator is not available within 50 miles  
807 of the dispute. The department shall adopt rules of procedure to  
808 govern such arbitration hearings including mediation incident  
809 thereto. The decision of an arbitrator shall be final; however,  
810 a decision shall not be deemed final agency action. Nothing in  
811 this provision shall be construed to foreclose parties from  
812 proceeding in a trial de novo unless the parties have agreed  
813 that the arbitration is binding. If judicial proceedings are  
814 initiated, the final decision of the arbitrator shall be  
815 admissible in evidence in the trial de novo.

816 (a) Prior to the institution of court litigation, a party  
817 to a dispute shall petition the division for nonbinding  
818 arbitration. The petition must be accompanied by a filing fee in  
819 the amount of \$50. Filing fees collected under this section must  
820 be used to defray the expenses of the alternative dispute  
821 resolution program.

822 (b) The petition must recite, and have attached thereto,



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823 supporting proof that the petitioner gave the respondents:

824 1. Advance written notice of the specific nature of the  
825 dispute;

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

828 3. Notice of the intention to file an arbitration petition  
829 or other legal action in the absence of a resolution of the  
830 dispute.

831

832 Failure to include the allegations or proof of compliance with  
833 these prerequisites requires dismissal of the petition without  
834 prejudice.

835 (c) Upon receipt, the petition shall be promptly reviewed  
836 by the division to determine the existence of a dispute and  
837 compliance with the requirements of paragraphs (a) and (b). If  
838 emergency relief is required and is not available through  
839 arbitration, a motion to stay the arbitration may be filed. The  
840 motion must be accompanied by a verified petition alleging facts  
841 that, if proven, would support entry of a temporary injunction,  
842 and if an appropriate motion and supporting papers are filed,  
843 the division may abate the arbitration pending a court hearing  
844 and disposition of a motion for temporary injunction.

845 (d) Upon determination by the division that a dispute  
846 exists and that the petition substantially meets the  
847 requirements of paragraphs (a) and (b) and any other applicable  
848 rules, the division shall assign or enter into a contract with  
849 an arbitrator and serve a copy of the petition ~~shall be served~~  
850 ~~by the division~~ upon all respondents. The arbitrator shall  
851 conduct a hearing within 30 days after being assigned or



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852 entering into a contract unless the petition is withdrawn or a  
853 continuance is granted for good cause shown.

854 (e) Before or after the filing of the respondents' answer  
855 to the petition, any party may request that the arbitrator refer  
856 the case to mediation under this section and any rules adopted  
857 by the division. Upon receipt of a request for mediation, the  
858 division shall promptly contact the parties to determine if  
859 there is agreement that mediation would be appropriate. If all  
860 parties agree, the dispute must be referred to mediation.  
861 Notwithstanding a lack of an agreement by all parties, the  
862 arbitrator may refer a dispute to mediation at any time.

863 (f) Upon referral of a case to mediation, the parties must  
864 select a mutually acceptable mediator. To assist in the  
865 selection, the arbitrator shall provide the parties with a list  
866 of both volunteer and paid mediators that have been certified by  
867 the division under s. 718.501. If the parties are unable to  
868 agree on a mediator within the time allowed by the arbitrator,  
869 the arbitrator shall appoint a mediator from the list of  
870 certified mediators. If a case is referred to mediation, the  
871 parties shall attend a mediation conference, as scheduled by the  
872 parties and the mediator. If any party fails to attend a duly  
873 noticed mediation conference, without the permission or approval  
874 of the arbitrator or mediator, the arbitrator must impose  
875 sanctions against the party, including the striking of any  
876 pleadings filed, the entry of an order of dismissal or default  
877 if appropriate, and the award of costs and attorney ~~attorneys'~~  
878 fees incurred by the other parties. Unless otherwise agreed to  
879 by the parties or as provided by order of the arbitrator, a  
880 party is deemed to have appeared at a mediation conference by



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881 the physical presence of the party or its representative having  
882 full authority to settle without further consultation, provided  
883 that an association may comply by having one or more  
884 representatives present with full authority to negotiate a  
885 settlement and recommend that the board of administration ratify  
886 and approve such a settlement within 5 days from the date of the  
887 mediation conference. The parties shall share equally the  
888 expense of mediation, unless they agree otherwise.

