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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2019	.	
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The Committee on Innovation, Industry, and Technology (Gruters) recommended the following:

1 **Senate Substitute for Amendment (390698) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Paragraph (a) of subsection (2) of section
7 514.0115, Florida Statutes, is amended to read:

8 514.0115 Exemptions from supervision or regulation;
9 variances.—

10 (2) (a) Pools serving condominium, cooperative, and



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11 homeowners' associations, as well as other property
12 associations, which have no more than 32 ~~condominium or~~
13 cooperative units or parcels and which are not operated as a
14 public lodging establishments are ~~establishment shall be~~ exempt
15 from supervision under this chapter, except for water quality.

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

18 627.714 Residential condominium unit owner coverage; loss
19 assessment coverage required.—

20 (4) Every individual unit owner's residential property
21 policy must contain a provision stating that the coverage
22 afforded by such policy is excess coverage over the amount
23 recoverable under any other policy covering the same property.
24 An insurance policy issued to an individual unit owner may not
25 provide rights of subrogation against the condominium
26 association operating the condominium in which such individual's
27 unit is located.

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

30 718.111 The association.—

31 (12) OFFICIAL RECORDS.—

32 (a) From the inception of the association, the association
33 shall maintain each of the following items, if applicable, which
34 constitutes the official records of the association:

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

37 2. A photocopy of the recorded declaration of condominium
38 of each condominium operated by the association and each
39 amendment to each declaration.



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- 40 3. A photocopy of the recorded bylaws of the association
41 and each amendment to the bylaws.
- 42 4. A certified copy of the articles of incorporation of the
43 association, or other documents creating the association, and
44 each amendment thereto.
- 45 5. A copy of the current rules of the association.
- 46 6. A book or books that contain the minutes of all meetings
47 of the association, the board of administration, and the unit
48 owners.
- 49 7. A current roster of all unit owners and their mailing
50 addresses, unit identifications, voting certifications, and, if
51 known, telephone numbers. The association shall also maintain
52 the e-mail addresses and facsimile numbers of unit owners
53 consenting to receive notice by electronic transmission. The e-
54 mail addresses and facsimile numbers are not accessible to unit
55 owners if consent to receive notice by electronic transmission
56 is not provided in accordance with sub-subparagraph (c)3.e.
57 However, the association is not liable for an inadvertent
58 disclosure of the e-mail address or facsimile number for
59 receiving electronic transmission of notices.
- 60 8. All current insurance policies of the association and
61 condominiums operated by the association.
- 62 9. A current copy of any management agreement, lease, or
63 other contract to which the association is a party or under
64 which the association or the unit owners have an obligation or
65 responsibility.
- 66 10. Bills of sale or transfer for all property owned by the
67 association.
- 68 11. Accounting records for the association and separate



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69 accounting records for each condominium that the association
70 operates. Any person who knowingly or intentionally defaces or
71 destroys such records, or who knowingly or intentionally fails
72 to create or maintain such records, with the intent of causing
73 harm to the association or one or more of its members, is
74 personally subject to a civil penalty pursuant to s.
75 718.501(1)(d). The accounting records must include, but are not
76 limited to:

77 a. Accurate, itemized, and detailed records of all receipts
78 and expenditures.

79 b. A current account and a monthly, bimonthly, or quarterly
80 statement of the account for each unit designating the name of
81 the unit owner, the due date and amount of each assessment, the
82 amount paid on the account, and the balance due.

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

85 d. All contracts for work to be performed. Bids for work to
86 be performed are also considered official records and must be
87 maintained by the association for at least 1 year after receipt
88 of the bid.

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

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

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



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98 ~~15. All other written records of the association not~~
99 ~~specifically included in the foregoing which are related to the~~
100 ~~operation of the association.~~

101 ~~16.~~ A copy of the inspection report as described in s.
102 718.301(4)(p).

103 16.~~17.~~ Bids for materials, equipment, or services.

104 17. All other records of the association not specifically
105 included in subparagraphs 1.-16. which are related to the
106 operation of the association.

107 (b) The official records specified in subparagraphs (a)1.-
108 6. must be permanently maintained from the inception of the
109 association. Bids for work to be performed or for materials,
110 equipment, or services must be maintained for 1 year after
111 receipt of the bid. All other official records must be
112 maintained within the state for at least 7 years, unless
113 otherwise provided by general law. The records of the
114 association shall be made available to a unit owner within 45
115 miles of the condominium property or within the county in which
116 the condominium property is located within 10 working days after
117 receipt of a written request by the board or its designee.
118 However, such distance requirement does not apply to an
119 association governing a timeshare condominium. This paragraph
120 may be complied with by having a copy of the official records of
121 the association available for inspection or copying on the
122 condominium property or association property, or the association
123 may offer the option of making the records available to a unit
124 owner electronically via the Internet or by allowing the records
125 to be viewed in electronic format on a computer screen and
126 printed upon request. The association is not responsible for the



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127 use or misuse of the information provided to an association
128 member or his or her authorized representative in pursuant to
129 ~~the compliance with requirements of~~ this chapter unless the
130 association has an affirmative duty not to disclose such
131 information under pursuant to this chapter.

132 (c)1. The official records of the association are open to
133 inspection by any association member or the authorized
134 representative of such member at all reasonable times. The right
135 to inspect the records includes the right to make or obtain
136 copies, at the reasonable expense, if any, of the member or
137 authorized representative of such member. A renter of a unit has
138 a right to inspect and copy the association's bylaws and rules.
139 The association may adopt reasonable rules regarding the
140 frequency, time, location, notice, and manner of record
141 inspections and copying, but may not require a member to
142 demonstrate any purpose or state any reason for the inspection.
143 The failure of an association to provide the records within 10
144 working days after receipt of a written request creates a
145 rebuttable presumption that the association willfully failed to
146 comply with this paragraph. A unit owner who is denied access to
147 official records is entitled to the actual damages or minimum
148 damages for the association's willful failure to comply. Minimum
149 damages are \$50 per calendar day for up to 10 days, beginning on
150 the 11th working day after receipt of the written request. The
151 failure to permit inspection entitles any person prevailing in
152 an enforcement action to recover reasonable attorney fees from
153 the person in control of the records who, directly or
154 indirectly, knowingly denied access to the records.

155 2. Any person who knowingly or intentionally defaces or



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156 destroys accounting records that are required by this chapter to
157 be maintained during the period for which such records are
158 required to be maintained, or who knowingly or intentionally
159 fails to create or maintain accounting records that are required
160 to be created or maintained, with the intent of causing harm to
161 the association or one or more of its members, is personally
162 subject to a civil penalty pursuant to s. 718.501(1)(d).

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

181 a. Any record protected by the lawyer-client privilege as
182 described in s. 90.502 and any record protected by the work-
183 product privilege, including a record prepared by an association
184 attorney or prepared at the attorney's express direction, which



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185 reflects a mental impression, conclusion, litigation strategy,
186 or legal theory of the attorney or the association, and which
187 was prepared exclusively for civil or criminal litigation or for
188 adversarial administrative proceedings, or which was prepared in
189 anticipation of such litigation or proceedings until the
190 conclusion of the litigation or proceedings.

191 b. Information obtained by an association in connection
192 with the approval of the lease, sale, or other transfer of a
193 unit.

194 c. Personnel records of association or management company
195 employees, including, but not limited to, disciplinary, payroll,
196 health, and insurance records. For purposes of this sub-
197 subparagraph, the term "personnel records" does not include
198 written employment agreements with an association employee or
199 management company, or budgetary or financial records that
200 indicate the compensation paid to an association employee.

201 d. Medical records of unit owners.

202 e. Social security numbers, driver license numbers, credit
203 card numbers, e-mail addresses, telephone numbers, facsimile
204 numbers, emergency contact information, addresses of a unit
205 owner other than as provided to fulfill the association's notice
206 requirements, and other personal identifying information of any
207 person, excluding the person's name, unit designation, mailing
208 address, property address, and any address, e-mail address, or
209 facsimile number provided to the association to fulfill the
210 association's notice requirements. Notwithstanding the
211 restrictions in this sub-subparagraph, an association may print
212 and distribute to unit ~~parcel~~ owners a directory containing the
213 name, unit ~~parcel~~ address, and all telephone numbers of each



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214 unit parcel owner. However, an owner may exclude his or her
215 telephone numbers from the directory by so requesting in writing
216 to the association. An owner may consent in writing to the
217 disclosure of other contact information described in this sub-
218 subparagraph. The association is not liable for the inadvertent
219 disclosure of information that is protected under this sub-
220 subparagraph if the information is included in an official
221 record of the association and is voluntarily provided by an
222 owner and not requested by the association.

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

225 g. The software and operating system used by the
226 association which allow the manipulation of data, even if the
227 owner owns a copy of the same software used by the association.
228 The data is part of the official records of the association.

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

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

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

238 (II) A website, application, or web portal operated by a
239 third-party provider with whom the association owns, leases,
240 rents, or otherwise obtains the right to operate a web page,
241 subpage, web portal, ~~or~~ collection of subpages or web portals,
242 or application which is dedicated to the association's



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243 activities and on which required notices, records, and documents
244 may be posted or made available by the association.

245 b. The association's website or application must be
246 accessible through the Internet and must contain a subpage, web
247 portal, or other protected electronic location that is
248 inaccessible to the general public and accessible only to unit
249 owners and employees of the association.

250 c. Upon a unit owner's written request, the association
251 must provide the unit owner with a username and password and
252 access to the protected sections of the association's website or
253 application that contain any notices, records, or documents that
254 must be electronically provided.

255 2. A current copy of the following documents must be posted
256 in digital format on the association's website or made available
257 through an application that can be downloaded on a mobile
258 device:

259 a. The recorded declaration of condominium of each
260 condominium operated by the association and each amendment to
261 each declaration.

