

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 468.431, F.S.; revising a definition; amending s.
4 718.103, F.S.; providing a definition for purposes of
5 the Condominium Act; amending s. 718.111, F.S.;
6 revising records required to be maintained by a
7 condominium association; providing requirements
8 relating to the provision of specified documents on an
9 association's website; revising duties of an outgoing
10 and recalled board or committee member; amending s.
11 718.3026, F.S.; providing requirements relating to
12 director and officer conflicts of interest; amending
13 s. 720.303, F.S.; revising records required to be
14 maintained by a homeowners' association; providing
15 requirements relating to the provision of specified
16 documents on an association's website; revising
17 reporting requirements; deleting a provision relating
18 the future expiration of the reporting requirements;
19 amending s. 720.3033, F.S.; providing requirements
20 relating to director and officer conflicts of
21 interest; providing requirements for board membership;
22 amending s. 720.305, F.S.; prohibiting an association
23 from enforcing certain traffic and criminal laws;
24 amending s. 720.306, F.S.; providing requirements for
25 amendment of the association declaration; providing
26 meeting notice requirements; providing election

27 requirements; providing duties of an outgoing or
 28 recalled board member; amending s. 720.307, F.S.;
 29 requiring a developer to deliver certain information
 30 to the association; amending s. 720.308, F.S.;
 31 providing powers of the association related to past
 32 due assessments owed by a member; providing
 33 requirements for an association transferring the right
 34 to collect past due assessments to a third party;
 35 amending s. 720.3085, F.S.; providing requirements for
 36 an association transferring a lien to a third party;
 37 amending s. 720.311, F.S.; conforming a cross-
 38 reference; providing an effective date.

39

40 Be It Enacted by the Legislature of the State of Florida:

41

42 Section 1. Subsection (2) of section 468.431, Florida
 43 Statutes, is amended to read:

44 468.431 Definitions.—As used in this part:

45 (2) "Community association management" or "community
 46 association management services" means any of the following
 47 practices requiring substantial specialized knowledge, judgment,
 48 and managerial skill when done for remuneration and when the
 49 association or associations served contain more than 10 units or
 50 have an annual budget or budgets in excess of \$100,000:
 51 controlling or disbursing funds of a community association,
 52 preparing budgets or other financial documents for a community

53 association, assisting in the noticing or conduct of community
54 association meetings, determining the number of days required
55 for statutory notices, determining amounts due to the
56 association, collecting amounts due to the association before
57 the filing of a civil action, calculating the votes required for
58 a quorum or to approve a proposition or amendment, completing
59 forms related to the management of a community association that
60 have been created by statute or by a state agency, drafting
61 meeting notices and agendas, calculating and preparing
62 certificates of assessment and estoppel certificates, responding
63 to requests for certificates of assessment and estoppel
64 certificates, negotiating monetary or performance terms of a
65 contract subject to approval by an association, drafting
66 prearbitration demands, coordinating or performing maintenance
67 for real or personal property and other related routine services
68 involved in the operation of a community association, and
69 complying with the association's governing documents and the
70 requirements of law as necessary to perform such practices. A
71 person who performs clerical or ministerial functions under the
72 direct supervision and control of a licensed manager or who is
73 charged only with performing the maintenance of a community
74 association and who does not assist in any of the management
75 services described in this subsection is not required to be
76 licensed under this part.

77 Section 2. Subsections (11) through (30) of section
78 718.103, Florida Statutes, are renumbered as subsections (12)

79 through (31), respectively, and a new subsection (11) is added
 80 to that section, to read:

81 718.103 Definitions.—As used in this chapter, the term:
 82 (11) "Community association management" or "community
 83 association management services" has the same meaning as
 84 provided in s. 468.431.

85 Section 3. Subsection (12) of section 718.111, Florida
 86 Statutes, is amended to read:

87 718.111 The association.—

88 (12) OFFICIAL RECORDS.—

89 (a) From the inception of the association, the association
 90 shall maintain each of the following items, if applicable, which
 91 constitutes the official records of the association:

92 1. A copy of the plans, specifications, permits, and
 93 warranties related to improvements to the common areas or other
 94 property that the association is obligated to maintain, repair,
 95 or replace, and other items provided by the developer pursuant
 96 to s. 718.301(4).

97 2. A photocopy of the recorded declaration of condominium
 98 of each condominium operated by the association and each
 99 amendment to each declaration.

100 3. A photocopy of the recorded bylaws of the association
 101 and each amendment to the bylaws.

102 4. A certified copy of the articles of incorporation of
 103 the association, or other documents creating the association,
 104 and each amendment thereto.

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

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

110 7. A current roster of all unit owners and their mailing
111 addresses, unit identifications, voting certifications, and, if
112 known, telephone numbers. The association shall also maintain
113 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of
114 unit owners consenting to receive notice by electronic
115 transmission. The e-mail ~~electronic mailing~~ addresses and
116 facsimile numbers are not accessible to unit owners if consent
117 to receive notice by electronic transmission is not provided in
118 accordance with subparagraph (c)5. The e-mail addresses and
119 facsimile numbers provided by unit owners to receive notice by
120 electronic transmission must be removed from any association
121 records if the unit owner revokes his or her consent to receive
122 notice by electronic transmission. However, the association is
123 not liable for an inadvertent disclosure of the electronic mail
124 address or facsimile number for receiving electronic
125 transmission of notices.

126 8. All current insurance policies of the association and
127 condominiums operated by the association.

128 9. A current copy of any management agreement, lease, or
129 other contract to which the association is a party or under
130 which the association or the unit owners have an obligation or

131 responsibility. Bids for materials, equipment, or services are
132 official records and must be maintained by the association for a
133 period of 1 year.

134 10. Bills of sale or transfer for all property owned by
135 the association.

136 11. Financial and accounting records for the association
137 and separate accounting records for each condominium that the
138 association operates. All accounting records must be maintained
139 for at least 7 years. Any person who knowingly or intentionally
140 defaces or destroys such records, or who knowingly or
141 intentionally fails to create or maintain such records, with the
142 intent of causing harm to the association or one or more of its
143 members, is personally subject to a civil penalty pursuant to s.
144 718.501(1)(d). The financial and accounting records must
145 include, but are not limited to:

146 a. Accurate, itemized, and detailed records of all
147 receipts and expenditures.