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

893 (h) Mediation proceedings must generally be conducted in  
894 accordance with the Florida Rules of Civil Procedure, and these  
895 proceedings are privileged and confidential to the same extent  
896 as court-ordered mediation. Persons who are not parties to the  
897 dispute are not allowed to attend the mediation conference  
898 without the consent of all parties, with the exception of  
899 counsel for the parties and corporate representatives designated  
900 to appear for a party. If the mediator declares an impasse after  
901 a mediation conference has been held, the arbitration proceeding  
902 terminates, unless all parties agree in writing to continue the  
903 arbitration proceeding, in which case the arbitrator's decision  
904 shall be binding or nonbinding, as agreed upon by the parties;  
905 in the arbitration proceeding, the arbitrator shall not consider  
906 any evidence relating to the unsuccessful mediation except in a  
907 proceeding to impose sanctions for failure to appear at the  
908 mediation conference. If the parties do not agree to continue  
909 arbitration, the arbitrator shall enter an order of dismissal,





910 and either party may institute a suit in a court of competent  
911 jurisdiction. The parties may seek to recover any costs and  
912 attorney ~~attorneys~~ fees incurred in connection with arbitration  
913 and mediation proceedings under this section as part of the  
914 costs and fees that may be recovered by the prevailing party in  
915 any subsequent litigation.

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

919 (j) At the request of any party to the arbitration, the  
920 arbitrator shall issue subpoenas for the attendance of witnesses  
921 and the production of books, records, documents, and other  
922 evidence and any party on whose behalf a subpoena is issued may  
923 apply to the court for orders compelling such attendance and  
924 production. Subpoenas shall be served and shall be enforceable  
925 in the manner provided by the Florida Rules of Civil Procedure.  
926 Discovery may, in the discretion of the arbitrator, be permitted  
927 in the manner provided by the Florida Rules of Civil Procedure.  
928 Rules adopted by the division may authorize any reasonable  
929 sanctions except contempt for a violation of the arbitration  
930 procedural rules of the division or for the failure of a party  
931 to comply with a reasonable nonfinal order issued by an  
932 arbitrator which is not under judicial review.

933 (k) The arbitration decision shall be rendered within 30  
934 days after the hearing and presented to the parties in writing.  
935 An arbitration decision is final in those disputes in which the  
936 parties have agreed to be bound. An arbitration decision is also  
937 final if a complaint for a trial de novo is not filed in a court  
938 of competent jurisdiction in which the condominium is located



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939 within 30 days. The right to file for a trial de novo entitles  
940 the parties to file a complaint in the appropriate trial court  
941 for a judicial resolution of the dispute. The prevailing party  
942 in an arbitration proceeding shall be awarded the costs of the  
943 arbitration and reasonable attorney ~~attorney's~~ fees in an amount  
944 determined by the arbitrator. Such an award shall include the  
945 costs and reasonable attorney ~~attorney's~~ fees incurred in the  
946 arbitration proceeding as well as the costs and reasonable  
947 attorney ~~attorney's~~ fees incurred in preparing for and attending  
948 any scheduled mediation. An arbitrator's failure to render a  
949 written decision within 30 days after the hearing may result in  
950 the cancellation of his or her arbitration certification.

951 (l) The party who files a complaint for a trial de novo  
952 shall be assessed the other party's arbitration costs, court  
953 costs, and other reasonable costs, including attorney ~~attorney's~~  
954 fees, investigation expenses, and expenses for expert or other  
955 testimony or evidence incurred after the arbitration hearing if  
956 the judgment upon the trial de novo is not more favorable than  
957 the arbitration decision. If the judgment is more favorable, the  
958 party who filed a complaint for trial de novo shall be awarded  
959 reasonable court costs and attorney ~~attorney's~~ fees.

