

26 relating to the posting of specified documents on an
27 association's website; providing a remedy for an
28 association's failure to provide a unit owner with a
29 copy of the most recent financial report; requiring
30 the Division of Florida Condominiums, Timeshares, and
31 Mobile Homes to maintain and provide copies of
32 financial reports; prohibiting a condominium
33 association and its officers, directors, employees,
34 and agents from using a debit card issued in the name
35 of the association, or billed directly to the
36 association, for the payment of any association
37 expense; providing that the use of such debit card for
38 any expense that is not a lawful obligation of the
39 association may be prosecuted as credit card fraud;
40 providing a directive to the Department of Business
41 and Professional Regulation; amending s. 718.112,
42 F.S.; providing board member term limits; providing an
43 exception; deleting certification requirements
44 relating to the recall of board members; revising the
45 amount of time in which a recalled board member must
46 turn over records and property of the association to
47 the board; prohibiting certain associations from
48 employing or contracting with a service provider that
49 is owned or operated by certain persons; amending s.
50 718.1255, F.S.; authorizing, rather than requiring,

51 the division to employ full-time attorneys to conduct
52 certain arbitration hearings; providing requirements
53 for the certification of arbitrators; prohibiting the
54 department from entering into a legal services
55 contract for certain arbitration hearings; requiring
56 the division to assign or enter into contracts with
57 arbitrators; requiring arbitrators to conduct hearings
58 within a specified period; providing an exception;
59 providing arbitration proceeding requirements;
60 amending s. 718.3025, F.S.; prohibiting specified
61 parties from purchasing a unit at a foreclosure sale
62 resulting from the association's foreclosure of
63 association lien for unpaid assessments or from taking
64 a deed in lieu of foreclosure; authorizing a contract
65 with a party providing maintenance or management
66 services to be cancelled by a majority vote of certain
67 unit owners under specified conditions; creating s.
68 718.3027, F.S.; providing requirements relating to
69 board director and officer conflicts of interest;
70 providing that certain contracts are voidable and
71 requiring the termination of such contracts under
72 certain conditions; amending s. 718.303, F.S.;
73 providing requirements relating to the suspension of
74 voting rights of unit owners and members; prohibiting
75 a receiver from exercising the voting rights of a unit

76 owner whose unit is placed in receivership; amending
77 s. 718.5012, F.S.; providing the ombudsman with an
78 additional power; creating s. 718.71, F.S.; providing
79 financial reporting requirements of an association;
80 providing an effective date.

81
82 Be It Enacted by the Legislature of the State of Florida:

83
84 Section 1. Paragraphs (a) and (d) of subsection (1),
85 subsections (3) and (9), paragraphs (a) and (c) of subsection
86 (12), and subsection (13) of section 718.111, Florida Statutes,
87 are amended, paragraph (g) is added to subsection (12), and
88 subsection (15) is added to that section, to read:

89 718.111 The association.—

90 (1) CORPORATE ENTITY.—

91 (a) The operation of the condominium shall be by the
92 association, which must be a Florida corporation for profit or a
93 Florida corporation not for profit. However, any association
94 which was in existence on January 1, 1977, need not be
95 incorporated. The owners of units shall be shareholders or
96 members of the association. The officers and directors of the
97 association have a fiduciary relationship to the unit owners. It
98 is the intent of the Legislature that nothing in this paragraph
99 shall be construed as providing for or removing a requirement of
100 a fiduciary relationship between any manager employed by the

101 association and the unit owners. An officer, director, or
102 manager may not solicit, offer to accept, or accept any thing or
103 service of value or kickback for which consideration has not
104 been provided for his or her own benefit or that of his or her
105 immediate family, from any person providing or proposing to
106 provide goods or services to the association. Any such officer,
107 director, or manager who knowingly so solicits, offers to
108 accept, or accepts any thing or service of value or kickback is
109 subject to a civil penalty pursuant to s. 718.501(1)(d) and, if
110 applicable, a criminal penalty as provided in paragraph (d).

111 However, this paragraph does not prohibit an officer, director,
112 or manager from accepting services or items received in
113 connection with trade fairs or education programs. An
114 association may operate more than one condominium.

115 (d) As required by s. 617.0830, an officer, director, or
116 agent shall discharge his or her duties in good faith, with the
117 care an ordinarily prudent person in a like position would
118 exercise under similar circumstances, and in a manner he or she
119 reasonably believes to be in the interests of the association.
120 An officer, director, or agent shall be liable for monetary
121 damages as provided in s. 617.0834 if such officer, director, or
122 agent breached or failed to perform his or her duties and the
123 breach of, or failure to perform, his or her duties constitutes
124 a violation of criminal law as provided in s. 617.0834;
125 constitutes a transaction from which the officer or director

126 | derived an improper personal benefit, either directly or
127 | indirectly; or constitutes recklessness or an act or omission
128 | that was in bad faith, with malicious purpose, or in a manner
129 | exhibiting wanton and willful disregard of human rights, safety,
130 | or property. Forgery of a ballot envelope or voting certificate
131 | used in a condominium association election is punishable as
132 | provided in s. 831.01, the theft or embezzlement of funds of a
133 | condominium association is punishable as provided in s. 812.014,
134 | and the destruction of any document that is an official record
135 | of a condominium association in furtherance of any crime is
136 | punishable as tampering with physical evidence as provided in s.
137 | 918.13 or as obstruction of justice as provided in chapter 843.
138 | An officer or director charged by information or indictment with
139 | a crime referenced in this paragraph must be removed from
140 | office, and the vacancy shall be filled as provided in s.
141 | 718.112(2)(d)2. until the end of the officer's or director's
142 | period of suspension or the end of his or her term of office,
143 | whichever occurs first. If a criminal charge is pending against
144 | the officer or director, he or she may not be appointed or
145 | elected to a position as an officer or a director of any
146 | association and may not have access to the official records of
147 | any association, except pursuant to a court order. However, if
148 | the charges are resolved without a finding of guilt, the officer
149 | or director must be reinstated for the remainder of his or her
150 | term of office, if any.

151 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
152 SUE, AND BE SUED; CONFLICT OF INTEREST.—

153 (a) The association may contract, sue, or be sued with
154 respect to the exercise or nonexercise of its powers. For these
155 purposes, the powers of the association include, but are not
156 limited to, the maintenance, management, and operation of the
157 condominium property. After control of the association is
158 obtained by unit owners other than the developer, the
159 association may institute, maintain, settle, or appeal actions
160 or hearings in its name on behalf of all unit owners concerning
161 matters of common interest to most or all unit owners,
162 including, but not limited to, the common elements; the roof and
163 structural components of a building or other improvements;
164 mechanical, electrical, and plumbing elements serving an
165 improvement or a building; representations of the developer
166 pertaining to any existing or proposed commonly used facilities;
167 and protesting ad valorem taxes on commonly used facilities and
168 on units; and may defend actions in eminent domain or bring
169 inverse condemnation actions. If the association has the
170 authority to maintain a class action, the association may be
171 joined in an action as representative of that class with
172 reference to litigation and disputes involving the matters for
173 which the association could bring a class action. Nothing herein
174 limits any statutory or common-law right of any individual unit
175 owner or class of unit owners to bring any action without

176 participation by the association which may otherwise be
177 available.