262 b. The recorded bylaws of the association and each
263 amendment to the bylaws.

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

270 d. The rules of the association.

271 e. A list of all executory contracts or documents to which



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272 the association is a party or under which the association or the
273 unit owners have an obligation or responsibility and, after
274 bidding for the related materials, equipment, or services has
275 closed, a list of bids received by the association within the
276 past year. Summaries of bids for materials, equipment, or
277 services which exceed \$500 must be maintained on the website or
278 application for 1 year. In lieu of summaries, complete copies of
279 the bids may be posted.

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

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

285 h. The certification of each director required by s.
286 718.112(2)(d)4.b.

287 i. All contracts or transactions between the association
288 and any director, officer, corporation, firm, or association
289 that is not an affiliated condominium association or any other
290 entity in which an association director is also a director or
291 officer and financially interested.

292 j. Any contract or document regarding a conflict of
293 interest or possible conflict of interest as provided in ss.
294 468.436(2)(b)6. and 718.3027(3).

295 k. The notice of any unit owner meeting and the agenda for
296 the meeting, as required by s. 718.112(2)(d)3., no later than 14
297 days before the meeting. The notice must be posted in plain view
298 on the front page of the website or application, or on a
299 separate subpage of the website or application labeled "Notices"
300 which is conspicuously visible and linked from the front page.



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301 The association must also post on its website or application any
302 document to be considered and voted on by the owners during the
303 meeting or any document listed on the agenda at least 7 days
304 before the meeting at which the document or the information
305 within the document will be considered.

306 1. Notice of any board meeting, the agenda, and any other
307 document required for the meeting as required by s.
308 718.112(2)(c), which must be posted no later than the date
309 required for notice pursuant to s. 718.112(2)(c).

310 3. The association shall ensure that the information and
311 records described in paragraph (c), which are not allowed to be
312 accessible to unit owners, are not posted on the association's
313 website or the association's application that can be downloaded
314 on a mobile device. If protected information or information
315 restricted from being accessible to unit owners is included in
316 documents that are required to be posted on the association's
317 website or application, the association shall ensure the
318 information is redacted before posting the documents ~~online~~.
319 Notwithstanding the foregoing, the association or its agent is
320 not liable for disclosing information that is protected or
321 restricted pursuant to this paragraph unless such disclosure was
322 made with a knowing or intentional disregard of the protected or
323 restricted nature of such information.

324 4. The failure of the association to post information
325 required under subparagraph 2. is not in and of itself
326 sufficient to invalidate any action or decision of the
327 association's board or its committees.

328 Section 4. Paragraphs (d), (i), (j), and (p) of subsection
329 (2) of section 718.112, Florida Statutes, are amended to read:



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330 718.112 Bylaws.—

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

334 (d) *Unit owner meetings.*—

335 1. An annual meeting of the unit owners must be held at the
336 location provided in the association bylaws and, if the bylaws
337 are silent as to the location, the meeting must be held within
338 45 miles of the condominium property. However, such distance
339 requirement does not apply to an association governing a
340 timeshare condominium.

341 2. Unless the bylaws provide otherwise, a vacancy on the
342 board caused by the expiration of a director's term must be
343 filled by electing a new board member, and the election must be
344 by secret ballot. An election is not required if the number of
345 vacancies equals or exceeds the number of candidates. For
346 purposes of this paragraph, the term "candidate" means an
347 eligible person who has timely submitted the written notice, as
348 described in sub-subparagraph 4.a., of his or her intention to
349 become a candidate. Except in a timeshare or nonresidential
350 condominium, or if the staggered term of a board member does not
351 expire until a later annual meeting, or if all members' terms
352 would otherwise expire but there are no candidates, the terms of
353 all board members expire at the annual meeting, and such members
354 may stand for reelection unless prohibited by the bylaws. Board
355 members may serve terms longer than 1 year if permitted by the
356 bylaws or articles of incorporation. A board member may not
357 serve more than 8 consecutive years unless approved by an
358 affirmative vote of unit owners representing two-thirds of all



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359 votes cast in the election or unless there are not enough
360 eligible candidates to fill the vacancies on the board at the
361 time of the vacancy. Only board service that occurs on or after
362 July 1, 2018, may be used when calculating a board member's term
363 limit. If the number of board members whose terms expire at the
364 annual meeting equals or exceeds the number of candidates, the
365 candidates become members of the board effective upon the
366 adjournment of the annual meeting. Unless the bylaws provide
367 otherwise, any remaining vacancies shall be filled by the
368 affirmative vote of the majority of the directors making up the
369 newly constituted board even if the directors constitute less
370 than a quorum or there is only one director. In a residential
371 condominium association of more than 10 units or in a
372 residential condominium association that does not include
373 timeshare units or timeshare interests, coowners of a unit may
374 not serve as members of the board of directors at the same time
375 unless they own more than one unit or unless there are not
376 enough eligible candidates to fill the vacancies on the board at
377 the time of the vacancy. A unit owner in a residential
378 condominium desiring to be a candidate for board membership must
379 comply with sub-subparagraph 4.a. and must be eligible to be a
380 candidate to serve on the board of directors at the time of the
381 deadline for submitting a notice of intent to run in order to
382 have his or her name listed as a proper candidate on the ballot
383 or to serve on the board. A person who has been suspended or
384 removed by the division under this chapter, or who is delinquent
385 in the payment of any monetary obligation due to the
386 association, is not eligible to be a candidate for board
387 membership and may not be listed on the ballot. A person who has



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388 been convicted of any felony in this state or in a United States
389 District or Territorial Court, or who has been convicted of any
390 offense in another jurisdiction which would be considered a
391 felony if committed in this state, is not eligible for board
392 membership unless such felon's civil rights have been restored
393 for at least 5 years as of the date such person seeks election
394 to the board. The validity of an action by the board is not
395 affected if it is later determined that a board member is
396 ineligible for board membership due to having been convicted of
397 a felony. This subparagraph does not limit the term of a member
398 of the board of a nonresidential or timeshare condominium.

399 3. The bylaws must provide the method of calling meetings
400 of unit owners, including annual meetings. Written notice must
401 include an agenda, must be mailed, hand delivered, or
402 electronically transmitted to each unit owner at least 14 days
403 before the ~~annual~~ meeting, and must be posted in a conspicuous
404 place on the condominium property at least 14 continuous days
405 before the ~~annual~~ meeting. Upon notice to the unit owners, the
406 board shall, by duly adopted rule, designate a specific location
407 on the condominium property where all notices of unit owner
408 meetings must be posted. This requirement does not apply if
409 there is no condominium property for posting notices. In lieu
410 of, or in addition to, the physical posting of meeting notices,
411 the association may, by reasonable rule, adopt a procedure for
412 conspicuously posting and repeatedly broadcasting the notice and
413 the agenda on a closed-circuit cable television system serving
414 the condominium association. However, if broadcast notice is
415 used in lieu of a notice posted physically on the condominium
416 property, the notice and agenda must be broadcast at least four



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417 times every broadcast hour of each day that a posted notice is
418 otherwise required under this section. If broadcast notice is
419 provided, the notice and agenda must be broadcast in a manner
420 and for a sufficient continuous length of time so as to allow an
421 average reader to observe the notice and read and comprehend the
422 entire content of the notice and the agenda. In addition to any
423 of the authorized means of providing notice of a meeting of the
424 board, the association may, by rule, adopt a procedure for
425 conspicuously posting the meeting notice and the agenda on a
426 website serving the condominium association for at least the
427 minimum period of time for which a notice of a meeting is also
428 required to be physically posted on the condominium property.
429 Any rule adopted shall, in addition to other matters, include a
430 requirement that the association send an electronic notice in
431 the same manner as a notice for a meeting of the members, which
432 must include a hyperlink to the website where the notice is
433 posted, to unit owners whose e-mail addresses are included in
434 the association's official records. Unless a unit owner waives
435 in writing the right to receive notice of the annual meeting,
436 such notice must be hand delivered, mailed, or electronically
437 transmitted to each unit owner. Notice for meetings and notice
438 for all other purposes must be mailed to each unit owner at the
439 address last furnished to the association by the unit owner, or
440 hand delivered to each unit owner. However, if a unit is owned
441 by more than one person, the association must provide notice to
442 the address that the developer identifies for that purpose and
443 thereafter as one or more of the owners of the unit advise the
444 association in writing, or if no address is given or the owners
445 of the unit do not agree, to the address provided on the deed of



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446 record. An officer of the association, or the manager or other
447 person providing notice of the association meeting, must provide
448 an affidavit or United States Postal Service certificate of
449 mailing, to be included in the official records of the
450 association affirming that the notice was mailed or hand
451 delivered in accordance with this provision.

452 4. The members of the board of a residential condominium
453 shall be elected by written ballot or voting machine. Proxies
454 may not be used in electing the board in general elections or
455 elections to fill vacancies caused by recall, resignation, or
456 otherwise, unless otherwise provided in this chapter. This
457 subparagraph does not apply to an association governing a
458 timeshare condominium.