960 (m) Any party to an arbitration proceeding may enforce an  
961 arbitration award by filing a petition in a court of competent  
962 jurisdiction in which the condominium is located. A petition may  
963 not be granted unless the time for appeal by the filing of a  
964 complaint for trial de novo has expired. If a complaint for a  
965 trial de novo has been filed, a petition may not be granted with  
966 respect to an arbitration award that has been stayed. If the  
967 petition for enforcement is granted, the petitioner shall



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968 recover reasonable attorney ~~attorney's~~ fees and costs incurred  
969 in enforcing the arbitration award. A mediation settlement may  
970 also be enforced through the county or circuit court, as  
971 applicable, and any costs and fees incurred in the enforcement  
972 of a settlement agreement reached at mediation must be awarded  
973 to the prevailing party in any enforcement action.

974 Section 4. Section 718.129, Florida Statutes, is created to  
975 read:

976 718.129 Fraudulent voting activities related to association  
977 elections; penalties.—The following acts constitute fraudulent  
978 voting activities related to association elections:

979 (1) A person who willfully, knowingly, and falsely swears  
980 or affirms to an oath or affirmation, or procures another person  
981 to willfully, knowingly, and falsely swear or affirm to an oath  
982 or affirmation, in connection with or arising out of voting or  
983 casting a ballot in an association election commits a felony of  
984 the third degree, punishable as provided in s. 775.082, s.  
985 775.083, or s. 775.084.

986 (2) A person who willfully and knowingly perpetrates or  
987 attempts to perpetrate, or willfully and knowingly aids another  
988 person in perpetrating or attempting to perpetrate, fraud in  
989 connection with or arising out of a vote or ballot cast, to be  
990 cast, or attempted to be cast by an elector in an association  
991 election commits a felony of the third degree, punishable as  
992 provided in s. 775.082, s. 775.083, or s. 775.084.

993 (3) A person who willfully, knowingly, and fraudulently  
994 changes or attempts to change a vote or ballot cast, to be cast,  
995 or attempted to be cast by an elector in an association election  
996 to prevent such elector from voting or casting a ballot as he or



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997 she intended in such election commits a felony of the third  
998 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
999 775.084.

1000 (4) (a) A person who willfully and knowingly aids or advises  
1001 another person in committing a violation of this section shall  
1002 be punished as if he or she had committed the violation.

1003 (b) A person who willfully and knowingly agrees, conspires,  
1004 combines, or confederates with another person in committing a  
1005 violation of this section shall be punished as if he or she had  
1006 committed the violation.

1007 (c) A person who willfully and knowingly aids or advises a  
1008 person who has committed a violation of this section in avoiding  
1009 or escaping detection, arrest, trial, or punishment shall be  
1010 punished as if he or she had committed the violation. This  
1011 paragraph does not prohibit a member of The Florida Bar from  
1012 giving legal advice to a client.

1013 Section 5. Subsection (5) is added to section 718.3025,  
1014 Florida Statutes, to read:

1015 718.3025 Agreements for operation, maintenance, or  
1016 management of condominiums; specific requirements.—

1017 (5) A party contracting to provide maintenance or  
1018 management services to an association managing a residential  
1019 condominium after transfer of control of the association, as  
1020 provided in s. 718.301, which is not a timeshare condominium  
1021 association, or an officer or board member of such party, may  
1022 not purchase a unit at a foreclosure sale resulting from the  
1023 association's foreclosure of association lien for unpaid  
1024 assessments or take a deed in lieu of foreclosure. If 50 percent  
1025 or more of the units in the condominium are owned by a party



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1026 contracting to provide maintenance or management services to an  
1027 association managing a residential condominium after transfer of  
1028 control of the association, as provided in s. 718.301, which is  
1029 not a timeshare condominium association, or by an officer or  
1030 board member of such party, the contract with the party  
1031 providing maintenance or management services may be cancelled by  
1032 a majority vote of the unit owners other than the contracting  
1033 party or an officer or board member of such party.

1034 Section 6. Section 718.3027, Florida Statutes, is created  
1035 to read:

1036 718.3027 Conflicts of interest.-

1037 (1) Directors and officers of a board of an association  
1038 that is not a timeshare condominium association, and the  
1039 relatives of such directors and officers, must disclose to the  
1040 board any activity that may reasonably be construed to be a  
1041 conflict of interest. A rebuttable presumption of a conflict of  
1042 interest exists if any of the following occurs without prior  
1043 notice, as required in subsection (4):

1044 (a) Any director, officer, or relative of any director or  
1045 officer enters into a contract for goods or services with the  
1046 association.