178 (b) An association may not hire an attorney who represents
179 the management company of the association.

180 (9) PURCHASE OF UNITS.—The association has the power,
181 unless prohibited by the declaration, articles of incorporation,
182 or bylaws of the association, to purchase units in the
183 condominium and to acquire and hold, lease, mortgage, and convey
184 them. There shall be no limitation on the association's right to
185 purchase a unit at a foreclosure sale resulting from the
186 association's foreclosure of its lien for unpaid assessments, or
187 to take title by deed in lieu of foreclosure. However, except
188 for a timeshare condominium, a board member, manager, or
189 management company may not purchase a unit at a foreclosure sale
190 resulting from the association's foreclosure of its lien for
191 unpaid assessments or take title by deed in lieu of foreclosure.

192 (12) OFFICIAL RECORDS.—

193 (a) From the inception of the association, the association
194 shall maintain each of the following items, if applicable, which
195 constitutes the official records of the association:

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

198 2. A photocopy of the recorded declaration of condominium
199 of each condominium operated by the association and each
200 amendment to each declaration.

201 3. A photocopy of the recorded bylaws of the association
202 and each amendment to the bylaws.

203 4. A certified copy of the articles of incorporation of
204 the association, or other documents creating the association,
205 and each amendment thereto.

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

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

211 7. A current roster of all unit owners and their mailing
212 addresses, unit identifications, voting certifications, and, if
213 known, telephone numbers. The association shall also maintain
214 the electronic mailing addresses and facsimile numbers of unit
215 owners consenting to receive notice by electronic transmission.
216 The electronic mailing addresses and facsimile numbers are not
217 accessible to unit owners if consent to receive notice by
218 electronic transmission is not provided in accordance with sub-
219 subparagraph (c)3.e. ~~subparagraph (c)5.~~ However, the association
220 is not liable for an inadvertent disclosure of the electronic
221 mail address or facsimile number for receiving electronic
222 transmission of notices.

223 8. All current insurance policies of the association and
224 condominiums operated by the association.

225 9. A current copy of any management agreement, lease, or

226 | other contract to which the association is a party or under
 227 | which the association or the unit owners have an obligation or
 228 | responsibility.

229 | 10. Bills of sale or transfer for all property owned by
 230 | the association.

231 | 11. Accounting records for the association and separate
 232 | accounting records for each condominium that the association
 233 | operates. All accounting records must be maintained for at least
 234 | 7 years. Any person who knowingly or intentionally defaces or
 235 | destroys such records, or who knowingly or intentionally fails
 236 | to create or maintain such records, with the intent of causing
 237 | harm to the association or one or more of its members, is
 238 | personally subject to a civil penalty pursuant to s.
 239 | 718.501(1)(d). The accounting records must include, but are not
 240 | limited to:

241 | a. Accurate, itemized, and detailed records of all
 242 | receipts and expenditures.

243 | b. A current account and a monthly, bimonthly, or
 244 | quarterly statement of the account for each unit designating the
 245 | name of the unit owner, the due date and amount of each
 246 | assessment, the amount paid on the account, and the balance due.

247 | c. All audits, reviews, accounting statements, and
 248 | financial reports of the association or condominium.

249 | d. All contracts for work to be performed. Bids for work
 250 | to be performed are also considered official records and must be

251 maintained by the association.

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

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

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

261 15. All other written records of the association not
 262 specifically included in the foregoing which are related to the
 263 operation of the association.

264 16. A copy of the inspection report as described in s.
 265 718.301(4)(p).

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

267 (c)1. The official records of the association are open to
 268 inspection by any association member or the authorized
 269 representative of such member at all reasonable times. The right
 270 to inspect the records includes the right to make or obtain
 271 copies, at the reasonable expense, if any, of the member or
 272 authorized representative of such member. A renter of a unit has
 273 a right to inspect and copy the association's bylaws and rules.

274 The association may adopt reasonable rules regarding the
 275 frequency, time, location, notice, and manner of record

276 inspections and copying. The failure of an association to
277 provide the records within 10 working days after receipt of a
278 written request creates a rebuttable presumption that the
279 association willfully failed to comply with this paragraph. A
280 unit owner who is denied access to official records is entitled
281 to the actual damages or minimum damages for the association's
282 willful failure to comply. Minimum damages are \$50 per calendar
283 day for up to 10 days, beginning on the 11th working day after
284 receipt of the written request. The failure to permit inspection
285 entitles any person prevailing in an enforcement action to
286 recover reasonable attorney fees from the person in control of
287 the records who, directly or indirectly, knowingly denied access
288 to the records.

289 2. Any person who knowingly or intentionally defaces or
290 destroys accounting records that are required by this chapter to
291 be maintained during the period for which such records are
292 required to be maintained, or who knowingly or intentionally
293 fails to create or maintain accounting records that are required
294 to be created or maintained, with the intent of causing harm to
295 the association or one or more of its members, is personally
296 subject to a civil penalty pursuant to s. 718.501(1)(d).

297 3. The association shall maintain an adequate number of
298 copies of the declaration, articles of incorporation, bylaws,
299 and rules, and all amendments to each of the foregoing, as well
300 as the question and answer sheet as described in s. 718.504 and

301 year-end financial information required under this section, on
302 the condominium property to ensure their availability to unit
303 owners and prospective purchasers, and may charge its actual
304 costs for preparing and furnishing these documents to those
305 requesting the documents. An association shall allow a member or
306 his or her authorized representative to use a portable device,
307 including a smartphone, tablet, portable scanner, or any other
308 technology capable of scanning or taking photographs, to make an
309 electronic copy of the official records in lieu of the
310 association's providing the member or his or her authorized
311 representative with a copy of such records. The association may
312 not charge a member or his or her authorized representative for
313 the use of a portable device. Notwithstanding this paragraph,
314 the following records are not accessible to unit owners:

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

325 ~~b.2.~~ Information obtained by an association in connection

326 with the approval of the lease, sale, or other transfer of a
327 unit.

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

336 d.4. Medical records of unit owners.