459 a. At least 60 days before a scheduled election, the
460 association shall mail, deliver, or electronically transmit, by
461 separate association mailing or included in another association
462 mailing, delivery, or transmission, including regularly
463 published newsletters, to each unit owner entitled to a vote, a
464 first notice of the date of the election. A unit owner or other
465 eligible person desiring to be a candidate for the board must
466 give written notice of his or her intent to be a candidate to
467 the association at least 40 days before a scheduled election.
468 Together with the written notice and agenda as set forth in
469 subparagraph 3., the association shall mail, deliver, or
470 electronically transmit a second notice of the election to all
471 unit owners entitled to vote, together with a ballot that lists
472 all candidates not less than 14 days or more than 34 days before
473 the date of the election. Upon request of a candidate, an
474 information sheet, no larger than 8 1/2 inches by 11 inches,



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475 which must be furnished by the candidate at least 35 days before
476 the election, must be included with the mailing, delivery, or
477 transmission of the ballot, with the costs of mailing, delivery,
478 or electronic transmission and copying to be borne by the
479 association. The association is not liable for the contents of
480 the information sheets prepared by the candidates. In order to
481 reduce costs, the association may print or duplicate the
482 information sheets on both sides of the paper. The division
483 shall by rule establish voting procedures consistent with this
484 sub-subparagraph, including rules establishing procedures for
485 giving notice by electronic transmission and rules providing for
486 the secrecy of ballots. Elections shall be decided by a
487 plurality of ballots cast. There is no quorum requirement;
488 however, at least 20 percent of the eligible voters must cast a
489 ballot in order to have a valid election. A unit owner may not
490 authorize any other person to vote his or her ballot, and any
491 ballots improperly cast are invalid. A unit owner who violates
492 this provision may be fined by the association in accordance
493 with s. 718.303. A unit owner who needs assistance in casting
494 the ballot for the reasons stated in s. 101.051 may obtain such
495 assistance. The regular election must occur on the date of the
496 annual meeting. Notwithstanding this sub-subparagraph, an
497 election is not required unless more candidates file notices of
498 intent to run or are nominated than board vacancies exist.

499 b. Within 90 days after being elected or appointed to the
500 board of an association of a residential condominium, each newly
501 elected or appointed director shall certify in writing to the
502 secretary of the association that he or she has read the
503 association's declaration of condominium, articles of



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504 incorporation, bylaws, and current written policies; that he or
505 she will work to uphold such documents and policies to the best
506 of his or her ability; and that he or she will faithfully
507 discharge his or her fiduciary responsibility to the
508 association's members. In lieu of this written certification,
509 within 90 days after being elected or appointed to the board,
510 the newly elected or appointed director may submit a certificate
511 of having satisfactorily completed the educational curriculum
512 administered by a division-approved condominium education
513 provider within 1 year before or 90 days after the date of
514 election or appointment. The written certification or
515 educational certificate is valid and does not have to be
516 resubmitted as long as the director serves on the board without
517 interruption. A director of an association of a residential
518 condominium who fails to timely file the written certification
519 or educational certificate is suspended from service on the
520 board until he or she complies with this sub-subparagraph. The
521 board may temporarily fill the vacancy during the period of
522 suspension. The secretary shall cause the association to retain
523 a director's written certification or educational certificate
524 for inspection by the members for 5 years after a director's
525 election or the duration of the director's uninterrupted tenure,
526 whichever is longer. Failure to have such written certification
527 or educational certificate on file does not affect the validity
528 of any board action.

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

531 5. Any approval by unit owners called for by this chapter
532 or the applicable declaration or bylaws, including, but not



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533 limited to, the approval requirement in s. 718.111(8), must be
534 made at a duly noticed meeting of unit owners and is subject to
535 all requirements of this chapter or the applicable condominium
536 documents relating to unit owner decisionmaking, except that
537 unit owners may take action by written agreement, without
538 meetings, on matters for which action by written agreement
539 without meetings is expressly allowed by the applicable bylaws
540 or declaration or any law that provides for such action.

541 6. Unit owners may waive notice of specific meetings if
542 allowed by the applicable bylaws or declaration or any law.
543 Notice of meetings of the board of administration, unit owner
544 meetings, except unit owner meetings called to recall board
545 members under paragraph (j), and committee meetings may be given
546 by electronic transmission to unit owners who consent to receive
547 notice by electronic transmission. A unit owner who consents to
548 receiving notices by electronic transmission is solely
549 responsible for removing or bypassing filters that block receipt
550 of mass e-mails ~~emails~~ sent to members on behalf of the
551 association in the course of giving electronic notices.

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

556 8. A unit owner may tape record or videotape a meeting of
557 the unit owners subject to reasonable rules adopted by the
558 division.

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



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562 directors, even if the remaining directors constitute less than
563 a quorum, or by the sole remaining director. In the alternative,
564 a board may hold an election to fill the vacancy, in which case
565 the election procedures must conform to sub-subparagraph 4.a.
566 unless the association governs 10 units or fewer and has opted
567 out of the statutory election process, in which case the bylaws
568 of the association control. Unless otherwise provided in the
569 bylaws, a board member appointed or elected under this section
570 shall fill the vacancy for the unexpired term of the seat being
571 filled. Filling vacancies created by recall is governed by
572 paragraph (j) and rules adopted by the division.

573 10. This chapter does not limit the use of general or
574 limited proxies, require the use of general or limited proxies,
575 or require the use of a written ballot or voting machine for any
576 agenda item or election at any meeting of a timeshare
577 condominium association or nonresidential condominium
578 association.

579
580 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
581 association of 10 or fewer units may, by affirmative vote of a
582 majority of the total voting interests, provide for different
583 voting and election procedures in its bylaws, which may be by a
584 proxy specifically delineating the different voting and election
585 procedures. The different voting and election procedures may
586 provide for elections to be conducted by limited or general
587 proxy.

588 (i) *Transfer fees.*—An association may not ~~ne~~ charge an
589 applicant any fees, except the actual costs of any background
590 check or screening performed ~~shall be made~~ by the association,



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591 ~~or any body thereof~~ in connection with the sale, mortgage,
592 lease, sublease, or other transfer of a unit unless the
593 association is required to approve such transfer and a fee for
594 such approval is provided for in the declaration, articles, or
595 bylaws. Except for the actual costs of any background check or
596 screening performed by the association, any such fee may be
597 preset, but may not in no event may such fee exceed \$100 per
598 applicant other than a husband and wife or parent and dependent
599 child ~~husband/wife or parent/dependent child~~, which are
600 considered one applicant. However, if the lease or sublease is a
601 renewal of a lease or sublease with the same lessee or
602 sublessee, a charge may not ~~no charge shall~~ be made. The
603 foregoing notwithstanding, an association may, if the authority
604 to do so appears in the declaration, articles, or bylaws,
605 require that a prospective lessee place a security deposit, in
606 an amount not to exceed the equivalent of 1 month's rent, into
607 an escrow account maintained by the association. The security
608 deposit shall protect against damages to the common elements or
609 association property. Payment of interest, claims against the
610 deposit, refunds, and disputes under this paragraph shall be
611 handled in the same fashion as provided in part II of chapter
612 83.

613 (j) *Recall of board members.*—Subject to s. 718.301, any
614 member of the board of administration may be recalled and
615 removed from office with or without cause by the vote or
616 agreement in writing by a majority of all the voting interests.
617 A special meeting of the unit owners to recall a member or
618 members of the board of administration may be called by 10
619 percent of the voting interests giving notice of the meeting as



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620 required for a meeting of unit owners, and the notice shall
621 state the purpose of the meeting. Electronic transmission may
622 not be used as a method of giving notice of a meeting called in
623 whole or in part for this purpose.

624 1. If the recall is approved by a majority of all voting
625 interests by a vote at a meeting, the recall will be effective
626 as provided in this paragraph. The board shall duly notice and
627 hold a board meeting within 5 full business days after the
628 adjournment of the unit owner meeting to recall one or more
629 board members. Such member or members shall be recalled
630 effective immediately upon conclusion of the board meeting,
631 provided that the recall is facially valid. A recalled member
632 must turn over to the board, within 10 full business days after
633 the vote, any and all records and property of the association in
634 his or her ~~their~~ possession.

635 2. If the proposed recall is by an agreement in writing by
636 a majority of all voting interests, the agreement in writing or
637 a copy thereof shall be served on the association by certified
638 mail or by personal service in the manner authorized by chapter
639 48 and the Florida Rules of Civil Procedure. The board of
640 administration shall duly notice and hold a meeting of the board
641 within 5 full business days after receipt of the agreement in
642 writing. Such member or members shall be recalled effective
643 immediately upon the conclusion of the board meeting, provided
644 that the recall is facially valid. A recalled member must turn
645 over to the board, within 10 full business days, any and all
646 records and property of the association in his or her ~~their~~
647 possession.

648 3. If the board fails to duly notice and hold a board



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649 meeting within 5 full business days after service of an
650 agreement in writing or within 5 full business days after the
651 adjournment of the unit owner recall meeting, the recall is
652 ~~shall be deemed~~ effective and the board members so recalled
653 shall turn over to the board within 10 full business days after
654 the vote any and all records and property of the association.

655 4. If the board fails to duly notice and hold the required
656 meeting or at the conclusion of the meeting determines that the
657 recall is not facially valid, the unit owner representative may
658 file a petition pursuant to s. 718.1255 challenging the board's
659 failure to act or challenging the board's determination on
660 facial validity. The petition must be filed within 60 days after
661 the expiration of the applicable 5-full-business-day period. The
662 review of a petition under this subparagraph is limited to the
663 sufficiency of service on the board and the facial validity of
664 the written agreement or ballots filed.