148 b. A current account and a monthly, bimonthly, or
149 quarterly statement of the account for each unit designating the
150 name of the unit owner, the due date and amount of each
151 assessment, the amount paid on the account, and the balance due.

152 c. All tax returns, audits, reviews, accounting
153 statements, and financial reports of the association or
154 condominium.

155 d. Any records that identify, measure, record, or
156 communicate financial information ~~All contracts for work to be~~

157 ~~performed. Bids for work to be performed are also considered~~
158 ~~official records and must be maintained by the association.~~

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

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

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

168 15. All other written records of the association not
169 specifically included in the foregoing which are related to the
170 operation of the association.

171 16. A copy of the inspection report as described in s.
172 718.301(4)(p).

173 (b) The official records of the association must be
174 maintained within the state for at least 7 years. The records of
175 the association shall be made available to a unit owner within
176 45 miles of the condominium property or within the county in
177 which the condominium property is located within 5 working days
178 after receipt of a written request by the board or its designee.
179 However, such distance requirement does not apply to an
180 association governing a timeshare condominium. This paragraph
181 may be complied with by having a copy of the official records of
182 the association available for inspection or copying on the

183 condominium property or association property, or the association
184 may offer the option of making the records available to a unit
185 owner electronically via the Internet or by allowing the records
186 to be viewed in electronic format on a computer screen and
187 printed upon request. The association is not responsible for the
188 use or misuse of the information provided to an association
189 member or his or her authorized representative pursuant to the
190 compliance requirements of this chapter unless the association
191 has an affirmative duty not to disclose such information
192 pursuant to this chapter.

193 (c)1. In addition to any other provision of law,
194 associations with 7,500 or more units must provide a digital
195 copy of specified documents on the association's website.

196 a. An association's website must be:

197 (I) An independent website or web portal, wholly owned and
198 operated by the association; or

199 (II) A website or web portal operated by a third party
200 provider with whom the association owns, leases, rents, or
201 otherwise obtains the right to operate a web page, subpage, web
202 portal, or collection of subpages or web portals dedicated to
203 the association's activities and where required notices,
204 records, and documents may be posted by the association.

205 b. The association's website must be accessible through
206 the Internet and must contain a subpage, web portal, or other
207 protected electronic location that is inaccessible to the
208 general public and that is accessible only to unit owners and

209 employees of the association.

210 c. The association must provide access to each unit owner
211 to the protected sections of the association's website that
212 contain any notices, records, or documents that must be
213 electronically provided.

214 2. The following documents must be placed in digital
215 format on the website:

216 a. Copies of the official records described in paragraph
217 (a). However, the current roster of all unit owners with their
218 mailing addresses and parcel identifications may not be placed
219 in digital format on the website. The website must include the
220 following statement: "A current roster of all unit owners and
221 their mailing addresses and parcel identifications is available
222 at the request of any unit owner or unit owner representative,
223 including the e-mail addresses of the unit owners who have
224 consented to receive notice by electronic transmission." The
225 notice shall include the e-mail address of the person to contact
226 for a copy of the roster.

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

229 c. The financial report required by subsection (13) and
230 any proposed financial report to be considered at a meeting.

231 d. Any document created by the association or a board
232 member relating to the recall of a director, pursuant to s.
233 718.112(2)(j), or any document created for or filed by the
234 association in an arbitration proceeding conducted by the

235 division regarding the recall of a director.

236 e. The certification of each director required by s.
237 718.112(2)(d)4.b.

238 f. A list of all contracts or transactions between the
239 association and any director, officer, corporation, firm, or
240 association that is not an affiliated condominium association,
241 or other entity in which an association director is also a
242 director or officer and financially interested.

243 g. Any fidelity bond entered into by the association.

244 h. Any contract or document regarding a conflict of
245 interest or possible conflict of interest as provided in ss.
246 468.436(2) and 718.3026(3).

247 i. Notice of any board meeting and the agenda for the
248 meeting, as required by s. 718.112(2)(d)3., placed online no
249 later than 14 days before the meeting posted in plain view on
250 the front page, or on a separate subpage labeled "Notices" which
251 is conspicuously visible and linked from the front page of the
252 association's website. The association must post on the
253 association's website any documents to be considered during the
254 meeting or listed on the agenda at least 7 days before the
255 meeting at which the document or the information within the
256 document will be considered, unless otherwise stated, including
257 the following documents:

258 (I) The proposed annual budget required by s.
259 718.112(2)(e), which must be provided at least 14 days before
260 the meeting.

261 (II) The proposed financial report required by subsection
 262 (13).

263 (III) A list of persons seeking to be elected to the
 264 board.

265 3. The association shall ensure that the information and
 266 records described in paragraph (d), which are not permitted to
 267 be accessible to unit owners, are not placed on the
 268 association's website. If protected information, or information
 269 restricted from being accessible to unit owners, is included in
 270 documents that are required to be placed on the association's
 271 website, the association shall ensure the information is
 272 redacted before placing the documents online.

273 (d)-(e) Physical copies of the official records of the
 274 association are open to inspection by any association member or
 275 the authorized representative of such member at all reasonable
 276 times. The right to inspect the records includes the right to
 277 make or obtain copies, at the reasonable expense, if any, of the
 278 member. The association may adopt reasonable rules regarding the
 279 frequency, time, location, notice, and manner of record
 280 inspections and copying. The failure of an association to
 281 provide the records within 10 working days after receipt of a
 282 written request creates a rebuttable presumption that the
 283 association willfully failed to comply with this paragraph. A
 284 unit owner who is denied access to official records is entitled
 285 to the actual damages or minimum damages for the association's
 286 willful failure to comply. Minimum damages are \$50 per calendar

287 day for up to 10 days, beginning on the 11th working day after
288 receipt of the written request. The failure to permit inspection
289 entitles any person prevailing in an enforcement action to
290 recover reasonable attorney fees from the person in control of
291 the records who, directly or indirectly, knowingly denied access
292 to the records. Any person who knowingly or intentionally
293 defaces or destroys accounting records that are required by this
294 chapter to be maintained during the period for which such
295 records are required to be maintained, or who knowingly or
296 intentionally fails to create or maintain accounting records
297 that are required to be created or maintained, with the intent
298 of causing harm to the association or one or more of its
299 members, is personally subject to a civil penalty pursuant to s.
300 718.501(1)(d). The association shall maintain an adequate number
301 of copies of the declaration, articles of incorporation, bylaws,
302 and rules, and all amendments to each of the foregoing, as well
303 as the question and answer sheet as described in s. 718.504 and
304 year-end financial information required under this section, on
305 the condominium property to ensure their availability to unit
306 owners and prospective purchasers, and may charge its actual
307 costs for preparing and furnishing these documents to those
308 requesting the documents. An association shall allow a member or
309 his or her authorized representative to use a portable device,
310 including a smartphone, tablet, portable scanner, or any other
311 technology capable of scanning or taking photographs, to make an
312 electronic copy of the official records in lieu of the