337 e.5. Social security numbers, driver license numbers,
338 credit card numbers, e-mail addresses, telephone numbers,
339 facsimile numbers, emergency contact information, addresses of a
340 unit owner other than as provided to fulfill the association's
341 notice requirements, and other personal identifying information
342 of any person, excluding the person's name, unit designation,
343 mailing address, property address, and any address, e-mail
344 address, or facsimile number provided to the association to
345 fulfill the association's notice requirements. Notwithstanding
346 the restrictions in this sub-subparagraph ~~subparagraph~~, an
347 association may print and distribute to parcel owners a
348 directory containing the name, parcel address, and all telephone
349 numbers of each parcel owner. However, an owner may exclude his
350 or her telephone numbers from the directory by so requesting in

351 writing to the association. An owner may consent in writing to
352 the disclosure of other contact information described in this
353 sub-subparagraph ~~subparagraph~~. The association is not liable for
354 the inadvertent disclosure of information that is protected
355 under this sub-subparagraph ~~subparagraph~~ if the information is
356 included in an official record of the association and is
357 voluntarily provided by an owner and not requested by the
358 association.

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

361 g.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 (g)1. By July 1, 2018, an association with 150 or more
366 units which does not manage timeshare units shall post digital
367 copies of the documents specified in subparagraph 2. on its
368 website.

369 a. The association's website must be:

370 (I) An independent website or web portal wholly owned and
371 operated by the association; or

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

376 the association's activities and on which required notices,
377 records, and documents may be posted by the association.

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

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

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

390 a. The recorded declaration of condominium of each
391 condominium operated by the association and each amendment to
392 each declaration.

393 b. The recorded bylaws of the association and each
394 amendment to the bylaws.

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

400 d. The rules of the association.

401 e. Any management agreement, lease, or other contract to
402 which the association is a party or under which the association
403 or the unit owners have an obligation or responsibility.

404 Summaries of bids for materials, equipment, or services must be
405 maintained on the website for 1 year.

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

408 g. The financial report required by subsection (13) and
409 any proposed financial report to be considered at a meeting.

410 h. The certification of each director required by s.
411 718.112(2)(d)4.b.

412 i. All contracts or transactions between the association
413 and any director, officer, corporation, firm, or association
414 that is not an affiliated condominium association or any other
415 entity in which an association director is also a director or
416 officer and financially interested.

417 j. Any contract or document regarding a conflict of
418 interest or possible conflict of interest as provided in ss.
419 468.436(2) and 718.3026(3).

420 k. The notice of any unit owner meeting and the agenda for
421 the meeting, as required by s. 718.112(2)(d)3., no later than 14
422 days before the meeting. The notice must be posted in plain view
423 on the front page of the website, or on a separate subpage of
424 the website labeled "Notices" which is conspicuously visible and
425 linked from the front page. The association must also post on

426 its website any document to be considered and voted on by the
427 owners during the meeting or any document listed on the agenda
428 at least 7 days before the meeting at which the document or the
429 information within the document will be considered.

430 1. Notice of any board meeting, the agenda, and any other
431 document required for the meeting as required by s.
432 718.112(2)(c), which must be posted no later than the date
433 required for notice pursuant to s. 718.112(2)(c).

434 2. The association shall ensure that the information and
435 records described in paragraph (c), which are not permitted to
436 be accessible to unit owners, are not posted on the
437 association's website. If protected information or information
438 restricted from being accessible to unit owners is included in
439 documents that are required to be posted on the association's
440 website, the association shall ensure the information is
441 redacted before posting the documents online.

442 (13) FINANCIAL REPORTING.—Within 90 days after the end of
443 the fiscal year, or annually on a date provided in the bylaws,
444 the association shall prepare and complete, or contract for the
445 preparation and completion of, a financial report for the
446 preceding fiscal year. Within 21 days after the final financial
447 report is completed by the association or received from the
448 third party, but not later than 120 days after the end of the
449 fiscal year or other date as provided in the bylaws, the
450 association shall mail to each unit owner at the address last

451 furnished to the association by the unit owner, or hand deliver
452 to each unit owner, a copy of the most recent financial report
453 or a notice that a copy of the most recent financial report will
454 be mailed or hand delivered to the unit owner, without charge,
455 within 5 business days after ~~upon~~ receipt of a written request
456 from the unit owner. The division shall adopt rules setting
457 forth uniform accounting principles and standards to be used by
458 all associations and addressing the financial reporting
459 requirements for multicondominium associations. The rules must
460 include, but not be limited to, standards for presenting a
461 summary of association reserves, including a good faith estimate
462 disclosing the annual amount of reserve funds that would be
463 necessary for the association to fully fund reserves for each
464 reserve item based on the straight-line accounting method. This
465 disclosure is not applicable to reserves funded via the pooling
466 method. In adopting such rules, the division shall consider the
467 number of members and annual revenues of an association.
468 Financial reports shall be prepared as follows:

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

474 1. An association with total annual revenues of \$150,000
475 or more, but less than \$300,000, shall prepare compiled

476 financial statements.

477 2. An association with total annual revenues of at least
478 \$300,000, but less than \$500,000, shall prepare reviewed
479 financial statements.

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

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

485 2. An association that operates fewer than 50 units,
486 regardless of the association's annual revenues, shall prepare a
487 report of cash receipts and expenditures in lieu of financial
488 statements required by paragraph (a).

489 3. A report of cash receipts and disbursements must
490 disclose the amount of receipts by accounts and receipt
491 classifications and the amount of expenses by accounts and
492 expense classifications, including, but not limited to, the
493 following, as applicable: costs for security, professional and
494 management fees and expenses, taxes, costs for recreation
495 facilities, expenses for refuse collection and utility services,
496 expenses for lawn care, costs for building maintenance and
497 repair, insurance costs, administration and salary expenses, and
498 reserves accumulated and expended for capital expenditures,
499 deferred maintenance, and any other category for which the
500 association maintains reserves.

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

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

506 2. Reviewed or audited financial statements, if the
507 association is required to prepare compiled financial
508 statements; or

509 3. Audited financial statements if the association is
510 required to prepare reviewed financial statements.

511 (d) If approved by a majority of the voting interests
512 present at a properly called meeting of the association, an
513 association may prepare:

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

516 2. A report of cash receipts and expenditures or a
517 compiled financial statement in lieu of a reviewed or audited
518 financial statement; or

519 3. A report of cash receipts and expenditures, a compiled
520 financial statement, or a reviewed financial statement in lieu
521 of an audited financial statement.

522

523 Such meeting and approval must occur before the end of the
524 fiscal year and is effective only for the fiscal year in which
525 the vote is taken, except that the approval may also be

526 effective for the following fiscal year. If the developer has
527 not turned over control of the association, all unit owners,
528 including the developer, may vote on issues related to the
529 preparation of the association's financial reports, from the
530 date of incorporation of the association through the end of the
531 second fiscal year after the fiscal year in which the
532 certificate of a surveyor and mapper is recorded pursuant to s.
533 718.104(4)(e) or an instrument that transfers title to a unit in
534 the condominium which is not accompanied by a recorded
535 assignment of developer rights in favor of the grantee of such
536 unit is recorded, whichever occurs first. Thereafter, all unit
537 owners except the developer may vote on such issues until
538 control is turned over to the association by the developer. Any
539 audit or review prepared under this section shall be paid for by
540 the developer if done before turnover of control of the
541 association. An association may not waive the financial
542 reporting requirements of this section for more than 3
543 consecutive years.