1047 (b) Any director, officer, or relative of any director or  
1048 officer holds an interest in a corporation, limited liability  
1049 corporation, partnership, limited liability partnership, or  
1050 other business entity that conducts business with the  
1051 association or proposes to enter into a contract or other  
1052 transaction with the association.

1053 (2) If any director, officer, or relative of any director  
1054 or officer proposes to engage in an activity that is a conflict



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1055 of interest, as described in subsection (1), the proposed  
1056 activity must be listed on, and all contracts and transactional  
1057 documents related to the proposed activity must be attached to,  
1058 the meeting agenda. If the board votes against the proposed  
1059 activity, the director, officer, or relative must notify the  
1060 board in writing of his or her intention not to pursue the  
1061 proposed activity, or the director or officer shall withdraw  
1062 from office. If the board finds that any officer or director has  
1063 violated this subsection, the officer or director shall be  
1064 deemed removed from office. The vacancy shall be filled  
1065 according to general law.

1066 (3) Any director, officer, or relative of any director or  
1067 officer who is a party to, or has an interest in, an activity  
1068 that is a possible conflict of interest, as described in  
1069 subsection (1), may attend the meeting at which the activity is  
1070 considered by the board, and is authorized to make a  
1071 presentation to the board regarding the activity. After the  
1072 presentation, the director, officer, or relative must leave the  
1073 meeting during the discussion of, and the vote on, the activity.  
1074 Any director or officer who is a party to, or has an interest  
1075 in, the activity must recuse himself or herself from the vote.

1076 (4) The board must provide notice to unit owners of a  
1077 possible conflict of interest, as described in subsection (1),  
1078 in accordance with the procedures in s. 718.112(2)(c). All  
1079 contracts and transactional documents related to the possible  
1080 conflict of interest must be attached to, and made available  
1081 with, the meeting agenda.

1082 (5) Any contract entered into between any director,  
1083 officer, or relative of any director or officer and the



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1084 association which has not been properly disclosed as a conflict  
1085 of interest or potential conflict of interest as required by s.  
1086 718.111(12)(g) is voidable and terminates upon the filing of a  
1087 written notice terminating the contract with the board of  
1088 directors which contains the consent of at least 20 percent of  
1089 the voting interests of the association.

1090 Section 7. Subsection (5) of section 718.303, Florida  
1091 Statutes, is amended, and subsection (8) is added to that  
1092 section, to read:

1093 718.303 Obligations of owners and occupants; remedies.—

1094 (5) An association may suspend the voting rights of a unit  
1095 owner or member due to nonpayment of any fee, fine, or other  
1096 monetary obligation due to the association which is more than  
1097 \$1,000 and more than 90 days delinquent. Proof of such  
1098 obligation must be provided to the unit owner or member 30 days  
1099 before such suspension takes effect. A voting interest or  
1100 consent right allocated to a unit owner or member which has been  
1101 suspended by the association shall be subtracted from the total  
1102 number of voting interests in the association, which shall be  
1103 reduced by the number of suspended voting interests when  
1104 calculating the total percentage or number of all voting  
1105 interests available to take or approve any action, and the  
1106 suspended voting interests shall not be considered for any  
1107 purpose, including, but not limited to, the percentage or number  
1108 of voting interests necessary to constitute a quorum, the  
1109 percentage or number of voting interests required to conduct an  
1110 election, or the percentage or number of voting interests  
1111 required to approve an action under this chapter or pursuant to  
1112 the declaration, articles of incorporation, or bylaws. The



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1113 suspension ends upon full payment of all obligations currently  
1114 due or overdue the association. The notice and hearing  
1115 requirements under subsection (3) do not apply to a suspension  
1116 imposed under this subsection.

1117 (8) A receiver may not exercise voting rights of any unit  
1118 owner whose unit is placed in receivership for the benefit of  
1119 the association pursuant to this chapter.