313 association's providing the member or his or her authorized
314 representative with a copy of such records. The association may
315 not charge a member or his or her authorized representative for
316 the use of a portable device. Notwithstanding this paragraph,
317 the following records are not accessible to unit owners:

318 1. Any record protected by the lawyer-client privilege as
319 described in s. 90.502 and any record protected by the work-
320 product privilege, including a record prepared by an association
321 attorney or prepared at the attorney's express direction, which
322 reflects a mental impression, conclusion, litigation strategy,
323 or legal theory of the attorney or the association, and which
324 was prepared exclusively for civil or criminal litigation or for
325 adversarial administrative proceedings, or which was prepared in
326 anticipation of such litigation or proceedings until the
327 conclusion of the litigation or proceedings.

328 2. Information obtained by an association in connection
329 with the approval of the lease, sale, or other transfer of a
330 unit.

331 3. Personnel records of association or management company
332 employees, including, but not limited to, disciplinary, payroll,
333 health, and insurance records. For purposes of this
334 subparagraph, the term "personnel records" does not include
335 written employment agreements with an association employee or
336 management company, or budgetary or financial records that
337 indicate the compensation paid to an association employee.

338 4. Medical records of unit owners.

339 5. Social security numbers, driver license numbers, credit
340 card numbers, e-mail addresses, telephone numbers, facsimile
341 numbers, emergency contact information, addresses of a unit
342 owner other than as provided to fulfill the association's notice
343 requirements, and other personal identifying information of any
344 person, excluding the person's name, unit designation, mailing
345 address, property address, and any address, e-mail address, or
346 facsimile number provided to the association to fulfill the
347 association's notice requirements. Notwithstanding the
348 restrictions in this subparagraph, an association may print and
349 distribute to parcel owners a directory containing the name,
350 parcel address, and all telephone numbers of each parcel owner.
351 However, an owner may exclude his or her telephone numbers from
352 the directory by so requesting in writing to the association. An
353 owner may consent in writing to the disclosure of other contact
354 information described in this subparagraph. The association is
355 not liable for the inadvertent disclosure of information that is
356 protected under this subparagraph if the information is included
357 in an official record of the association and is voluntarily
358 provided by an owner and not requested by the association.

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

361 7. The software and operating system used by the
362 association which allow the manipulation of data, even if the
363 owner owns a copy of the same software used by the association.
364 The data is part of the official records of the association.

365 (e)~~(d)~~ The association shall prepare a question and answer
366 sheet as described in s. 718.504, and shall update it annually.

367 (f)~~(e)~~1. The association or its authorized agent is not
368 required to provide a prospective purchaser or lienholder with
369 information about the condominium or the association other than
370 information or documents required by this chapter to be made
371 available or disclosed. The association or its authorized agent
372 may charge a reasonable fee to the prospective purchaser,
373 lienholder, or the current unit owner for providing good faith
374 responses to requests for information by or on behalf of a
375 prospective purchaser or lienholder, other than that required by
376 law, if the fee does not exceed \$150 plus the reasonable cost of
377 photocopying and any attorney's fees incurred by the association
378 in connection with the response.

379 2. An association and its authorized agent are not liable
380 for providing such information in good faith pursuant to a
381 written request if the person providing the information includes
382 a written statement in substantially the following form: "The
383 responses herein are made in good faith and to the best of my
384 ability as to their accuracy."

385 (g)~~(f)~~ An outgoing board or committee member, or a board
386 member who is recalled pursuant to s. 718.112(2)(j), must
387 relinquish all official records and property of the association
388 in his or her possession or under his or her control, including
389 administrative rights or controls of an association's website or
390 other digital or electronic asset of the association, to the

391 incoming board within 5 days after the election or, in the case
392 of a recall, within 5 days after the recall is effective as
393 provided in s. 718.112(2)(j). The division shall impose a civil
394 penalty as set forth in s. 718.501(1)(d)6. against an outgoing
395 board or committee member who willfully and knowingly fails to
396 relinquish such records and property.

397 Section 4. Subsection (3) of section 718.3026, Florida
398 Statutes, is renumbered as subsection (4), and a new subsection
399 (3) is added to that section, to read:

400 718.3026 Contracts for products and services; in writing;
401 bids; exceptions.—Associations with 10 or fewer units may opt
402 out of the provisions of this section if two-thirds of the unit
403 owners vote to do so, which opt-out may be accomplished by a
404 proxy specifically setting forth the exception from this
405 section.

406 (3)(a) Directors and officers of the board must disclose
407 to the board any activity that may reasonably be construed as a
408 conflict of interest. A rebuttable presumption of a conflict of
409 interest exists if any of the following occurs without prior
410 notice, as required in paragraph (b), or board approval taken at
411 a properly noticed meeting of the unit owners:

412 1. The director or officer, or a relative residing in the
413 same household as the director or officer, has entered into a
414 contract for goods or services with the association.

415 2. The director or officer, or a relative residing in the
416 same household as the director or officer, holds an interest of

417 35 percent or more in any corporation, limited liability
418 corporation, partnership, limited liability partnership, or
419 other business entity that conducts business with the
420 association or proposes to enter into a contract or other
421 transaction with the association.

422 (b) If a director or officer intends to engage in an
423 activity that may reasonably be construed as a conflict of
424 interest, as described in paragraph (a), the director or officer
425 must place the issue on a meeting agenda, including any proposed
426 contract or transactional documents, and submit the issue to the
427 board to be considered and voted upon. If the board votes
428 against the action, the director or officer shall notify the
429 board in writing of his or her intention not to pursue the
430 action or to withdraw from the position as director or officer.
431 If the board finds that an officer or director has violated this
432 subsection, the board shall immediately remove the officer or
433 director from office. The vacancy shall be filled according to
434 general law until expiration of the director's term of office.