544 (e) A unit owner may provide written notice to the
545 division of the association's failure to mail or hand deliver
546 him or her a copy of the most recent financial report within 5
547 business days after he or she submitted a written request to the
548 association for a copy of such report. If the division
549 determines that the association failed to mail or hand deliver a
550 copy of the most recent financial report to the unit owner, the

551 division shall provide written notice to the association that
552 the association must mail or hand deliver a copy of the most
553 recent financial report to the unit owner and the division
554 within 5 business days after it receives such notice from the
555 division. An association that fails to comply with the
556 division's request may not waive the financial reporting
557 requirement provided in paragraph (d). A financial report
558 received by the division pursuant to this paragraph shall be
559 maintained, and the division shall provide a copy of such report
560 to an association member upon his or her request.

561 (15) DEBIT CARDS.—

562 (a) An association and its officers, directors, employees,
563 and agents may not use a debit card issued in the name of the
564 association, or billed directly to the association, for the
565 payment of any association expense.

566 (b) Use of a debit card issued in the name of the
567 association, or billed directly to the association, for any
568 expense that is not a lawful obligation of the association may
569 be prosecuted as credit card fraud pursuant to s. 817.61.

570 Section 2. To implement the website requirement in section
571 1 of this act, the Department of Business and Professional
572 Regulation is directed to include within the next condominium
573 association annual fee statement required by s. 718.501(2)(a),
574 Florida Statutes, a notice informing condominium associations of
575 150 or more units of the requirement to create a website for

576 association documents that is operational on or before July 1,
577 2018.

578 Section 3. Paragraphs (d) and (j) of subsection (2) of
579 section 718.112, Florida Statutes, are amended, and paragraph
580 (p) is added to that subsection, to read:

581 718.112 Bylaws.—

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

585 (d) *Unit owner meetings.*—

586 1. An annual meeting of the unit owners shall be held at
587 the location provided in the association bylaws and, if the
588 bylaws are silent as to the location, the meeting shall be held
589 within 45 miles of the condominium property. However, such
590 distance requirement does not apply to an association governing
591 a timeshare condominium.

592 2. Unless the bylaws provide otherwise, a vacancy on the
593 board caused by the expiration of a director's term shall be
594 filled by electing a new board member, and the election must be
595 by secret ballot. An election is not required if the number of
596 vacancies equals or exceeds the number of candidates. For
597 purposes of this paragraph, the term "candidate" means an
598 eligible person who has timely submitted the written notice, as
599 described in sub-subparagraph 4.a., of his or her intention to
600 become a candidate. Except in a timeshare or nonresidential

601 condominium, or if the staggered term of a board member does not
602 expire until a later annual meeting, or if all members' terms
603 would otherwise expire but there are no candidates, the terms of
604 all board members expire at the annual meeting, and such members
605 may stand for reelection unless prohibited by the bylaws. ~~If the~~
606 ~~bylaws or articles of incorporation permit terms of no more than~~
607 ~~2 years, the association~~ Board members may serve 2-year terms if
608 permitted by the bylaws or articles of incorporation. A board
609 member may not serve more than four consecutive 2-year terms,
610 unless approved by an affirmative vote of two-thirds of the
611 total voting interests of the association or unless there are
612 not enough eligible candidates to fill the vacancies on the
613 board at the time of the vacancy. If the number of board members
614 whose terms expire at the annual meeting equals or exceeds the
615 number of candidates, the candidates become members of the board
616 effective upon the adjournment of the annual meeting. Unless the
617 bylaws provide otherwise, any remaining vacancies shall be
618 filled by the affirmative vote of the majority of the directors
619 making up the newly constituted board even if the directors
620 constitute less than a quorum or there is only one director. In
621 a residential condominium association of more than 10 units or
622 in a residential condominium association that does not include
623 timeshare units or timeshare interests, coowners of a unit may
624 not serve as members of the board of directors at the same time
625 unless they own more than one unit or unless there are not

626 enough eligible candidates to fill the vacancies on the board at
627 the time of the vacancy. A unit owner in a residential
628 condominium desiring to be a candidate for board membership must
629 comply with sub-subparagraph 4.a. and must be eligible to be a
630 candidate to serve on the board of directors at the time of the
631 deadline for submitting a notice of intent to run in order to
632 have his or her name listed as a proper candidate on the ballot
633 or to serve on the board. A person who has been suspended or
634 removed by the division under this chapter, or who is delinquent
635 in the payment of any monetary obligation due to the
636 association, is not eligible to be a candidate for board
637 membership and may not be listed on the ballot. A person who has
638 been convicted of any felony in this state or in a United States
639 District or Territorial Court, or who has been convicted of any
640 offense in another jurisdiction which would be considered a
641 felony if committed in this state, is not eligible for board
642 membership unless such felon's civil rights have been restored
643 for at least 5 years as of the date such person seeks election
644 to the board. The validity of an action by the board is not
645 affected if it is later determined that a board member is
646 ineligible for board membership due to having been convicted of
647 a felony. This subparagraph does not limit the term of a member
648 of the board of a nonresidential or timeshare condominium.

649 3. The bylaws must provide the method of calling meetings
650 of unit owners, including annual meetings. Written notice must

651 include an agenda, must be mailed, hand delivered, or
652 electronically transmitted to each unit owner at least 14 days
653 before the annual meeting, and must be posted in a conspicuous
654 place on the condominium property at least 14 continuous days
655 before the annual meeting. Upon notice to the unit owners, the
656 board shall, by duly adopted rule, designate a specific location
657 on the condominium property or association property where all
658 notices of unit owner meetings shall be posted. This requirement
659 does not apply if there is no condominium property or
660 association property for posting notices. In lieu of, or in
661 addition to, the physical posting of meeting notices, the
662 association may, by reasonable rule, adopt a procedure for
663 conspicuously posting and repeatedly broadcasting the notice and
664 the agenda on a closed-circuit cable television system serving
665 the condominium association. However, if broadcast notice is
666 used in lieu of a notice posted physically on the condominium
667 property, the notice and agenda must be broadcast at least four
668 times every broadcast hour of each day that a posted notice is
669 otherwise required under this section. If broadcast notice is
670 provided, the notice and agenda must be broadcast in a manner
671 and for a sufficient continuous length of time so as to allow an
672 average reader to observe the notice and read and comprehend the
673 entire content of the notice and the agenda. Unless a unit owner
674 waives in writing the right to receive notice of the annual
675 meeting, such notice must be hand delivered, mailed, or

676 | electronically transmitted to each unit owner. Notice for
677 | meetings and notice for all other purposes must be mailed to
678 | each unit owner at the address last furnished to the association
679 | by the unit owner, or hand delivered to each unit owner.
680 | However, if a unit is owned by more than one person, the
681 | association must provide notice to the address that the
682 | developer identifies for that purpose and thereafter as one or
683 | more of the owners of the unit advise the association in
684 | writing, or if no address is given or the owners of the unit do
685 | not agree, to the address provided on the deed of record. An
686 | officer of the association, or the manager or other person
687 | providing notice of the association meeting, must provide an
688 | affidavit or United States Postal Service certificate of
689 | mailing, to be included in the official records of the
690 | association affirming that the notice was mailed or hand
691 | delivered in accordance with this provision.