665 5. If a vacancy occurs on the board as a result of a recall
666 or removal and less than a majority of the board members are
667 removed, the vacancy may be filled by the affirmative vote of a
668 majority of the remaining directors, notwithstanding any
669 provision to the contrary contained in this subsection. If
670 vacancies occur on the board as a result of a recall and a
671 majority or more of the board members are removed, the vacancies
672 shall be filled in accordance with the bylaws ~~procedural rules~~
673 ~~to be adopted by the division, which rules need not be~~
674 ~~consistent with this subsection. The rules must provide~~
675 ~~procedures governing the conduct of the recall election as well~~
676 ~~as the operation of the association during the period after a~~
677 ~~recall but before the recall election.~~



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678 6. A board member who has been recalled may file a petition
679 pursuant to s. 718.1255 challenging the validity of the recall.
680 The petition must be filed within 60 days after the recall. The
681 association and the unit owner representative shall be named as
682 the respondents. The petition may challenge the facial validity
683 of the written agreement or ballots filed or the substantial
684 compliance with the procedural requirements for the recall. If
685 the arbitrator determines the recall was invalid, the
686 petitioning board member shall immediately be reinstated and the
687 recall is null and void. A board member who is successful in
688 challenging a recall is entitled to recover reasonable attorney
689 fees and costs from the respondents. The arbitrator may award
690 reasonable attorney fees and costs to the respondents if they
691 prevail, if the arbitrator makes a finding that the petitioner's
692 claim is frivolous.

693 7. The division may not accept for filing a recall
694 petition, whether filed pursuant to subparagraph 1.,
695 subparagraph 2., subparagraph 4., or subparagraph 6., when there
696 are 60 or fewer days until the scheduled reelection of the board
697 member sought to be recalled or when 60 or fewer days have
698 elapsed since the election of the board member sought to be
699 recalled.

700 ~~(p) Service providers; conflicts of interest. An~~
701 ~~association, which is not a timeshare condominium association,~~
702 ~~may not employ or contract with any service provider that is~~
703 ~~owned or operated by a board member or with any person who has a~~
704 ~~financial relationship with a board member or officer, or a~~
705 ~~relative within the third degree of consanguinity by blood or~~
706 ~~marriage of a board member or officer. This paragraph does not~~



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707 ~~apply to a service provider in which a board member or officer,~~
708 ~~or a relative within the third degree of consanguinity by blood~~
709 ~~or marriage of a board member or officer, owns less than 1~~
710 ~~percent of the equity shares.~~

711 Section 5. Paragraphs (a) and (c) of subsection (8) of
712 section 718.113, Florida Statutes, are amended to read:

713 718.113 Maintenance; limitation upon improvement; display
714 of flag; hurricane shutters and protection; display of religious
715 decorations.—

716 (8) The Legislature finds that the use of electric vehicles
717 conserves and protects the state's environmental resources,
718 provides significant economic savings to drivers, and serves an
719 important public interest. The participation of condominium
720 associations is essential to the state's efforts to conserve and
721 protect the state's environmental resources and provide economic
722 savings to drivers. Therefore, the installation of an electric
723 vehicle charging station shall be governed as follows:

724 (a) A declaration of condominium or restrictive covenant
725 may not prohibit or be enforced so as to prohibit any unit owner
726 from installing an electric vehicle charging station within the
727 boundaries of the unit owner's limited common element or
728 exclusively designated parking area. The board of administration
729 of a condominium association may not prohibit a unit owner from
730 installing an electric vehicle charging station for an electric
731 vehicle, as defined in s. 320.01, within the boundaries of his
732 or her limited common element or exclusively designated parking
733 area. The installation of such charging stations are subject to
734 the provisions of this subsection.

735 (c) The electricity for the electric vehicle charging



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736 station must be separately metered or must use an embedded meter
737 and be payable by the unit owner installing such charging
738 station.

739 Section 6. Subsection (1) of section 718.1255, Florida
740 Statutes, is amended to read:

741 718.1255 Alternative dispute resolution; voluntary
742 mediation; mandatory nonbinding arbitration; legislative
743 findings.—

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

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

749 1. Require any owner to take any action, or not to take any
750 action, involving that owner’s unit or the appurtenances
751 thereto.

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

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

755 1. Properly conduct elections.

756 2. Maintain common elements, association property, or
757 portions of the unit for which the association is responsible.

758 ~~3.2.~~ Give adequate notice of meetings or other actions.

759 ~~4.3.~~ Properly conduct meetings of the board and committees
760 appointed by the board and membership meetings.

761 ~~5.4.~~ Allow inspection of books and records.

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

763

764 “Dispute” does not include any disagreement that primarily



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765 involves: title to any unit or common element; the
766 interpretation or enforcement of any warranty; the levy of a fee
767 or assessment, or the collection of an assessment levied against
768 a party; the eviction or other removal of a tenant from a unit;
769 alleged breaches of fiduciary duty by one or more directors; or
770 claims for damages to a unit based upon the alleged failure of
771 the association to maintain the common elements or condominium
772 property.

773 Section 7. Subsection (1) and paragraph (b) of subsection
774 (3) of section 718.303, Florida Statutes, are amended to read:

775 718.303 Obligations of owners and occupants; remedies.—

776 (1) Each unit owner, ~~each~~ tenant and other invitee, and
777 ~~each~~ association is governed by, and must comply with the
778 provisions of, this chapter, the declaration, the documents
779 creating the association, and the association bylaws which are
780 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
781 Actions at law or in equity ~~for damages or for injunctive~~
782 ~~relief~~, or both, for failure to comply with these provisions may
783 be brought by the association or by a unit owner against:

784 (a) The association.

785 (b) A unit owner.

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

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

791 (e) Any tenant leasing a unit, and any other invitee
792 occupying a unit.

793



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794 The prevailing party in any such action or in any action in
795 which the purchaser claims a right of voidability based upon
796 contractual provisions as required in s. 718.503(1)(a) is
797 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
798 owner prevailing in an action between the association and the
799 unit owner under this subsection ~~section~~, in addition to
800 recovering his or her reasonable attorney ~~attorney's~~ fees, may
801 recover additional amounts as determined by the court to be
802 necessary to reimburse the unit owner for his or her share of
803 assessments levied by the association to fund its expenses of
804 the litigation. This relief does not exclude other remedies
805 provided by law. Actions arising under this subsection are not
806 considered ~~may not be deemed to be~~ actions for specific
807 performance.

808 (3) The association may levy reasonable fines for the
809 failure of the owner of the unit or its occupant, licensee, or
810 invitee to comply with any provision of the declaration, the
811 association bylaws, or reasonable rules of the association. A
812 fine may not become a lien against a unit. A fine may be levied
813 by the board on the basis of each day of a continuing violation,
814 with a single notice and opportunity for hearing before a
815 committee as provided in paragraph (b). However, the fine may
816 not exceed \$100 per violation, or \$1,000 in the aggregate.

817 (b) A fine or suspension levied by the board of
818 administration may not be imposed unless the board first
819 provides at least 14 days' written notice to the unit owner and,
820 if applicable, any occupant, licensee, or invitee of the unit
821 owner sought to be fined or suspended, and an opportunity for a
822 hearing before a committee of at least three members appointed



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823 by the board who are not officers, directors, or employees of
824 the association, or the spouse, parent, child, brother, or
825 sister of an officer, director, or employee. The role of the
826 committee is limited to determining whether to confirm or reject
827 the fine or suspension levied by the board. If the committee
828 does not approve the proposed fine or suspension by majority
829 vote, the fine or suspension may not be imposed. If the proposed
830 fine or suspension is approved by the committee, the fine
831 payment is due 5 days after notice of the approved fine is
832 provided to the unit owner and, if applicable, to any tenant,
833 licensee, or invitee of the unit owner ~~the date of the committee~~
834 ~~meeting at which the fine is approved.~~ The association must
835 provide written notice of such fine or suspension by mail or
836 hand delivery to the unit owner and, if applicable, to any
837 tenant, licensee, or invitee of the unit owner.

838 Section 8. Section 718.5014, Florida Statutes, is amended
839 to read:

840 718.5014 Ombudsman location.—The ombudsman shall maintain
841 his or her principal office in any Leon County on the premises
842 ~~of the division or, if suitable space cannot be provided there,~~
843 ~~at another~~ place convenient to the offices of the division which
844 will enable the ombudsman to expeditiously carry out the duties
845 and functions of his or her office. The ombudsman may establish
846 branch offices elsewhere in the state upon the concurrence of
847 the Governor.

848 Section 9. Subsection (25) of section 719.103, Florida
849 Statutes, is amended to read:

850 719.103 Definitions.—As used in this chapter:

851 (25) "Unit" means a part of the cooperative property which



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852 is subject to exclusive use and possession. A unit may be
853 improvements, land, or land and improvements together, as
854 specified in the cooperative documents. An interest in a unit is
855 an interest in real property.

856 Section 10. Paragraph (c) of subsection (2) of section
857 719.104, Florida Statutes, is amended to read:

858 719.104 Cooperatives; access to units; records; financial
859 reports; assessments; purchase of leases.—

860 (2) OFFICIAL RECORDS.—

861 (c) The official records of the association are open to
862 inspection by any association member or the authorized
863 representative of such member at all reasonable times. The right
864 to inspect the records includes the right to make or obtain
865 copies, at the reasonable expense, if any, of the association
866 member. The association may adopt reasonable rules regarding the
867 frequency, time, location, notice, and manner of record
868 inspections and copying, but may not require a member to
869 demonstrate any purpose or state any reason for the inspection.