435 (c) A director or officer who is party to, or has an
436 interest in, the transaction or arrangement involving the
437 possible conflict of interest may attend the meeting at which
438 the transaction or arrangement is considered by the board. The
439 director or officer who is party to, or has an interest in, the
440 transaction or arrangement shall be allowed to make a
441 presentation to the board or committee regarding the transaction
442 or arrangement. After the presentation, the director or officer

443 must leave the meeting during the discussion of, and the vote
444 upon, the transaction or arrangement involving the possible
445 conflict of interest. Any director or officer who is party to or
446 has an interest in such transaction or arrangement shall recuse
447 himself or herself from the vote.

448 (d)1. The board must provide notice to unit owners of any
449 possible conflict of interest described in paragraph (a). Any
450 related proposed contracts or proposed transactional documents
451 related to the conflict must be attached to the agenda and made
452 available with the meeting agenda. The notice and related
453 proposed contracts or proposed transactional documents must be
454 provided to unit owners at least 7 days before the meeting at
455 which the possible conflict of interest will be considered or
456 voted upon by the board.

457 2. An association with 7,500 or more units must place the
458 notice required in subparagraph 1. on the front page of the
459 association's website. Any related proposed contracts or
460 proposed transactional documents must be attached to the agenda
461 provided on the association's website. The notice and related
462 proposed contracts or proposed transactional documents related
463 to the conflict must be posted on the association's website at
464 least 7 days before the meeting at which the possible conflict
465 of interest will be considered or voted upon by the board.

466 Section 5. Subsections (6) through (13) of section
467 720.303, Florida Statutes, are renumbered as subsections (7)
468 through (14), respectively, subsection (4) and present

469 subsection (13) of that section are amended, and a new
470 subsection (6) is added to that section, to read:

471 720.303 Association powers and duties; meetings of board;
472 official records; budgets; financial reporting; association
473 funds; recalls.—

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

477 (a) Copies of any plans, specifications, permits, and
478 warranties related to improvements constructed on the common
479 areas or other property that the association is obligated to
480 maintain, repair, or replace, and other items provided by the
481 developer pursuant to s. 720.307(4).

482 (b) A copy of the bylaws of the association and of each
483 amendment to the bylaws.

484 (c) A certified copy of the articles of incorporation of
485 the association and of each amendment thereto.

486 (d) A copy of the declaration of covenants and a copy of
487 each amendment thereto.

488 (e) A copy of the current rules of the homeowners'
489 association.

490 (f) The minutes of all meetings of the board of directors
491 and of the members, which minutes must be retained for at least
492 7 years.

493 (g) A current roster of all members and their mailing
494 addresses and parcel identifications. The association shall also

495 maintain the electronic mailing addresses and the numbers
496 designated by members for receiving notice sent by electronic
497 transmission of those members consenting to receive notice by
498 electronic transmission. The electronic mailing addresses and
499 numbers provided by members ~~unit owners~~ to receive notice by
500 electronic transmission shall be removed from association
501 records when consent to receive notice by electronic
502 transmission is revoked. However, the association is not liable
503 for an erroneous disclosure of the electronic mail address or
504 the number for receiving electronic transmission of notices.

505 (h) All of the association's insurance policies or a copy
506 thereof, which policies must be retained for at least 7 years.

507 (i) A current copy of all contracts to which the
508 association is a party, including, without limitation, any
509 management agreement, lease, or other contract under which the
510 association has any obligation or responsibility. Bids received
511 by the association for materials, equipment, or services, ~~work~~
512 ~~to be performed~~ must also be considered official records and
513 must be maintained ~~kept~~ for a period of 1 year.

514 (j) The financial and accounting records of the
515 association, kept according to good accounting practices. All
516 financial and accounting records must be maintained for a period
517 of at least 7 years. The financial and accounting records must
518 include:

519 1. Accurate, itemized, and detailed records of all
520 receipts and expenditures.

521 2. A current account and a periodic statement of the
 522 account for each member, designating the name and current
 523 address of each member who is obligated to pay assessments, the
 524 due date and amount of each assessment or other charge against
 525 the member, the date and amount of each payment on the account,
 526 and the balance due.

527 3. All tax returns, audits, reviews, financial statements,
 528 and financial reports of the association.

529 4. Any other records that identify, measure, record, or
 530 communicate financial information.

531 (k) A copy of the disclosure summary described in s.
 532 720.401(1).

533 (l) Ballots, sign-in sheets, voting proxies, and all other
 534 papers relating to voting by members, which must be maintained
 535 for 1 year after the date of the election, vote, or meeting to
 536 which the document relates.

537 ~~(m)-(1)~~ All other written records of the association not
 538 specifically included in the foregoing which are related to the
 539 operation of the association.

540 (6) ACCESS TO ASSOCIATION DOCUMENTS AND RECORDS ON AN
 541 ASSOCIATION WEBSITE.—

542 (a) In addition to any other provision of general law,
 543 associations with 7,500 or more parcels must provide a digital
 544 copy of specified documents on the association's website. An
 545 association with fewer than 7,500 parcels located within the
 546 physical boundaries of an affiliated association that has more

547 than 7,500 or more parcels must provide digital copies of
548 specified documents on the larger affiliated association's
549 website. An association with fewer than 7,500 parcels located
550 within the physical boundaries of an association with more than
551 7,500 or more parcels, but that is not affiliated with the
552 larger association, may provide digital copies of certain
553 documents on its website if the association chooses to do so.

554 1. An association's website must be:

555 a. An independent website or web portal, wholly owned and
556 operated by the association; or

557 b. A website or web portal that is operated by a third-
558 party provider with whom the association owns, leases, rents, or
559 otherwise obtains the right to operate a web page, subpage, web
560 portal, or collection of subpages or web portals dedicated to
561 the association's activities and where required notices,
562 records, and documents may be posted by the association.

563 2. The association's website must be accessible through
564 the Internet, and must contain a subpage, web portal, or other
565 protected electronic location that is accessible only to the
566 unit owners and employees of the association.

567 3. The association must provide access to each member to
568 the protected sections of the association's website that contain
569 any notices, records, or documents that must be electronically
570 provided.