692 | 4. The members of the board of a residential condominium
693 | shall be elected by written ballot or voting machine. Proxies
694 | may not be used in electing the board in general elections or
695 | elections to fill vacancies caused by recall, resignation, or
696 | otherwise, unless otherwise provided in this chapter. This
697 | subparagraph does not apply to an association governing a
698 | timeshare condominium.

699 | a. At least 60 days before a scheduled election, the
700 | association shall mail, deliver, or electronically transmit, by

701 separate association mailing or included in another association
702 mailing, delivery, or transmission, including regularly
703 published newsletters, to each unit owner entitled to a vote, a
704 first notice of the date of the election. A unit owner or other
705 eligible person desiring to be a candidate for the board must
706 give written notice of his or her intent to be a candidate to
707 the association at least 40 days before a scheduled election.
708 Together with the written notice and agenda as set forth in
709 subparagraph 3., the association shall mail, deliver, or
710 electronically transmit a second notice of the election to all
711 unit owners entitled to vote, together with a ballot that lists
712 all candidates. Upon request of a candidate, an information
713 sheet, no larger than 8 1/2 inches by 11 inches, which must be
714 furnished by the candidate at least 35 days before the election,
715 must be included with the mailing, delivery, or transmission of
716 the ballot, with the costs of mailing, delivery, or electronic
717 transmission and copying to be borne by the association. The
718 association is not liable for the contents of the information
719 sheets prepared by the candidates. In order to reduce costs, the
720 association may print or duplicate the information sheets on
721 both sides of the paper. The division shall by rule establish
722 voting procedures consistent with this sub-subparagraph,
723 including rules establishing procedures for giving notice by
724 electronic transmission and rules providing for the secrecy of
725 ballots. Elections shall be decided by a plurality of ballots

726 | cast. There is no quorum requirement; however, at least 20
727 | percent of the eligible voters must cast a ballot in order to
728 | have a valid election. A unit owner may not permit any other
729 | person to vote his or her ballot, and any ballots improperly
730 | cast are invalid. A unit owner who violates this provision may
731 | be fined by the association in accordance with s. 718.303. A
732 | unit owner who needs assistance in casting the ballot for the
733 | reasons stated in s. 101.051 may obtain such assistance. The
734 | regular election must occur on the date of the annual meeting.
735 | Notwithstanding this sub-subparagraph, an election is not
736 | required unless more candidates file notices of intent to run or
737 | are nominated than board vacancies exist.

738 | b. Within 90 days after being elected or appointed to the
739 | board of an association of a residential condominium, each newly
740 | elected or appointed director shall certify in writing to the
741 | secretary of the association that he or she has read the
742 | association's declaration of condominium, articles of
743 | incorporation, bylaws, and current written policies; that he or
744 | she will work to uphold such documents and policies to the best
745 | of his or her ability; and that he or she will faithfully
746 | discharge his or her fiduciary responsibility to the
747 | association's members. In lieu of this written certification,
748 | within 90 days after being elected or appointed to the board,
749 | the newly elected or appointed director may submit a certificate
750 | of having satisfactorily completed the educational curriculum

751 administered by a division-approved condominium education
752 provider within 1 year before or 90 days after the date of
753 election or appointment. The written certification or
754 educational certificate is valid and does not have to be
755 resubmitted as long as the director serves on the board without
756 interruption. A director of an association of a residential
757 condominium who fails to timely file the written certification
758 or educational certificate is suspended from service on the
759 board until he or she complies with this sub-subparagraph. The
760 board may temporarily fill the vacancy during the period of
761 suspension. The secretary shall cause the association to retain
762 a director's written certification or educational certificate
763 for inspection by the members for 5 years after a director's
764 election or the duration of the director's uninterrupted tenure,
765 whichever is longer. Failure to have such written certification
766 or educational certificate on file does not affect the validity
767 of any board action.

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

770 5. Any approval by unit owners called for by this chapter
771 or the applicable declaration or bylaws, including, but not
772 limited to, the approval requirement in s. 718.111(8), must be
773 made at a duly noticed meeting of unit owners and is subject to
774 all requirements of this chapter or the applicable condominium
775 documents relating to unit owner decisionmaking, except that

776 unit owners may take action by written agreement, without
777 meetings, on matters for which action by written agreement
778 without meetings is expressly allowed by the applicable bylaws
779 or declaration or any law that provides for such action.

780 6. Unit owners may waive notice of specific meetings if
781 allowed by the applicable bylaws or declaration or any law.
782 Notice of meetings of the board of administration, unit owner
783 meetings, except unit owner meetings called to recall board
784 members under paragraph (j), and committee meetings may be given
785 by electronic transmission to unit owners who consent to receive
786 notice by electronic transmission.

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

791 8. A unit owner may tape record or videotape a meeting of
792 the unit owners subject to reasonable rules adopted by the
793 division.

794 9. Unless otherwise provided in the bylaws, any vacancy
795 occurring on the board before the expiration of a term may be
796 filled by the affirmative vote of the majority of the remaining
797 directors, even if the remaining directors constitute less than
798 a quorum, or by the sole remaining director. In the alternative,
799 a board may hold an election to fill the vacancy, in which case
800 the election procedures must conform to sub-subparagraph 4.a.

801 unless the association governs 10 units or fewer and has opted
802 out of the statutory election process, in which case the bylaws
803 of the association control. Unless otherwise provided in the
804 bylaws, a board member appointed or elected under this section
805 shall fill the vacancy for the unexpired term of the seat being
806 filled. Filling vacancies created by recall is governed by
807 paragraph (j) and rules adopted by the division.

808 10. This chapter does not limit the use of general or
809 limited proxies, require the use of general or limited proxies,
810 or require the use of a written ballot or voting machine for any
811 agenda item or election at any meeting of a timeshare
812 condominium association or nonresidential condominium
813 association.