870 The failure of an association to provide the records within 10
871 working days after receipt of a written request creates a
872 rebuttable presumption that the association willfully failed to
873 comply with this paragraph. A member ~~unit owner~~ who is denied
874 access to official records is entitled to the actual damages or
875 minimum damages for the association's willful failure to comply.
876 The minimum damages are \$50 per calendar day for up to 10 days,
877 beginning on the 11th working day after receipt of the written
878 request. The failure to permit inspection entitles any person
879 prevailing in an enforcement action to recover reasonable
880 attorney fees from the person in control of the records who,



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881 directly or indirectly, knowingly denied access to the records.
882 Any person who knowingly or intentionally defaces or destroys
883 accounting records that are required by this chapter to be
884 maintained during the period for which such records are required
885 to be maintained, or who knowingly or intentionally fails to
886 create or maintain accounting records that are required to be
887 created or maintained, with the intent of causing harm to the
888 association or one or more of its members, is personally subject
889 to a civil penalty pursuant to s. 719.501(1)(d). The association
890 shall maintain an adequate number of copies of the declaration,
891 articles of incorporation, bylaws, and rules, and all amendments
892 to each of the foregoing, as well as the question and answer
893 sheet as described in s. 719.504 and year-end financial
894 information required by the department, on the cooperative
895 property to ensure their availability to members ~~unit owners~~ and
896 prospective purchasers, and may charge its actual costs for
897 preparing and furnishing these documents to those requesting the
898 same. An association shall allow a member or his or her
899 authorized representative to use a portable device, including a
900 smartphone, tablet, portable scanner, or any other technology
901 capable of scanning or taking photographs, to make an electronic
902 copy of the official records in lieu of the association
903 providing the member or his or her authorized representative
904 with a copy of such records. The association may not charge a
905 member or his or her authorized representative for the use of a
906 portable device. Notwithstanding this paragraph, the following
907 records shall not be accessible to members ~~unit owners~~:

908 1. Any record protected by the lawyer-client privilege as
909 described in s. 90.502 and any record protected by the work-



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910 product privilege, including any record prepared by an
911 association attorney or prepared at the attorney's express
912 direction which reflects a mental impression, conclusion,
913 litigation strategy, or legal theory of the attorney or the
914 association, and which was prepared exclusively for civil or
915 criminal litigation or for adversarial administrative
916 proceedings, or which was prepared in anticipation of such
917 litigation or proceedings until the conclusion of the litigation
918 or proceedings.

919 2. Information obtained by an association in connection
920 with the approval of the lease, sale, or other transfer of a
921 unit.

922 3. Personnel records of association or management company
923 employees, including, but not limited to, disciplinary, payroll,
924 health, and insurance records. For purposes of this
925 subparagraph, the term "personnel records" does not include
926 written employment agreements with an association employee or
927 management company, or budgetary or financial records that
928 indicate the compensation paid to an association employee.

929 4. Medical records of unit owners.

930 5. Social security numbers, driver license numbers, credit
931 card numbers, e-mail addresses, telephone numbers, facsimile
932 numbers, emergency contact information, addresses of a unit
933 owner other than as provided to fulfill the association's notice
934 requirements, and other personal identifying information of any
935 person, excluding the person's name, unit designation, mailing
936 address, property address, and any address, e-mail address, or
937 facsimile number provided to the association to fulfill the
938 association's notice requirements. Notwithstanding the



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939 restrictions in this subparagraph, an association may print and
940 distribute to unit ~~parcel~~ owners a directory containing the
941 name, unit ~~parcel~~ address, and all telephone numbers of each
942 unit ~~parcel~~ owner. However, an owner may exclude his or her
943 telephone numbers from the directory by so requesting in writing
944 to the association. An owner may consent in writing to the
945 disclosure of other contact information described in this
946 subparagraph. The association is not liable for the inadvertent
947 disclosure of information that is protected under this
948 subparagraph if the information is included in an official
949 record of the association and is voluntarily provided by an
950 owner and not requested by the association.

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

953 7. The software and operating system used by the
954 association which allow the manipulation of data, even if the
955 owner owns a copy of the same software used by the association.
956 The data is part of the official records of the association.

957 Section 11. Paragraphs (b) and (f) of subsection (1) of
958 section 719.106, Florida Statutes, are amended to read:

959 719.106 Bylaws; cooperative ownership.—

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

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

964 1. Unless otherwise provided in the bylaws, the percentage
965 of voting interests required to constitute a quorum at a meeting
966 of the members shall be a majority of voting interests, and
967 decisions shall be made by owners of a majority of the voting



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968 interests. Unless otherwise provided in this chapter, or in the
969 articles of incorporation, bylaws, or other cooperative
970 documents, and except as provided in subparagraph (d)1.,
971 decisions shall be made by owners of a majority of the voting
972 interests represented at a meeting at which a quorum is present.

973 2. Except as specifically otherwise provided herein, after
974 January 1, 1992, unit owners may not vote by general proxy, but
975 may vote by limited proxies substantially conforming to a
976 limited proxy form adopted by the division. Limited proxies and
977 general proxies may be used to establish a quorum. Limited
978 proxies shall be used for votes taken to waive or reduce
979 reserves in accordance with subparagraph (j)2., for votes taken
980 to waive the financial reporting requirements of s.
981 719.104(4)(b), for votes taken to amend the articles of
982 incorporation or bylaws pursuant to this section, and for any
983 other matter for which this chapter requires or permits a vote
984 of the unit owners. Except as provided in paragraph (d), after
985 January 1, 1992, no proxy, limited or general, shall be used in
986 the election of board members. General proxies may be used for
987 other matters for which limited proxies are not required, and
988 may also be used in voting for nonsubstantive changes to items
989 for which a limited proxy is required and given. Notwithstanding
990 the provisions of this section, unit owners may vote in person
991 at unit owner meetings. Nothing contained herein shall limit the
992 use of general proxies or require the use of limited proxies or
993 require the use of limited proxies for any agenda item or
994 election at any meeting of a timeshare cooperative.

995 3. Any proxy given shall be effective only for the specific
996 meeting for which originally given and any lawfully adjourned



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997 meetings thereof. In no event shall any proxy be valid for a
998 period longer than 90 days after the date of the first meeting
999 for which it was given. Every proxy shall be revocable at any
1000 time at the pleasure of the unit owner executing it.

1001 4. A member of the board of administration or a committee
1002 may submit in writing his or her agreement or disagreement with
1003 any action taken at a meeting that the member did not attend.
1004 This agreement or disagreement may not be used as a vote for or
1005 against the action taken and may not be used for the purposes of
1006 creating a quorum.

1007 5. A board or committee member's participation in a meeting
1008 via telephone, real-time video conferencing, or similar real-
1009 time electronic or video communication counts toward a quorum,
1010 and such member may vote as if physically present ~~When some or~~
1011 ~~all of the board or committee members meet by telephone~~
1012 ~~conference, those board or committee members attending by~~
1013 ~~telephone conference may be counted toward obtaining a quorum~~
1014 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1015 used ~~utilized~~ so that the conversation of such ~~those board or~~
1016 ~~committee members attending by telephone~~ may be heard by the
1017 board or committee members attending in person, as well as by
1018 any unit owners present at a meeting.

1019 (f) *Recall of board members.*—Subject to s. 719.301, any
1020 member of the board of administration may be recalled and
1021 removed from office with or without cause by the vote or
1022 agreement in writing by a majority of all the voting interests.
1023 A special meeting of the voting interests to recall any member
1024 of the board of administration may be called by 10 percent of
1025 the unit owners giving notice of the meeting as required for a



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1026 meeting of unit owners, and the notice shall state the purpose
1027 of the meeting. Electronic transmission may not be used as a
1028 method of giving notice of a meeting called in whole or in part
1029 for this purpose.

1030 1. If the recall is approved by a majority of all voting
1031 interests by a vote at a meeting, the recall shall be effective
1032 as provided in this paragraph. The board shall duly notice and
1033 hold a board meeting within 5 full business days after the
1034 adjournment of the unit owner meeting to recall one or more
1035 board members. At the meeting, the board shall either certify
1036 the recall, in which case such member or members shall be
1037 recalled effective immediately and shall turn over to the board
1038 within 5 full business days any and all records and property of
1039 the association in their possession, or shall proceed as set
1040 forth in subparagraph 4. ~~subparagraph 3.~~

1041 2. If the proposed recall is by an agreement in writing by
1042 a majority of all voting interests, the agreement in writing or
1043 a copy thereof shall be served on the association by certified
1044 mail or by personal service in the manner authorized by chapter
1045 48 and the Florida Rules of Civil Procedure. The board of
1046 administration shall duly notice and hold a meeting of the board
1047 within 5 full business days after receipt of the agreement in
1048 writing. Such member or members shall be recalled effective
1049 immediately upon the conclusion of the board meeting, provided
1050 that the recall is facially valid. A recalled member shall turn
1051 over to the board within 10 full business days after the date of
1052 the recall any and all records and property of the association
1053 in his or her possession ~~At the meeting, the board shall either~~
1054 ~~certify the written agreement to recall members of the board, in~~



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1055 ~~which case such members shall be recalled effective immediately~~
1056 ~~and shall turn over to the board, within 5 full business days,~~
1057 ~~any and all records and property of the association in their~~
1058 ~~possession, or proceed as described in subparagraph 3.~~

1059 ~~3. If the board determines not to certify the written~~
1060 ~~agreement to recall members of the board, or does not certify~~
1061 ~~the recall by a vote at a meeting, the board shall, within 5~~
1062 ~~full business days after the board meeting, file with the~~
1063 ~~division a petition for binding arbitration pursuant to the~~
1064 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~
1065 ~~unit owners who voted at the meeting or who executed the~~
1066 ~~agreement in writing shall constitute one party under the~~
1067 ~~petition for arbitration. If the arbitrator certifies the recall~~
1068 ~~as to any member of the board, the recall shall be effective~~
1069 ~~upon mailing of the final order of arbitration to the~~
1070 ~~association. If the association fails to comply with the order~~
1071 ~~of the arbitrator, the division may take action pursuant to s.~~
1072 ~~719.501. Any member so recalled shall deliver to the board any~~
1073 ~~and all records and property of the association in the member's~~
1074 ~~possession within 5 full business days after the effective date~~
1075 ~~of the recall.~~

1076 ~~3.4.~~ If the board fails to duly notice and hold a board
1077 meeting within 5 full business days after service of an
1078 agreement in writing or within 5 full business days after the
1079 adjournment of the unit owner recall meeting, the recall is
1080 ~~shall be deemed~~ effective and the board members so recalled
1081 shall immediately turn over to the board any and all records and
1082 property of the association.