571 (b) The following documents must be placed in digital
572 format on the website:

573 1. Copies of the official records in subsection (4). The
574 current roster of all members with their mailing addresses and
575 parcel identifications may not be placed in digital format on
576 the website. The website must include the following statement:
577 "A current roster of all members and their mailing addresses and
578 parcel identifications is available at the request of any
579 association member." The notice shall include the e-mail address
580 of the person to contact for a copy of the roster.

581 2. The annual budget required by subsection (7) and any
582 proposed budget to be considered at the annual meeting.

583 3. The financial report required by subsection (8) and any
584 proposed financial report to be considered at a meeting.

585 4. Any document created by the association or a board
586 member relating to the recall of a director, pursuant to
587 subsection (11), or any document created for or filed by the
588 association in an arbitration proceeding conducted by the
589 division regarding the recall of a director.

590 5. A copy of the information submitted to the division to
591 comply with the reporting requirement in subsection (14).

592 6. Documentation reporting the compensation of directors,
593 officers, or members authorized under subsection (13).

594 7. The certification of each director required by s.
595 720.3033(1).

596 8. A list of all contracts or transactions between the
597 association and any director, officer, corporation, firm, or
598 association that is not an affiliated homeowners' association,

599 or other entity in which an association director is also a
 600 director or officer is financially interested.

601 9. Any fidelity bond entered into by the association.

602 10. A map of the association, including association
 603 boundaries.

604 11. Any contract or document regarding a conflict of
 605 interest or possible conflict of interest as provided in ss.
 606 468.436(2) and 720.3033.

607 12. Notice of any board meeting and the agenda for the
 608 meeting, as required by subsection (2), placed online no later
 609 than 14 days before the meeting posted in plain view on the
 610 front page, or on a separate subpage labeled "Notices" which is
 611 conspicuously visible and linked from the front page of the
 612 association's website. The association must post on the
 613 association's website any documents to be considered during the
 614 meeting or listed on the agenda no later than 7 days before the
 615 meeting at which the document or the information within the
 616 document will be considered, including the following documents:

617 a. The proposed annual budget required by subsection (7);

618 b. The proposed financial report required by subsection
 619 (8).

620 c. A list of persons seeking to be elected to the board.

621 d. A copy of contracts or transactions listed in
 622 subparagraph 8.

623 e. Any competitive bids for materials, equipment, or
 624 services.

625 f. Any proposed contracts or proposed transactional
626 documents related to any possible conflict of interest set forth
627 in ss. 468.436(2) and 720.3033.

628 (c) The association shall ensure that the information and
629 records described in subparagraph (5) (c), which are not
630 permitted to be accessible to members or parcel owners, are not
631 placed on the association's website. If protected information,
632 or information restricted from being accessible to members or
633 parcel owners, is included in documents that are required to be
634 placed on the association's website, the association shall
635 ensure the information is redacted before placing the documents
636 online.

637 (14)~~(13)~~ REPORTING REQUIREMENT.—The community association
638 manager or management firm, ~~or the association when there is no~~
639 ~~community association manager or management firm,~~ shall report
640 to the division on October 1, annually by November 22, 2013, in
641 a manner and form prescribed by the division.

642 (a) The report shall include the association's:

- 643 1. Legal name.
- 644 2. Federal employer identification number.
- 645 3. Mailing and physical addresses.
- 646 4. Total number of parcels.
- 647 5. Total amount of revenues and expenses from the
648 association's annual budget.

649 6. Community association management firm or community
650 association manager.

651 (b) For associations in which control of the association
 652 has not been transitioned to nondeveloper members, as set forth
 653 in s. 720.307, the report shall also include the developer's:

- 654 1. Legal name.
- 655 2. Mailing address.
- 656 3. Total number of parcels owned on the date of reporting.

657 (c) The reporting requirement provided in this subsection
 658 shall be a continuing obligation on each association until the
 659 required information is reported to the division. Any change in
 660 the reported information must be updated on the registration
 661 system provided for in paragraph (d).

662 (d) ~~By October 1, 2013,~~ The department shall use ~~establish~~
 663 ~~and implement~~ a registration system through an Internet website
 664 that provides for the reporting requirements of paragraphs (a)
 665 and (b).

666 (e) The department shall prepare an annual report of the
 667 data reported pursuant to this subsection and present it to the
 668 Governor, the President of the Senate, and the Speaker of the
 669 House of Representatives by December 1, 2013, and each year
 670 thereafter.

671 (f) The division shall adopt rules pursuant to ss.
 672 120.536(1) and 120.54 to implement the provisions of this
 673 subsection.

674 ~~(g) This subsection shall expire on July 1, 2016, unless~~
 675 ~~reenacted by the Legislature.~~

676 Section 6. Subsections (2) through (5) of section

677 720.3033, Florida Statutes, are renumbered as subsections (3)
678 through (6), respectively, and subsections (2) and (7) are added
679 to that section, to read:

680 720.3033 Officers and directors.—

681 (2) (a) Directors and officers of the board must disclose
682 to the board any activity that may reasonably be construed as a
683 conflict of interest. A rebuttable presumption of a conflict of
684 interest exists if any of the following occurs without prior
685 notice, as required in paragraph (b), or board approval taken at
686 a properly noticed meeting of the members:

687 1. The director or officer, or a relative residing in the
688 same household as the director or officer, enters into a
689 contract for goods or services with the association.

690 2. The director or officer, or a relative residing in the
691 same household as the director or officer, holds an interest of
692 more than 35 percent in any corporation, limited liability
693 corporation, partnership, limited liability partnership, or
694 other business entity that conducts business with the
695 association or proposes to enter into a contract or other
696 transaction with the association.

697 3. A corporation, limited liability corporation,
698 partnership, limited liability partnership, or other business
699 entity that, directly or indirectly, owns or controls the
700 director or officer, or otherwise influences any decisions made
701 by the director or officer, intends to conduct business with the
702 association or proposes to enter into a contract or other

703 transaction with the association.

704 (b) If a director or officer intends to engage in an
705 activity that may reasonably be construed as a conflict of
706 interest, as described in paragraph (a), the director or officer
707 must place the issue on a meeting agenda, including any proposed
708 contract or transactional documents, and submit the issue to the
709 board to be considered and voted upon. If the board votes
710 against the action, the director or officer shall notify the
711 board in writing of his or her intention not to pursue the
712 action or withdraw from the position as director or officer. If
713 the board finds that an officer or director has violated this
714 subsection, the board shall immediately remove the officer or
715 director from office. The vacancy shall be filled according to
716 general law until expiration of the director's term of office.