814
815 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
816 association of 10 or fewer units may, by affirmative vote of a
817 majority of the total voting interests, provide for different
818 voting and election procedures in its bylaws, which may be by a
819 proxy specifically delineating the different voting and election
820 procedures. The different voting and election procedures may
821 provide for elections to be conducted by limited or general
822 proxy.

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

826 agreement in writing by a majority of all the voting interests.
827 A special meeting of the unit owners to recall a member or
828 members of the board of administration may be called by 10
829 percent of the voting interests giving notice of the meeting as
830 required for a meeting of unit owners, and the notice shall
831 state the purpose of the meeting. Electronic transmission may
832 not be used as a method of giving notice of a meeting called in
833 whole or in part for this purpose.

834 1. If the recall is approved by a majority of all voting
835 interests by a vote at a meeting, the recall will be effective
836 as provided in this paragraph. The board shall duly notice and
837 hold a board meeting within 5 full business days after the
838 adjournment of the unit owner meeting to recall one or more
839 board members. ~~At the meeting, the board shall either certify~~
840 ~~the recall, in which case~~ Such member or members shall be
841 recalled effective immediately and shall turn over to the board
842 within 10 ~~5~~ full business days after the vote any and all
843 records and property of the association in their possession, ~~or~~
844 ~~shall proceed as set forth in subparagraph 3.~~

845 2. If the proposed recall is by an agreement in writing by
846 a majority of all voting interests, the agreement in writing or
847 a copy thereof shall be served on the association by certified
848 mail or by personal service in the manner authorized by chapter
849 48 and the Florida Rules of Civil Procedure. The board of
850 administration shall duly notice and hold a meeting of the board

851 within 5 full business days after receipt of the agreement in
852 writing. ~~At the meeting, the board shall either certify the~~
853 ~~written agreement to recall a member or members of the board, in~~
854 ~~which case~~ Such member or members shall be recalled effective
855 immediately and shall turn over to the board within 10 ~~5~~ full
856 business days any and all records and property of the
857 association in their possession, ~~or proceed as described in~~
858 ~~subparagraph 3.~~

859 ~~3. If the board determines not to certify the written~~
860 ~~agreement to recall a member or members of the board, or does~~
861 ~~not certify the recall by a vote at a meeting, the board shall,~~
862 ~~within 5 full business days after the meeting, file with the~~
863 ~~division a petition for arbitration pursuant to the procedures~~
864 ~~in s. 718.1255. For the purposes of this section, the unit~~
865 ~~owners who voted at the meeting or who executed the agreement in~~
866 ~~writing shall constitute one party under the petition for~~
867 ~~arbitration. If the arbitrator certifies the recall as to any~~
868 ~~member or members of the board, the recall will be effective~~
869 ~~upon mailing of the final order of arbitration to the~~
870 ~~association. If the association fails to comply with the order~~
871 ~~of the arbitrator, the division may take action pursuant to s.~~
872 ~~718.501. Any member or members so recalled shall deliver to the~~
873 ~~board any and all records of the association in their possession~~
874 ~~within 5 full business days after the effective date of the~~
875 ~~recall.~~

876 ~~3.4.~~ If the board fails to duly notice and hold a board
877 meeting within 5 full business days after service of an
878 agreement in writing or within 5 full business days after the
879 adjournment of the unit owner recall meeting, the recall shall
880 be deemed effective and the board members so recalled shall
881 ~~immediately~~ turn over to the board within 10 full business days
882 after the vote any and all records and property of the
883 association.

884 ~~4.5.~~ If the board fails to duly notice and hold the
885 required meeting or fails to file the required petition, the
886 unit owner representative may file a petition pursuant to s.
887 718.1255 challenging the board's failure to act. The petition
888 must be filed within 60 days after the expiration of the
889 applicable 5-full-business-day period. The review of a petition
890 under this subparagraph is limited to the sufficiency of service
891 on the board and the facial validity of the written agreement or
892 ballots filed.

893 ~~5.6.~~ If a vacancy occurs on the board as a result of a
894 recall or removal and less than a majority of the board members
895 are removed, the vacancy may be filled by the affirmative vote
896 of a majority of the remaining directors, notwithstanding any
897 provision to the contrary contained in this subsection. If
898 vacancies occur on the board as a result of a recall and a
899 majority or more of the board members are removed, the vacancies
900 shall be filled in accordance with procedural rules to be

901 adopted by the division, which rules need not be consistent with
902 this subsection. The rules must provide procedures governing the
903 conduct of the recall election as well as the operation of the
904 association during the period after a recall but before the
905 recall election.

906 ~~6.7.~~ A board member who has been recalled may file a
907 petition pursuant to s. 718.1255 challenging the validity of the
908 recall. The petition must be filed within 60 days after the
909 recall ~~is deemed certified~~. The association and the unit owner
910 representative shall be named as the respondents.

911 ~~7.8.~~ The division may not accept for filing a recall
912 petition, whether filed pursuant to subparagraph 1.,
913 subparagraph 2., subparagraph ~~4. 5.~~, or subparagraph ~~6. 7.~~ and
914 ~~regardless of whether the recall was certified~~, when there are
915 60 or fewer days until the scheduled reelection of the board
916 member sought to be recalled or when 60 or fewer days have
917 elapsed since the election of the board member sought to be
918 recalled.

919 (p) Service providers; conflicts of interest.—An
920 association, which is not a timeshare condominium association,
921 may not employ or contract with any service provider that is
922 owned or operated by a board member or with any person who has a
923 financial relationship with a board member or officer, or a
924 relative within the third degree of consanguinity by blood or
925 marriage of a board member or officer. This paragraph does not

926 apply to a service provider in which a board member or officer,
927 or a relative within the third degree of consanguinity by blood
928 or marriage of a board member or officer, owns less than 1
929 percent of the equity shares.

930 Section 4. Subsection (4) of section 718.1255, Florida
931 Statutes, is amended to read:

932 718.1255 Alternative dispute resolution; voluntary
933 mediation; mandatory nonbinding arbitration; legislative
934 findings.—

935 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
936 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
937 Mobile Homes of the Department of Business and Professional
938 Regulation may ~~shall~~ employ full-time attorneys to act as
939 arbitrators to conduct the arbitration hearings provided by this
940 chapter. The division may also certify attorneys who are not
941 employed by the division to act as arbitrators to conduct the
942 arbitration hearings provided by this chapter ~~section~~. No person
943 may be employed by the department as a full-time arbitrator
944 unless he or she is a member in good standing of The Florida
945 Bar. A person may only be certified by the division to act as an
946 arbitrator if he or she has been a member in good standing of
947 The Florida Bar for at least 5 years and has mediated or
948 arbitrated at least 10 disputes involving condominiums in this
949 state during the 3 years immediately preceding the date of
950 application, mediated or arbitrated at least 30 disputes in any

951 subject area in this state during the 3 years immediately
952 preceding the date of application, or attained board
953 certification in real estate law or condominium and planned
954 development law from The Florida Bar. Arbitrator certification
955 is valid for 1 year. An arbitrator who does not maintain the
956 minimum qualifications for initial certification may not have
957 his or her certification renewed. The department may not enter
958 into a legal services contract for an arbitration hearing under
959 this chapter with an attorney who is not a certified arbitrator
960 unless a certified arbitrator is not available within 50 miles
961 of the dispute. The department shall adopt rules of procedure to
962 govern such arbitration hearings including mediation incident
963 thereto. The decision of an arbitrator shall be final; however,
964 a decision shall not be deemed final agency action. Nothing in
965 this provision shall be construed to foreclose parties from
966 proceeding in a trial de novo unless the parties have agreed
967 that the arbitration is binding. If judicial proceedings are
968 initiated, the final decision of the arbitrator shall be
969 admissible in evidence in the trial de novo.