1083 ~~4.5.~~ If the board fails to duly notice and hold the



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1084 required meeting or fails to file the required petition, the
1085 unit owner representative may file a petition pursuant to s.
1086 719.1255 challenging the board's failure to act. The petition
1087 must be filed within 60 days after the expiration of the
1088 applicable 5-full-business-day period. The review of a petition
1089 under this subparagraph is limited to the sufficiency of service
1090 on the board and the facial validity of the written agreement or
1091 ballots filed.

1092 ~~5.6.~~ If a vacancy occurs on the board as a result of a
1093 recall and less than a majority of the board members are
1094 removed, the vacancy may be filled by the affirmative vote of a
1095 majority of the remaining directors, notwithstanding any
1096 provision to the contrary contained in this subsection ~~chapter~~.
1097 If vacancies occur on the board as a result of a recall and a
1098 majority or more of the board members are removed, the vacancies
1099 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~
1100 ~~rules to be adopted by the division, which rules need not be~~
1101 ~~consistent with this chapter. The rules must provide procedures~~
1102 ~~governing the conduct of the recall election as well as the~~
1103 ~~operation of the association during the period after a recall~~
1104 ~~but before the recall election.~~

1105 ~~6.7.~~ A board member who has been recalled may file a
1106 petition pursuant to s. 719.1255 challenging the validity of the
1107 recall. The petition must be filed within 60 days after the
1108 recall is deemed certified. The association and the unit owner
1109 representative shall be named as the respondents.

1110 ~~7.8.~~ The division may not accept for filing a recall
1111 petition, whether filed pursuant to subparagraph 1.,
1112 subparagraph 2., subparagraph 4., or subparagraph 6.



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1113 ~~subparagraph 5., or subparagraph 7.~~ and regardless of whether
1114 the recall was certified, when there are 60 or fewer days until
1115 the scheduled reelection of the board member sought to be
1116 recalled or when 60 or fewer days have not elapsed since the
1117 election of the board member sought to be recalled.

1118 Section 12. Paragraph (c) of subsection (2) and paragraph
1119 (1) of subsection (4) of section 720.303, Florida Statutes, are
1120 amended, and paragraph (m) is added to subsection (4) of that
1121 section, to read:

1122 720.303 Association powers and duties; meetings of board;
1123 official records; budgets; financial reporting; association
1124 funds; recalls.—

1125 (2) BOARD MEETINGS.—

1126 (c) The bylaws shall provide the following for giving
1127 notice to parcel owners and members of all board meetings and,
1128 if they do not do so, shall be deemed to include the following:

1129 1. Notices of all board meetings must be posted in a
1130 conspicuous place in the community at least 48 hours in advance
1131 of a meeting, except in an emergency. In the alternative, if
1132 notice is not posted in a conspicuous place in the community,
1133 notice of each board meeting must be mailed or delivered to each
1134 member at least 7 days before the meeting, except in an
1135 emergency. Notwithstanding this general notice requirement, for
1136 communities with more than 100 members, the association bylaws
1137 may provide for a reasonable alternative to posting or mailing
1138 of notice for each board meeting, including publication of
1139 notice, provision of a schedule of board meetings, or the
1140 conspicuous posting and repeated broadcasting of the notice on a
1141 closed-circuit cable television system serving the homeowners'



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1142 association. However, if broadcast notice is used in lieu of a
1143 notice posted physically in the community, the notice must be
1144 broadcast at least four times every broadcast hour of each day
1145 that a posted notice is otherwise required. When broadcast
1146 notice is provided, the notice and agenda must be broadcast in a
1147 manner and for a sufficient continuous length of time so as to
1148 allow an average reader to observe the notice and read and
1149 comprehend the entire content of the notice and the agenda. In
1150 addition to any of the authorized means of providing notice of a
1151 meeting of the board, the association may, by rule, adopt a
1152 procedure for conspicuously posting the meeting notice and the
1153 agenda on a website serving the association for at least the
1154 minimum period of time for which a notice of a meeting is also
1155 required to be physically posted on the association property.
1156 Any rule adopted shall, in addition to other matters, include a
1157 requirement that the association send an electronic notice in
1158 the same manner as is required for a notice for a meeting of the
1159 members, which must include a hyperlink to the website where the
1160 notice is posted, to members whose e-mail addresses are included
1161 in the association's official records. The association may
1162 provide notice by electronic transmission in a manner authorized
1163 by law for meetings of the board of directors, committee
1164 meetings requiring notice under this section, and annual and
1165 special meetings of the members to any member who has provided a
1166 facsimile number or e-mail address to the association to be used
1167 for such purposes; however, a member must consent in writing to
1168 receiving notice by electronic transmission.

1169 2. An assessment may not be levied at a board meeting
1170 unless the notice of the meeting includes a statement that



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1171 assessments will be considered and the nature of the
1172 assessments. Written notice of any meeting at which special
1173 assessments will be considered or at which amendments to rules
1174 regarding parcel use will be considered must be mailed,
1175 delivered, or electronically transmitted to the members and
1176 parcel owners and posted conspicuously on the property or
1177 broadcast on closed-circuit cable television not less than 14
1178 days before the meeting.

1179 3. Directors may not vote by proxy or by secret ballot at
1180 board meetings, except that secret ballots may be used in the
1181 election of officers. This subsection also applies to the
1182 meetings of any committee or other similar body, when a final
1183 decision will be made regarding the expenditure of association
1184 funds, and to any body vested with the power to approve or
1185 disapprove architectural decisions with respect to a specific
1186 parcel of residential property owned by a member of the
1187 community.

1188 (4) OFFICIAL RECORDS.—The association shall maintain each
1189 of the following items, when applicable, which constitute the
1190 official records of the association:

1191 (1) Ballots, sign-in sheets, voting proxies, and all other
1192 papers and electronic records relating to voting by parcel
1193 owners, which shall be maintained for at least 1 year after the
1194 date of the election, vote, or meeting to which the document
1195 relates.

1196 (m) All other ~~written~~ records of the association not
1197 specifically included in paragraphs (a) through (l) the
1198 ~~foregoing~~ which are related to the operation of the association.

1199 Section 13. Subsections (1) and (2) of section 720.305,



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1200 Florida Statutes, are amended to read:

1201 720.305 Obligations of members; remedies at law or in
1202 equity; levy of fines and suspension of use rights.—

1203 (1) Each member and the member's tenants, guests, and
1204 invitees, and each association, are governed by, and must comply
1205 with, this chapter and~~7~~ the governing documents of the
1206 community, ~~and the rules of the association.~~ Actions at law or
1207 in equity, or both, to redress alleged failure or refusal to
1208 comply with these provisions may be brought by the association
1209 or by any member against:

1210 (a) The association;

1211 (b) A member;

1212 (c) Any director or officer of an association who willfully
1213 and knowingly fails to comply with these provisions; and

1214 (d) Any tenants, guests, or invitees occupying a parcel or
1215 using the common areas.

1216

1217 The prevailing party in any such litigation is entitled to
1218 recover reasonable attorney fees and costs. A member prevailing
1219 in an action between the association and the member under this
1220 section, in addition to recovering his or her reasonable
1221 attorney fees, may recover additional amounts as determined by
1222 the court to be necessary to reimburse the member for his or her
1223 share of assessments levied by the association to fund its
1224 expenses of the litigation. This relief does not exclude other
1225 remedies provided by law. This section does not deprive any
1226 person of any other available right or remedy.

1227 (2) An ~~The~~ association may levy reasonable fines. A fine
1228 may not exceed \$100 per violation against any member or any



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1229 member's tenant, guest, or invitee for the failure of the owner
1230 of the parcel or its occupant, licensee, or invitee to comply
1231 with any provision of the governing documents ~~declaration, the~~
1232 ~~association bylaws, or reasonable rules of the association~~
1233 unless otherwise provided in the governing documents. A fine may
1234 be levied by the board for each day of a continuing violation,
1235 with a single notice and opportunity for hearing, except that
1236 the fine may not exceed \$1,000 in the aggregate unless otherwise
1237 provided in the governing documents. A fine of less than \$1,000
1238 may not become a lien against a parcel. In any action to recover
1239 a fine, the prevailing party is entitled to reasonable attorney
1240 fees and costs from the nonprevailing party as determined by the
1241 court.

1242 (a) An association may suspend, for a reasonable period of
1243 time, the right of a member, or a member's tenant, guest, or
1244 invitee, to use common areas and facilities for the failure of
1245 the owner of the parcel or its occupant, licensee, or invitee to
1246 comply with any provision of the declaration, the association
1247 bylaws, or reasonable rules of the association. This paragraph
1248 does not apply to that portion of common areas used to provide
1249 access or utility services to the parcel. A suspension may not
1250 prohibit an owner or tenant of a parcel from having vehicular
1251 and pedestrian ingress to and egress from the parcel, including,
1252 but not limited to, the right to park.

1253 (b) A fine or suspension levied by the board of
1254 administration may not be imposed unless the board first
1255 provides at least 14 days' notice to the parcel owner and, if
1256 applicable, any occupant, licensee, or invitee of the parcel
1257 owner, sought to be fined or suspended and an opportunity for a



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1258 hearing before a committee of at least three members appointed
1259 by the board who are not officers, directors, or employees of
1260 the association, or the spouse, parent, child, brother, or
1261 sister of an officer, director, or employee. If the committee,
1262 by majority vote, does not approve a proposed fine or
1263 suspension, the proposed fine or suspension may not be imposed.
1264 The role of the committee is limited to determining whether to
1265 confirm or reject the fine or suspension levied by the board. If
1266 the proposed fine or suspension levied by the board is approved
1267 by the committee, the fine payment is due 5 days after notice of
1268 the approved fine is provided to the parcel owner and, if
1269 applicable, to any occupant, licensee, or invitee of the parcel
1270 owner ~~the date of the committee meeting at which the fine is~~
1271 ~~approved~~. The association must provide written notice of such
1272 fine or suspension by mail or hand delivery to the parcel owner
1273 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
1274 of the parcel owner.