717 (c) A director or officer who is party to or has an
718 interest in the transaction or arrangement involving the
719 possible conflict of interest may attend the meeting at which
720 the transaction or arrangement is considered by the board. The
721 director or officer who is party to or has an interest in the
722 transaction or arrangement shall be allowed to make a
723 presentation to the board or committee regarding the transaction
724 or arrangement. After the presentation, the director or officer
725 must leave the meeting during the discussion of, and the vote
726 upon, the transaction or arrangement involving the possible
727 conflict of interest. A director or officer who is party to or
728 has an interest in such transaction or arrangement shall recuse

729 him or herself from the vote.

730 (d)1. The board must provide notice to members of any
731 possible conflict of interest described in paragraph (a). Any
732 related proposed contracts or proposed transactional documents
733 related to the conflict must be attached to the agenda and made
734 available with the meeting agenda. The notice and related
735 proposed contracts or proposed transactional documents must be
736 provided to members at least 7 days before the meeting at which
737 the possible conflict of interest will be considered or voted
738 upon by the board.

739 2. An association with 7,500 or more parcels must place
740 the notice required in subparagraph 1. on the front page of the
741 association's website. Any related proposed contracts or
742 proposed transactional documents related to the conflict must be
743 attached to the agenda provided on the association's website.
744 The notice and related proposed contracts or proposed
745 transactional documents must be posted on the association's
746 website at least 7 days before the meeting at which the possible
747 conflict of interest will be considered or voted upon by the
748 board.

749 (7) If an association consists of 7,500 or more parcels,
750 the board of administration must consist of at least five
751 members appointed by the board who are not officers, directors,
752 or employees of the association, or the spouse, parent, child,
753 brother, or sister of an officer, director, or employee of the
754 association.

755 Section 7. Paragraphs (c) and (d) are added to subsection
 756 (2) of section 720.305, Florida Statutes, to read:

757 720.305 Obligations of members; remedies at law or in
 758 equity; levy of fines and suspension of use rights.—

759 (2) The association may levy reasonable fines. A fine may
 760 not exceed \$100 per violation against any member or any member's
 761 tenant, guest, or invitee for the failure of the owner of the
 762 parcel or its occupant, licensee, or invitee to comply with any
 763 provision of the declaration, the association bylaws, or
 764 reasonable rules of the association unless otherwise provided in
 765 the governing documents. A fine may be levied by the board for
 766 each day of a continuing violation, with a single notice and
 767 opportunity for hearing, except that the fine may not exceed
 768 \$1,000 in the aggregate unless otherwise provided in the
 769 governing documents. A fine of less than \$1,000 may not become a
 770 lien against a parcel. In any action to recover a fine, the
 771 prevailing party is entitled to reasonable attorney fees and
 772 costs from the nonprevailing party as determined by the court.

773 (c) An association may not enforce traffic laws provided
 774 in chapter 316. An association may not place requirements in the
 775 governing documents regarding compliance with traffic laws in
 776 chapter 316. An association may not levy fines or assessments
 777 for violations of traffic laws enforced under s. 316.640. An
 778 association may not suspend the right of a member, or a member's
 779 tenant, guest, or invitee, to use common areas and facilities
 780 for failure to comply with traffic laws.

781 (d) An association may not enforce criminal laws provided
782 in chapters 775-896 or relevant federal law. An association may
783 not place requirements in the governing documents regarding
784 compliance with criminal laws in chapters 775-896 or relevant
785 federal law. An association may not levy fines or assessments
786 for violations of criminal laws provided in chapters 775-896 or
787 relevant federal law. An association may not suspend the right
788 of a member, or a member's tenant, guest, or invitee, to use
789 common areas and facilities for failure to comply with such
790 criminal laws.

791 Section 8. Paragraph (d) of subsection (1) of section
792 720.306, Florida Statutes, is redesignated as paragraph (h),
793 paragraphs (d) through (g) are added to that subsection, and
794 subsections (5) and (9) of that section are amended, to read:

795 720.306 Meetings of members; voting and election
796 procedures; amendments.—

797 (1) QUORUM; AMENDMENTS.—

798 (d) A proposal to amend an existing provision of the
799 declaration must contain the full text of the provision to be
800 amended and may not be revised or amended by reference only to
801 the declaration title or number. Words to be added must be
802 inserted in the text and underlined, and words to be deleted
803 must be stricken with hyphens. However, if the proposed change
804 is so extensive that this procedure would hinder, rather than
805 assist, the understanding of the proposed amendment, it is not
806 necessary to use underlined and stricken text as indicators of

807 words added or deleted. Instead, a notation must be inserted
808 immediately preceding the proposed amendment in substantially
809 the following language: "Substantial rewording of declaration.
810 See provision for present text." An amendment to a declaration
811 is effective when properly recorded in the public records of the
812 county where the declaration is recorded.

813 (e) Nonmaterial errors or omissions in the amendment
814 process do not invalidate an otherwise properly adopted
815 amendment.

816 (f) An amendment to any recorded governing document is
817 effective when properly recorded in the public records of the
818 county where the governing document is recorded.

819 (g) An amendment prohibiting parcel owners from renting
820 their homes, altering the duration of the rental term, or
821 specifying or limiting the number of times that parcel owners
822 are entitled to rent their homes during a specified period
823 applies only to parcel owners who consent, individually or
824 through their representative, to the amendment and parcel owners
825 who acquire title to their homes after the effective date of the
826 amendment.

827 (5) NOTICE OF MEETINGS.—The bylaws shall provide for
828 giving notice to members of all member meetings, and if they do
829 not do so shall be deemed to provide the following: The
830 association shall give all parcel owners and members actual
831 notice of all membership meetings, which shall be mailed,
832 delivered, or electronically transmitted to the members not less

833 than 14 days prior to the meeting. Evidence of compliance with
834 this 14-day notice shall be made by an affidavit executed by the
835 person providing the notice and filed upon execution among the
836 official records of the association. In addition to mailing,
837 delivering, or electronically transmitting the notice of any
838 meeting, the association may, by reasonable rule, adopt a
839 procedure for conspicuously posting and repeatedly broadcasting
840 the notice and the agenda on a closed-circuit cable television
841 system serving the association. When broadcast notice is
842 provided, the notice and agenda must be broadcast in a manner
843 and for a sufficient continuous length of time so as to allow an
844 average reader to observe the notice and read and comprehend the
845 entire content of the notice and the agenda. Pursuant to s.
846 720.303, associations with 7,500 parcels or more must place a
847 copy of all notices of meetings on the association's website at
848 least 14 days before the hearing.