970 (a) Prior to the institution of court litigation, a party
971 to a dispute shall petition the division for nonbinding
972 arbitration. The petition must be accompanied by a filing fee in
973 the amount of \$50. Filing fees collected under this section must
974 be used to defray the expenses of the alternative dispute
975 resolution program.

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

978 1. Advance written notice of the specific nature of the
979 dispute;

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

982 3. Notice of the intention to file an arbitration petition
983 or other legal action in the absence of a resolution of the
984 dispute.

985

986 Failure to include the allegations or proof of compliance with
987 these prerequisites requires dismissal of the petition without
988 prejudice.

989 (c) Upon receipt, the petition shall be promptly reviewed
990 by the division to determine the existence of a dispute and
991 compliance with the requirements of paragraphs (a) and (b). If
992 emergency relief is required and is not available through
993 arbitration, a motion to stay the arbitration may be filed. The
994 motion must be accompanied by a verified petition alleging facts
995 that, if proven, would support entry of a temporary injunction,
996 and if an appropriate motion and supporting papers are filed,
997 the division may abate the arbitration pending a court hearing
998 and disposition of a motion for temporary injunction.

999 (d) Upon determination by the division that a dispute
1000 exists and that the petition substantially meets the

1001 requirements of paragraphs (a) and (b) and any other applicable
1002 rules, the division shall assign or enter into a contract with
1003 an arbitrator and serve a copy of the petition ~~shall be served~~
1004 ~~by the division~~ upon all respondents. The arbitrator shall
1005 conduct a hearing within 30 days after being assigned or
1006 entering into a contract unless the petition is withdrawn or a
1007 continuance is granted for good cause shown.

1008 (e) Before or after the filing of the respondents' answer
1009 to the petition, any party may request that the arbitrator refer
1010 the case to mediation under this section and any rules adopted
1011 by the division. Upon receipt of a request for mediation, the
1012 division shall promptly contact the parties to determine if
1013 there is agreement that mediation would be appropriate. If all
1014 parties agree, the dispute must be referred to mediation.
1015 Notwithstanding a lack of an agreement by all parties, the
1016 arbitrator may refer a dispute to mediation at any time.

1017 (f) Upon referral of a case to mediation, the parties must
1018 select a mutually acceptable mediator. To assist in the
1019 selection, the arbitrator shall provide the parties with a list
1020 of both volunteer and paid mediators that have been certified by
1021 the division under s. 718.501. If the parties are unable to
1022 agree on a mediator within the time allowed by the arbitrator,
1023 the arbitrator shall appoint a mediator from the list of
1024 certified mediators. If a case is referred to mediation, the
1025 parties shall attend a mediation conference, as scheduled by the

1026 parties and the mediator. If any party fails to attend a duly
1027 noticed mediation conference, without the permission or approval
1028 of the arbitrator or mediator, the arbitrator must impose
1029 sanctions against the party, including the striking of any
1030 pleadings filed, the entry of an order of dismissal or default
1031 if appropriate, and the award of costs and attorney ~~attorneys'~~
1032 fees incurred by the other parties. Unless otherwise agreed to
1033 by the parties or as provided by order of the arbitrator, a
1034 party is deemed to have appeared at a mediation conference by
1035 the physical presence of the party or its representative having
1036 full authority to settle without further consultation, provided
1037 that an association may comply by having one or more
1038 representatives present with full authority to negotiate a
1039 settlement and recommend that the board of administration ratify
1040 and approve such a settlement within 5 days from the date of the
1041 mediation conference. The parties shall share equally the
1042 expense of mediation, unless they agree otherwise.

1043 (g) The purpose of mediation as provided for by this
1044 section is to present the parties with an opportunity to resolve
1045 the underlying dispute in good faith, and with a minimum
1046 expenditure of time and resources.

1047 (h) Mediation proceedings must generally be conducted in
1048 accordance with the Florida Rules of Civil Procedure, and these
1049 proceedings are privileged and confidential to the same extent
1050 as court-ordered mediation. Persons who are not parties to the

1051 dispute are not allowed to attend the mediation conference
1052 without the consent of all parties, with the exception of
1053 counsel for the parties and corporate representatives designated
1054 to appear for a party. If the mediator declares an impasse after
1055 a mediation conference has been held, the arbitration proceeding
1056 terminates, unless all parties agree in writing to continue the
1057 arbitration proceeding, in which case the arbitrator's decision
1058 shall be binding or nonbinding, as agreed upon by the parties;
1059 in the arbitration proceeding, the arbitrator shall not consider
1060 any evidence relating to the unsuccessful mediation except in a
1061 proceeding to impose sanctions for failure to appear at the
1062 mediation conference. If the parties do not agree to continue
1063 arbitration, the arbitrator shall enter an order of dismissal,
1064 and either party may institute a suit in a court of competent
1065 jurisdiction. The parties may seek to recover any costs and
1066 attorney ~~attorneys'~~ fees incurred in connection with arbitration
1067 and mediation proceedings under this section as part of the
1068 costs and fees that may be recovered by the prevailing party in
1069 any subsequent litigation.

1070 (i) Arbitration shall be conducted according to rules
1071 adopted by the division. The filing of a petition for
1072 arbitration shall toll the applicable statute of limitations.

1073 (j) At the request of any party to the arbitration, the
1074 arbitrator shall issue subpoenas for the attendance of witnesses
1075 and the production of books, records, documents, and other

1076 evidence and any party on whose behalf a subpoena is issued may
1077 apply to the court for orders compelling such attendance and
1078 production. Subpoenas shall be served and shall be enforceable
1079 in the manner provided by the Florida Rules of Civil Procedure.
1080 Discovery may, in the discretion of the arbitrator, be permitted
1081 in the manner provided by the Florida Rules of Civil Procedure.
1082 Rules adopted by the division may authorize any reasonable
1083 sanctions except contempt for a violation of the arbitration
1084 procedural rules of the division or for the failure of a party
1085 to comply with a reasonable nonfinal order issued by an
1086 arbitrator which is not under judicial review.