1275 Section 14. Paragraph (g) of subsection (1) of section
1276 720.306, Florida Statutes, is amended to read:

1277 720.306 Meetings of members; voting and election
1278 procedures; amendments.—

1279 (1) QUORUM; AMENDMENTS.—

1280 (g) A notice required under this section must be mailed or
1281 delivered to the address identified as the parcel owner's
1282 mailing address in the official records of the association as
1283 required under s. 720.303(4) ~~on the property appraiser's website~~
1284 ~~for the county in which the parcel is located~~, or electronically
1285 transmitted in a manner authorized by the association if the
1286 parcel owner has consented, in writing, to receive notice by



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1287 electronic transmission.

1288 Section 15. Subsections (1) and (2) of section 720.311,
1289 Florida Statutes, are redesignated as subsections (2) and (3),
1290 respectively, a new subsection (1) is added to that section, and
1291 present subsection (2) is amended, to read:

1292 720.311 Dispute resolution.—

1293 (1) (a) As used in this section, the term "dispute" means
1294 any disagreement between two or more parties which involves:

1295 1. The authority of the board of directors, under this
1296 chapter or an association document, to:

1297 a. Require any owner to take any action, or not to take any
1298 action, involving that owner's parcel.

1299 b. Alter or add to a common area.

1300 2. The failure of a governing body, when required by this
1301 chapter or an association document, to:

1302 a. Properly enforce the governing documents.

1303 b. Provide adequate notice of meetings or other actions.

1304 c. Properly conduct meetings of the board and committees

1305 appointed by the board and membership meetings. This sub-

1306 subparagraph does not apply to elections held at a meeting.

1307 d. To maintain a common area.

1308 (b) The term "dispute" does not include any disagreement
1309 that primarily involves:

1310 1. Title to any parcel or common area;

1311 2. The interpretation or enforcement of any warranty;

1312 3. The levy of a fee or assessment or the collection of an
1313 assessment levied against a party;

1314 4. The eviction or removal of an occupant, licensee, or
1315 invitee from a parcel;



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1316 5. An alleged breach of fiduciary duty by one or more
1317 directors; or

1318 6. Claims for damages to a parcel based upon the alleged
1319 failure of the association to maintain the common areas or
1320 association property.

1321 (3) (a) 1. ~~(2) (a)~~ Disputes between an association and a parcel
1322 owner regarding use of or changes to the parcel or the common
1323 areas and other covenant enforcement disputes, disputes
1324 regarding amendments to the association documents, disputes
1325 regarding meetings of the board and committees appointed by the
1326 board, membership meetings not including election meetings, and
1327 access to the official records of the association shall be the
1328 subject of a demand for presuit mediation served by an aggrieved
1329 party before the dispute is filed in court. Presuit mediation
1330 proceedings must be conducted in accordance with the applicable
1331 rules of the Florida Rules of Civil Procedure and chapter 44,
1332 and these proceedings are privileged and confidential to the
1333 same extent as court-ordered mediation. Disputes subject to
1334 presuit mediation under this section may ~~shall~~ not include the
1335 collection of any assessment, fine, or other financial
1336 obligation, including attorney ~~attorney's~~ fees and costs,
1337 claimed to be due or any action to enforce a prior mediation
1338 settlement agreement between the parties. ~~Also,~~ In any dispute
1339 subject to presuit mediation under this section where
1340 preliminary injunctive ~~emergency~~ relief is required, a motion
1341 for temporary injunctive relief may be filed with the court
1342 without first complying with the presuit mediation requirements
1343 of this section. After any issues regarding preliminary
1344 injunctive ~~emergency or temporary~~ relief are resolved, the court



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1345 may ~~either~~ refer the parties to a mediation program administered
1346 by the courts or require mediation under this section. An
1347 arbitrator or judge may not consider any information or evidence
1348 arising from the presuit mediation proceeding except in a
1349 proceeding to impose sanctions for failure to attend a presuit
1350 mediation session or to enforce a mediated settlement agreement.
1351 Persons who are not parties to the dispute may not attend the
1352 presuit mediation conference without the consent of all parties,
1353 except for counsel for the parties, and a corporate
1354 representative designated by the association, and a
1355 representative from the association's insurance carrier, if
1356 applicable. When mediation is attended by a quorum of the board,
1357 such mediation is not a board meeting for purposes of notice and
1358 participation set forth in s. 720.303. An aggrieved party shall
1359 serve on the responding party a written demand to participate in
1360 presuit mediation in substantially the following form:

1361
1362 STATUTORY OFFER TO PARTICIPATE
1363 IN PRESUIT MEDIATION
1364

1365 The alleged aggrieved party,, hereby
1366 demands that, as the responding
1367 party, engage in mandatory presuit mediation in
1368 connection with the following disputes, which by
1369 statute are of a type that are subject to presuit
1370 mediation:

1371
1372 (List specific nature of the dispute or disputes to be
1373 mediated and the authority supporting a finding of a



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1374 violation as to each dispute.)

1375

1376 Pursuant to section 720.311, Florida Statutes, this
1377 demand to resolve the dispute through presuit
1378 mediation is required before a lawsuit can be filed
1379 concerning the dispute. Pursuant to the statute, the
1380 parties are required to engage in presuit mediation
1381 with a neutral third-party mediator in order to
1382 attempt to resolve this dispute without court action,
1383 and the aggrieved party demands that you likewise
1384 agree to this process. If you fail to participate in
1385 the mediation process, suit may be brought against you
1386 without further warning.

1387

1388 The process of mediation involves a supervised
1389 negotiation process in which a trained, neutral third-
1390 party mediator meets with both parties and assists
1391 them in exploring possible opportunities for resolving
1392 part or all of the dispute. By agreeing to participate
1393 in presuit mediation, you are not bound in any way to
1394 change your position. Furthermore, the mediator has no
1395 authority to make any decisions in this matter or to
1396 determine who is right or wrong and merely acts as a
1397 facilitator to ensure that each party understands the
1398 position of the other party and that all options for
1399 reasonable settlement are fully explored.

1400

1401 If an agreement is reached, it must ~~shall~~ be reduced
1402 to writing and signed, at which time the agreement



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1403 becomes a binding and enforceable contract between
1404 ~~commitment~~ of the parties. A resolution of one or more
1405 disputes in this fashion avoids the need to litigate
1406 those ~~these~~ issues in court. The failure ~~to reach an~~
1407 ~~agreement, or the failure~~ of a party to participate in
1408 the process or the failure of the parties to reach an
1409 agreement during the mediation process, results in the
1410 aggrieved party being able to ~~mediator declaring an~~
1411 ~~impasse in the mediation, after which the aggrieved~~
1412 ~~party may~~ proceed to court on all outstanding and,
1413 unsettled disputes. If you fail or refuse ~~have failed~~
1414 ~~or refused~~ to participate in the entire mediation
1415 process, you will not be entitled to recover attorney
1416 attorney's fees, even if you prevail.

1417
1418 The aggrieved party has selected and hereby lists five
1419 circuit court civil ~~certified~~ mediators certified by
1420 the Florida Supreme Court who the aggrieved party
1421 believes ~~we believe~~ to be neutral and qualified to
1422 mediate the dispute. You have the right to select any
1423 one of these mediators. The fact that one party may be
1424 familiar with one or more of the listed mediators does
1425 not mean that the mediator cannot act as a neutral and
1426 impartial facilitator. Any mediator who cannot act in
1427 this capacity is required ethically to decline to
1428 accept engagement. The mediators that we suggest, and
1429 their current hourly rates, are as follows:

1430
1431 (List the names, physical addresses, e-mail addresses,



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1432 telephone numbers, and hourly rates of the mediators.
1433 Other pertinent information about the backgrounds
1434 ~~background~~ of the mediators may be included as an
1435 attachment, including whether the mediator is board
1436 certified by The Florida Bar in any practice area.)
1437
1438 By mutual agreement, and before accepting presuit
1439 mediation, we can also select mediators other than the
1440 Supreme Court-certified circuit court civil mediators
1441 named above as alternates to the above-named
1442 mediators. The alternate mediators are not required to
1443 be Supreme Court-certified circuit court civil
1444 mediators. The alternate mediators that we suggest,
1445 and their hourly rates, are as follows:
1446 (List the names, physical addresses, e-mail addresses,
1447 telephone numbers, and hourly rates of the alternate
1448 mediators. Other pertinent information about the
1449 backgrounds of the alternate mediators may be included
1450 as an attachment.)
1451
1452 You may contact the offices of these mediators to
1453 confirm that the listed mediators will be neutral and
1454 will not show any favoritism toward either party. The
1455 Florida Supreme Court can provide you a list of
1456 ~~certified~~ mediators who are certified in the area of
1457 circuit civil law.
1458
1459 Unless otherwise agreed by the parties, section
1460 720.311(2)(b), Florida Statutes, requires that the



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1461 parties share equally the costs of presuit mediation
1462 ~~equally~~, including the fee charged by the mediator. A
1463 typical ~~An average~~ mediation may require three to four
1464 hours of the mediator's time, including some
1465 preparation time, and the parties would need to share
1466 equally the mediator's fees as well as pay their own
1467 attorney ~~attorney's~~ fees if they choose to employ an
1468 attorney in connection with the mediation. However,
1469 use of an attorney is not required and is at the
1470 option of each party. The mediators may require the
1471 advance payment of some or all of the anticipated
1472 fees. The aggrieved party hereby agrees to pay or
1473 prepay one-half of the mediator's estimated fees and
1474 to forward this amount or such other reasonable
1475 advance deposits as the mediator requires for this
1476 purpose. Any funds deposited will be returned to you
1477 if these are in excess of your share of the fees
1478 incurred.