849 (9) ELECTIONS AND BOARD VACANCIES.—

850 (a) Elections of directors must be conducted in accordance
851 with the procedures set forth in the governing documents of the
852 association. An association with 7,500 parcels or more must
853 allow association members to vote in the election of directors
854 at a designated location from 7 a.m. to 7 p.m. on the day of the
855 election.

856 (b) Except as provided in paragraph (c) ~~(b)~~, all members
857 of the association are eligible to serve on the board of
858 directors, and a member may nominate himself or herself as a

859 candidate for the board at a meeting where the election is to be
860 held; provided, however, that if the election process allows
861 candidates to be nominated in advance of the meeting, the
862 association is not required to allow nominations at the meeting.
863 An election is not required unless more candidates are nominated
864 than vacancies exist. Except as otherwise provided in the
865 governing documents, boards of directors must be elected by a
866 plurality of the votes cast by eligible voters. Any challenge to
867 the election process must be commenced within 60 days after the
868 election results are announced.

869 (c) ~~(b)~~ A person who is delinquent in the payment of any
870 fee, fine, or other monetary obligation to the association on
871 the day that he or she could last nominate himself or herself or
872 be nominated for the board may not seek election to the board,
873 and his or her name shall not be listed on the ballot. A person
874 serving as a board member who becomes more than 90 days
875 delinquent in the payment of any fee, fine, or other monetary
876 obligation to the association shall be deemed to have abandoned
877 his or her seat on the board, creating a vacancy on the board to
878 be filled according to law. For purposes of this paragraph, the
879 term "any fee, fine, or other monetary obligation" means any
880 delinquency to the association with respect to any parcel. A
881 person who has been convicted of any felony in this state or in
882 a United States District or Territorial Court, or has been
883 convicted of any offense in another jurisdiction which would be
884 considered a felony if committed in this state, may not seek

885 election to the board and is not eligible for board membership
886 unless such felon's civil rights have been restored for at least
887 5 years as of the date on which such person seeks election to
888 the board. The validity of any action by the board is not
889 affected if it is later determined that a person was ineligible
890 to seek election to the board or that a member of the board is
891 ineligible for board membership.

892 (d)~~(e)~~ Any election dispute between a member and an
893 association must be submitted to mandatory binding arbitration
894 with the division. Such proceedings must be conducted in the
895 manner provided by s. 718.1255 and the procedural rules adopted
896 by the division. Unless otherwise provided in the bylaws, any
897 vacancy occurring on the board before the expiration of a term
898 may be filled by an affirmative vote of the majority of the
899 remaining directors, even if the remaining directors constitute
900 less than a quorum, or by the sole remaining director. In the
901 alternative, a board may hold an election to fill the vacancy,
902 in which case the election procedures must conform to the
903 requirements of the governing documents. Unless otherwise
904 provided in the bylaws, a board member appointed or elected
905 under this section is appointed for the unexpired term of the
906 seat being filled. Filling vacancies created by recall is
907 governed by s. 720.303(11) ~~720.303(10)~~ and rules adopted by the
908 division.

909 (e) An outgoing board member, or a board member who is
910 recalled pursuant to s. 720.303(11), must relinquish all

911 official records and property of the association in his or her
 912 possession or under his or her control, including administrative
 913 rights or controls of an association's website or other digital
 914 or electronic asset of the association, to the incoming board
 915 within 5 days after the election or, in the case of a recall,
 916 within 5 days after the recall is effective as provided in s.
 917 718.303(11).

918 Section 9. Paragraph (u) is added to subsection (4) of
 919 section 720.307, Florida Statutes, to read:

920 720.307 Transition of association control in a community.-
 921 With respect to homeowners' associations:

922 (4) At the time the members are entitled to elect at least
 923 a majority of the board of directors of the homeowners'
 924 association, the developer shall, at the developer's expense,
 925 within no more than 90 days deliver the following items
 926 ~~documents~~ to the board:

927 (a) All deeds to common property owned by the association.

928 (b) The original of the association's declarations of
 929 covenants and restrictions.

930 (c) A certified copy of the articles of incorporation of
 931 the association.

932 (d) A copy of the bylaws.

933 (e) The minute books, including all minutes.

934 (f) The books and records of the association.

935 (g) Policies, rules, and regulations, if any, which have
 936 been adopted.

937 (h) Resignations of directors who are required to resign
938 because the developer is required to relinquish control of the
939 association.

940 (i) The financial records of the association from the date
941 of incorporation through the date of turnover.

942 (j) All association funds and control thereof.

943 (k) All tangible property of the association.

944 (l) A copy of all contracts which may be in force with the
945 association as one of the parties.

946 (m) A list of the names and addresses and telephone
947 numbers of all contractors, subcontractors, or others in the
948 current employ of the association.

949 (n) Any and all insurance policies in effect.

950 (o) Any permits issued to the association by governmental
951 entities.

952 (p) Any and all warranties in effect.

953 (q) A roster of current homeowners and their addresses and
954 telephone numbers and section and lot numbers.

955 (r) Employment and service contracts in effect.

956 (s) All other contracts in effect to which the association
957 is a party.

958 (t) The financial records, including financial statements
959 of the association, and source documents from the incorporation
960 of the association through the date of turnover. The records
961 shall be audited by an independent certified public accountant
962 for the period from the incorporation of the association or from

963 the period covered by the last audit, if an audit has been
964 performed for each fiscal year since incorporation. All
965 financial statements shall be prepared in accordance with
966 generally accepted accounting principles and shall be audited in
967 accordance with generally accepted auditing standards, as
968 prescribed by the Board of Accountancy, pursuant to chapter 473.
969 The certified public accountant performing the audit shall
970 examine to the extent necessary supporting documents and
971 records, including the cash disbursements and related paid
972 invoices to determine if expenditures were for association
973 purposes and the billings, cash receipts, and related records of
974 the association to determine that the developer was charged and
975 paid the proper amounts of assessments. This paragraph applies
976 to associations with a date of incorporation after December 31,
977 2007.