1120 Section 8. Subsection (5) of section 718.5012, Florida  
1121 Statutes, is amended to read:

1122 718.5012 Ombudsman; powers and duties.—The ombudsman shall  
1123 have the powers that are necessary to carry out the duties of  
1124 his or her office, including the following specific powers:

1125 (5) To monitor and review procedures and disputes  
1126 concerning condominium elections or meetings, including, but not  
1127 limited to, recommending that the division pursue enforcement  
1128 action in any manner where there is reasonable cause to believe  
1129 that election misconduct has occurred and reviewing secret  
1130 ballots cast at a vote of the association.

1131 Section 9. Section 718.71, Florida Statutes, is created to  
1132 read:

1133 718.71 Financial reporting.—An association shall provide an  
1134 annual report to the department containing the names of all of  
1135 the financial institutions with which it maintains accounts, and  
1136 a copy of such report may be obtained from the department upon  
1137 written request of any association member.

1138 Section 10. This act shall take effect July 1, 2017.

1139  
1140 ===== T I T L E A M E N D M E N T =====

1141 And the title is amended as follows:





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1142 Delete everything before the enacting clause  
1143 and insert:

1144 A bill to be entitled  
1145 An act relating to condominiums; amending s. 718.111,  
1146 F.S.; prohibiting an association from hiring an  
1147 attorney that represents the management company of the  
1148 association; prohibiting a board member, manager, or  
1149 management company from purchasing a unit at a  
1150 foreclosure sale under certain circumstances;  
1151 providing recordkeeping requirements; providing that  
1152 the official records of an association are open to  
1153 inspection by unit renters; providing that a renter of  
1154 a unit has a right to inspect and copy the  
1155 association's bylaws and rules; providing criminal  
1156 penalties; providing a definition; providing  
1157 requirements relating to the posting of specified  
1158 documents on an association's website; providing a  
1159 remedy for an association's failure to provide a unit  
1160 owner with a copy of the most recent financial report;  
1161 requiring the Division of Florida Condominiums,  
1162 Timeshares, and Mobile Homes to maintain and provide  
1163 copies of financial reports; amending s. 718.112,  
1164 F.S.; providing board member term limits; providing an  
1165 exception; deleting certification requirements  
1166 relating to the recall of board members; revising the  
1167 amount of time in which a recalled board member must  
1168 turn over records and property of the association to  
1169 the board; prohibiting certain associations from  
1170 employing or contracting with a service provider that



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1171 is owned or operated by certain persons; amending s.  
1172 718.1255, F.S.; authorizing, rather than requiring,  
1173 the division to employ full-time attorneys to conduct  
1174 certain arbitration hearings; providing requirements  
1175 for the certification of arbitrators; prohibiting the  
1176 Department of Business and Professional Regulation  
1177 from entering into a legal services contract for  
1178 certain arbitration hearings; requiring the division  
1179 to assign or enter into contracts with arbitrators;  
1180 requiring arbitrators to conduct hearings within a  
1181 specified period; providing an exception; providing  
1182 arbitration proceeding requirements; creating s.  
1183 718.129, F.S.; providing that certain activities  
1184 constitute fraudulent voting activities related to  
1185 association elections; providing criminal penalties;  
1186 amending s. 718.3025, F.S.; prohibiting specified  
1187 parties from purchasing a unit at a foreclosure sale  
1188 resulting from the association's foreclosure of  
1189 association lien for unpaid assessments or from taking  
1190 a deed in lieu of foreclosures; authorizing a contract  
1191 with a party providing maintenance or management  
1192 services to be cancelled by a majority vote of certain  
1193 unit owners under specified conditions; creating s.  
1194 718.3027, F.S.; providing requirements relating to  
1195 board director and officer conflicts of interest;  
1196 providing that certain contracts are voidable if they  
1197 do not meet specified notice requirements and  
1198 terminate, subject to a certain condition; amending s.  
1199 718.303, F.S.; providing requirements relating to the



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1200 suspension of voting rights of unit owners and  
1201 members; prohibiting a receiver from exercising the  
1202 voting rights of a unit owner whose unit is placed in  
1203 receivership; amending s. 718.5012, F.S.; providing  
1204 the ombudsman with an additional power; creating s.  
1205 718.71, F.S.; providing financial reporting  
1206 requirements of an association; providing an effective  
1207 date.