1479
1480 To begin your participation in presuit mediation to
1481 try to resolve the dispute and avoid further legal
1482 action, please sign below and clearly indicate which
1483 mediator is acceptable to you. We will then ask the
1484 mediator to schedule a mutually convenient time and
1485 place for the mediation conference to be held. The
1486 mediation conference must be held within 90 ~~ninety~~
1487 ~~(90)~~ days after the date of acceptance of presuit
1488 mediation ~~of this date~~, unless extended by mutual
1489 written agreement. In the event that you fail to



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1490 respond within 30 days after ~~20 days from~~ the date of
1491 this letter, or if you fail to agree to at least one
1492 of the mediators that we have suggested or to pay or
1493 prepay to the mediator one-half of the costs involved,
1494 the aggrieved party will be authorized to proceed with
1495 the filing of a lawsuit against you without further
1496 notice and may seek an award of attorney ~~attorney's~~
1497 fees or costs incurred in attempting to obtain
1498 mediation.

1499
1500 Therefore, please give this matter your immediate
1501 attention. By law, your response must be mailed by
1502 certified mail, return receipt requested, and by
1503 first-class mail to the address shown on this demand.

1504
1505
1506

1507
1508 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR
1509 AGREEMENT TO THAT CHOICE.

1510
1511 AGREEMENT TO MEDIATE
1512 The undersigned hereby agrees to participate in
1513 presuit mediation and agrees to attend a mediation
1514 conducted by the following mediator or mediators who
1515 are listed above as individuals ~~someone~~ who would be
1516 acceptable to mediate this dispute:

1517
1518 (List acceptable mediator or mediators.)



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I/we further agree to pay or prepay one-half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.

.....
Signature of responding party #1

.....
Telephone contact information

.....
Signature and telephone contact information of responding party #2 (if applicable) (if property is owned by more than one person, all owners must sign)

2. The statutory demand must also contain the following statement in capitalized, bold letters in a font size larger than any other used in the statutory demand: A PERSON WHO FAILS OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

(b) Service of the statutory demand to participate in presuit mediation shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address of the responding party as it last appears on the books and records of the association. The responding party has 30 ~~20~~ days after ~~from~~ the date of the



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1548 mailing of the statutory demand to serve a response to the
1549 aggrieved party in writing. The response must be sent ~~shall be~~
1550 ~~served~~ by certified mail, return receipt requested, with an
1551 additional copy being sent by ~~regular~~ first-class mail, to the
1552 address shown on the statutory demand. Notwithstanding the
1553 foregoing, once the parties have agreed on a mediator, the
1554 mediator may schedule ~~reschedule~~ the mediation for a date and
1555 time mutually convenient to the parties. Each proposed mediator
1556 must be available to hold the mediation in the county in which
1557 the parcel is located or within 40 miles of the parcel without
1558 charging extra for travel-related costs. If a presuit mediation
1559 session cannot be scheduled and concluded within 90 days after
1560 the date of acceptance of presuit mediation and there is no
1561 agreement between the parties to extend the 90-day deadline, the
1562 aggrieved party may file an action in court. The parties shall
1563 share equally the costs of presuit mediation ~~equally~~, including
1564 the fee charged by the mediator, if any, unless the parties
1565 agree otherwise, and the mediator may require advance payment of
1566 its reasonable fees and costs. The failure of any party to
1567 respond to a demand or response, to agree upon a mediator, to
1568 make payment of fees and costs within the time established by
1569 the mediator, or to appear for a scheduled mediation session
1570 without the approval of the mediator, constitutes ~~shall~~
1571 ~~constitute~~ the failure or refusal to participate in the
1572 mediation process and operates ~~shall operate~~ as an impasse in
1573 the presuit mediation by such party, entitling the other party
1574 to proceed in court and to seek an award of the costs and fees
1575 associated with the mediation. Additionally, notwithstanding ~~the~~
1576 ~~provisions of~~ any other law or document, persons who fail or



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1577 refuse to participate in the entire mediation process may not
1578 recover attorney ~~attorney's~~ fees and costs in subsequent
1579 litigation relating to the dispute. ~~If any presuit mediation~~
1580 ~~session cannot be scheduled and conducted within 90 days after~~
1581 ~~the offer to participate in mediation was filed, an impasse~~
1582 ~~shall be deemed to have occurred unless both parties agree to~~
1583 ~~extend this deadline.~~

1584 (c) If presuit mediation as described in paragraph (a) is
1585 not successful in resolving all issues between the parties, any
1586 party ~~the parties~~ may file an action regarding the unresolved
1587 dispute in a court of competent jurisdiction or elect to enter
1588 into binding or nonbinding arbitration pursuant to the
1589 procedures set forth in s. 718.1255 and rules adopted by the
1590 division, with the arbitration proceeding to be conducted by a
1591 department arbitrator or by a private arbitrator certified by
1592 the department. If all parties do not agree to arbitration
1593 proceedings following an unsuccessful presuit mediation, any
1594 party may file the dispute in court. A final order resulting
1595 from nonbinding arbitration is final and enforceable in the
1596 courts if a complaint for trial de novo is not filed in a court
1597 of competent jurisdiction within 30 days after entry of the
1598 order. As to any issue or dispute that is not resolved at
1599 presuit mediation, and as to any issue that is settled at
1600 presuit mediation but is thereafter subject to an action seeking
1601 enforcement of the mediation settlement, the prevailing party in
1602 any subsequent arbitration or litigation proceeding shall be
1603 entitled to seek recovery of all costs and attorney ~~attorney's~~
1604 fees incurred in the presuit mediation process.

1605 (d) The parties may agree to a mediator or arbitrator who



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1606 is not certified by the Florida Supreme Court. Unless such
1607 mediator or arbitrator is agreed upon, a mediator or arbitrator
1608 may not ~~shall be authorized to~~ conduct mediation or arbitration
1609 under this section unless ~~only if~~ he or she has been certified
1610 as a circuit court civil mediator or arbitrator, respectively,
1611 pursuant to the requirements established by the Florida Supreme
1612 Court. Settlement agreements resulting from mediation may ~~shall~~
1613 not have precedential value in proceedings involving parties
1614 other than those participating in the mediation to support
1615 either a claim or defense in other disputes.

1616 (e) The presuit mediation procedures provided by this
1617 subsection may be used by a Florida corporation responsible for
1618 the operation of a community in which the voting members are
1619 parcel owners or their representatives, in which membership in
1620 the corporation is not a mandatory condition of parcel
1621 ownership, or which is not authorized to impose an assessment
1622 that may become a lien on the parcel.

1623 Section 16. This act shall take effect July 1, 2019.

1624
1625 ===== T I T L E A M E N D M E N T =====

1626 And the title is amended as follows:

1627 Delete everything before the enacting clause
1628 and insert:

1629 A bill to be entitled
1630 An act relating to community associations; amending
1631 514.0115, F.S.; providing that certain property
1632 association pools are exempt from Department of Health
1633 regulations; amending s. 627.714, F.S.; prohibiting
1634 subrogation rights against a condominium association



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1635 under certain circumstances; amending s. 718.111,
1636 F.S.; requiring certain records to be maintained for a
1637 specified time; prohibiting an association from
1638 requiring certain actions related to the inspection of
1639 records; revising requirements relating to certain
1640 associations posting digital copies of certain
1641 documents; amending s. 718.112, F.S.; specifying that
1642 only board service that occurs on or after a specified
1643 date may be used for calculating a board member's term
1644 limit; providing requirements for certain notices;
1645 prohibiting an association from charging certain fees;
1646 providing an exception; revising requirements relating
1647 to the recall of board members; deleting a prohibition
1648 against employing or contracting with certain service
1649 providers; amending s. 718.1255, F.S.; revising the
1650 definition of the term "dispute"; amending s. 718.303,
1651 F.S.; revising requirements for certain actions for
1652 failure to comply with specified provisions; revising
1653 requirements for certain fines; amending s. 718.5014,
1654 F.S.; revising the location of the principal office of
1655 the Office of the Condominium Ombudsman; amending s.
1656 719.103, F.S.; revising the definition of the term
1657 "unit" to specify that an interest in a cooperative
1658 unit is an interest in real property; amending s.
1659 719.104, F.S.; prohibiting an association from
1660 requiring certain actions related to the inspection of
1661 records; amending s. 719.106, F.S.; revising
1662 provisions relating to a quorum and voting rights for
1663 members remotely participating in meetings; revising



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1664 requirements relating to the recall of board members
1665 and challenges to such recalls; amending s. 719.1255,
1666 F.S.; revising requirements for alternative resolution
1667 of disputes; amending s. 719.501, F.S.; deleting
1668 provisions relating to the division's certification of
1669 mediators; amending s. 720.303, F.S.; authorizing an
1670 association to adopt procedures for electronic meeting
1671 notices; revising the documents that constitute the
1672 official records of an association; amending s.
1673 720.305, F.S.; providing requirements for certain
1674 fines; amending s. 720.306, F.S.; revising
1675 requirements for providing certain notices; amending
1676 s. 720.311, F.S.; defining the term "dispute";
1677 revising the standardized form for the offer to
1678 participate in presuit mediation; providing
1679 requirements for the service of a statutory demand to
1680 participate in presuit mediation; providing
1681 requirements for mediators and arbitrators selected by
1682 the parties; authorizing the parties to select a
1683 mediator or arbitrator who has not been certified by
1684 the Florida Supreme Court; providing an effective
1685 date.