978 (u) Administrative rights or controls of the association's
979 website or other digital or electronic asset of the association.

980 Section 10. Subsections (2) through (6) of section
981 720.308, Florida Statutes, are renumbered as subsections (3)
982 through (7), respectively, paragraphs (e) through (g) are added
983 to subsection (1), and a new subsection (2) is added to that
984 section, to read:

985 720.308 Assessments and charges.—

986 (1) ASSESSMENTS.—For any community created after October
987 1, 1995, the governing documents must describe the manner in
988 which expenses are shared and specify the member's proportional

989 share thereof.

990 (e) If an association is owed past due assessments by a
 991 member, the association may:

- 992 1. Seek collection of the past due assessments;
- 993 2. File a claim for a lien on the property;
- 994 3. Proceed to foreclosure; or
- 995 4. Waive the assessments and not proceed in any action
 996 against the member.

997 (f) If a member has assessments that are more than 24
 998 months past due, the association may not file a claim of lien or
 999 a foreclosure action against that member for such past due
 1000 assessments or fees charged related to such past due
 1001 assessments. The 24-month limit is automatically extended for
 1002 any length of time during which the association is prevented
 1003 from filing a foreclosure action by an automatic stay resulting
 1004 from a bankruptcy petition filed by the member or any other
 1005 person claiming an interest in the parcel.

1006 (g)1. Before an association transfers the rights to
 1007 collect past due assessments to a third party, transfers a lien
 1008 to a third party, or files a complaint to obtain a judgment in
 1009 foreclosure, the association must offer payment plans for
 1010 members to pay any past due assessments and related fees. The
 1011 payment plans must allow a member to pay past due assessments
 1012 and any related fees levied by the association within the past
 1013 24 months. In addition to payments made pursuant to the payment
 1014 plan, members are responsible for paying any current assessments

1015 that arise during the payment plan at the time the assessments
1016 become due. A service charge may be assessed and included in the
1017 fees collected in the payment plan if additional fees were not
1018 charged in addition to the original total of the past due
1019 assessments.

1020 2. If a member agrees to participate in the payment plan,
1021 the time limit in paragraph (f) is tolled until the past due
1022 assessments, related fees, and any assessments that arise during
1023 the payment plan are paid. If the member does not comply with
1024 the terms of the payment plan, the association is no longer
1025 subject to the time limit in paragraph (f).

1026 3. The payment plan must:

1027 a. Consist of at least 12 monthly payments, if the past
1028 due assessments and related fines total \$500 or less.

1029 b. Consist of at least 18 monthly payments, if the past
1030 due assessments and related fines total more than \$500.

1031 c. Require the member to pay current assessments that
1032 arise during the payment plan in full at the time the
1033 assessments become due.

1034 d. Divide the total past due assessments and related fees
1035 into equal payments to be paid on a monthly basis.

1036 e. Not provide any additional terms or requirements other
1037 than to comply with the existing governing documents of the
1038 association.

1039 (2) TRANSFER OF PAST DUE ASSESSMENTS TO THIRD PARTY.-If an
1040 association transfers the right to collect past due assessments

1041 to a third party, the association must provide notice to the
 1042 member at least 30 days before such transfer. The notice must
 1043 state that the transfer includes the right to place a lien. The
 1044 notice must be served on the member by certified mail, return
 1045 receipt requested, or by personal service.

1046 Section 11. Paragraphs (d) through (f) of subsection (1)
 1047 of section 720.3085, Florida Statutes, are redesignated as
 1048 paragraphs (e) through (g), respectively, and a new paragraph
 1049 (d) is added to that subsection, to read:

1050 720.3085 Payment for assessments; lien claims.—

1051 (1) When authorized by the governing documents, the
 1052 association has a lien on each parcel to secure the payment of
 1053 assessments and other amounts provided for by this section.
 1054 Except as otherwise set forth in this section, the lien is
 1055 effective from and shall relate back to the date on which the
 1056 original declaration of the community was recorded. However, as
 1057 to first mortgages of record, the lien is effective from and
 1058 after recording of a claim of lien in the public records of the
 1059 county in which the parcel is located. This subsection does not
 1060 bestow upon any lien, mortgage, or certified judgment of record
 1061 on July 1, 2008, including the lien for unpaid assessments
 1062 created in this section, a priority that, by law, the lien,
 1063 mortgage, or judgment did not have before July 1, 2008.

1064 (d) If an association transfers a lien to a third party,
 1065 the association must provide notice to the member at least 30
 1066 days before such transfer. The notice must state that the

1067 transfer includes the right to foreclose on the property. The
 1068 notice must be served on the member by certified mail, return
 1069 receipt requested, or by personal service.

1070 Section 12. Subsection (1) of section 720.311, Florida
 1071 Statutes, is amended to read:

1072 720.311 Dispute resolution.—

1073 (1) The Legislature finds that alternative dispute
 1074 resolution has made progress in reducing court dockets and
 1075 trials and in offering a more efficient, cost-effective option
 1076 to litigation. The filing of any petition for arbitration or the
 1077 serving of a demand for presuit mediation as provided for in
 1078 this section shall toll the applicable statute of limitations.
 1079 Any recall dispute filed with the department pursuant to s.
 1080 720.303(11) ~~720.303(10)~~ shall be conducted by the department in
 1081 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
 1082 and the rules adopted by the division. In addition, the
 1083 department shall conduct mandatory binding arbitration of
 1084 election disputes between a member and an association pursuant
 1085 to s. 718.1255 and rules adopted by the division. Neither
 1086 election disputes nor recall disputes are eligible for presuit
 1087 mediation; these disputes shall be arbitrated by the department.
 1088 At the conclusion of the proceeding, the department shall charge
 1089 the parties a fee in an amount adequate to cover all costs and
 1090 expenses incurred by the department in conducting the
 1091 proceeding. Initially, the petitioner shall remit a filing fee
 1092 of at least \$200 to the department. The fees paid to the

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1093 department shall become a recoverable cost in the arbitration
1094 proceeding, and the prevailing party in an arbitration
1095 proceeding shall recover its reasonable costs and attorney's
1096 fees in an amount found reasonable by the arbitrator. The
1097 department shall adopt rules to effectuate the purposes of this
1098 section.

1099 Section 13. This act shall take effect July 1, 2016.