1087 (k) The arbitration decision shall be rendered within 30
1088 days after the hearing and presented to the parties in writing.
1089 An arbitration decision is final in those disputes in which the
1090 parties have agreed to be bound. An arbitration decision is also
1091 final if a complaint for a trial de novo is not filed in a court
1092 of competent jurisdiction in which the condominium is located
1093 within 30 days. The right to file for a trial de novo entitles
1094 the parties to file a complaint in the appropriate trial court
1095 for a judicial resolution of the dispute. The prevailing party
1096 in an arbitration proceeding shall be awarded the costs of the
1097 arbitration and reasonable attorney ~~attorney's~~ fees in an amount
1098 determined by the arbitrator. Such an award shall include the
1099 costs and reasonable attorney ~~attorney's~~ fees incurred in the
1100 arbitration proceeding as well as the costs and reasonable

1101 attorney ~~attorney's~~ fees incurred in preparing for and attending
1102 any scheduled mediation. An arbitrator's failure to render a
1103 written decision within 30 days after the hearing may result in
1104 the cancellation of his or her arbitration certification.

1105 (l) The party who files a complaint for a trial de novo
1106 shall be assessed the other party's arbitration costs, court
1107 costs, and other reasonable costs, including attorney ~~attorney's~~
1108 fees, investigation expenses, and expenses for expert or other
1109 testimony or evidence incurred after the arbitration hearing if
1110 the judgment upon the trial de novo is not more favorable than
1111 the arbitration decision. If the judgment is more favorable, the
1112 party who filed a complaint for trial de novo shall be awarded
1113 reasonable court costs and attorney ~~attorney's~~ fees.

1114 (m) Any party to an arbitration proceeding may enforce an
1115 arbitration award by filing a petition in a court of competent
1116 jurisdiction in which the condominium is located. A petition may
1117 not be granted unless the time for appeal by the filing of a
1118 complaint for trial de novo has expired. If a complaint for a
1119 trial de novo has been filed, a petition may not be granted with
1120 respect to an arbitration award that has been stayed. If the
1121 petition for enforcement is granted, the petitioner shall
1122 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1123 in enforcing the arbitration award. A mediation settlement may
1124 also be enforced through the county or circuit court, as
1125 applicable, and any costs and fees incurred in the enforcement

1126 of a settlement agreement reached at mediation must be awarded
1127 to the prevailing party in any enforcement action.

1128 Section 5. Subsection (5) is added to section 718.3025,
1129 Florida Statutes, to read:

1130 718.3025 Agreements for operation, maintenance, or
1131 management of condominiums; specific requirements.—

1132 (5) A party contracting to provide maintenance or
1133 management services to an association managing a residential
1134 condominium after transfer of control of the association, as
1135 provided in s. 718.301, which is not a timeshare condominium
1136 association, or an officer or board member of such party, may
1137 not purchase a unit at a foreclosure sale resulting from the
1138 association's foreclosure of association lien for unpaid
1139 assessments or take a deed in lieu of foreclosure. If 50 percent
1140 or more of the units in the condominium are owned by a party
1141 contracting to provide maintenance or management services to an
1142 association managing a residential condominium after transfer of
1143 control of the association, as provided in s. 718.301, which is
1144 not a timeshare condominium association, or by an officer or
1145 board member of such party, the contract with the party
1146 providing maintenance or management services may be cancelled by
1147 a majority vote of the unit owners other than the contracting
1148 party or an officer or board member of such party.

1149 Section 6. Section 718.3027, Florida Statutes, is created
1150 to read:

1151 718.3027 Conflicts of interest.—

1152 (1) Directors and officers of a board of an association
1153 that is not a timeshare condominium association, and the
1154 relatives of such directors and officers, must disclose to the
1155 board any activity that may reasonably be construed to be a
1156 conflict of interest. A rebuttable presumption of a conflict of
1157 interest exists if any of the following occurs without prior
1158 notice, as required in subsection (4):

1159 (a) A director or an officer, or a relative of a director
1160 or an officer, enters into a contract for goods or services with
1161 the association.

1162 (b) A director or an officer, or a relative of a director
1163 or an officer, holds an interest in a corporation, limited
1164 liability corporation, partnership, limited liability
1165 partnership, or other business entity that conducts business
1166 with the association or proposes to enter into a contract or
1167 other transaction with the association.

1168 (2) If a director or an officer, or a relative of a
1169 director or an officer, proposes to engage in an activity that
1170 is a conflict of interest, as described in subsection (1), the
1171 proposed activity must be listed on, and all contracts and
1172 transactional documents related to the proposed activity must be
1173 attached to, the meeting agenda. If the board votes against the
1174 proposed activity, the director or officer, or the relative of
1175 the director or officer, must notify the board in writing of his

1176 or her intention not to pursue the proposed activity or to
1177 withdraw from office. If the board finds that an officer or a
1178 director has violated this subsection, the officer or director
1179 shall be deemed removed from office. The vacancy shall be filled
1180 according to general law.

1181 (3) A director or an officer, or a relative of a director
1182 or an officer, who is a party to, or has an interest in, an
1183 activity that is a possible conflict of interest, as described
1184 in subsection (1), may attend the meeting at which the activity
1185 is considered by the board and is authorized to make a
1186 presentation to the board regarding the activity. After the
1187 presentation, the director or officer, or the relative of the
1188 director or officer, must leave the meeting during the
1189 discussion of, and the vote on, the activity. A director or an
1190 officer who is a party to, or has an interest in, the activity
1191 must recuse himself or herself from the vote.

1192 (4) A contract entered into between a director or an
1193 officer, or a relative of a director or an officer, and the
1194 association, which is not a timeshare condominium association,
1195 that has not been properly disclosed as a conflict of interest
1196 or potential conflict of interest as required by s.
1197 718.111(12)(g) is voidable and terminates upon the filing of a
1198 written notice terminating the contract with the board of
1199 directors which contains the consent of at least 20 percent of
1200 the voting interests of the association.

1201 (5) As used in this section, the term "relative" means a
1202 relative within the third degree of consanguinity by blood or
1203 marriage.

1204 Section 7. Subsection (5) of section 718.303, Florida
1205 Statutes, is amended, and subsection (8) is added to that
1206 section, to read:

1207 718.303 Obligations of owners and occupants; remedies.—

1208 (5) An association may suspend the voting rights of a unit
1209 owner or member due to nonpayment of any fee, fine, or other
1210 monetary obligation due to the association which is more than
1211 \$1,000 and more than 90 days delinquent. Proof of such
1212 obligation must be provided to the unit owner or member 30 days
1213 before such suspension takes effect. A voting interest or
1214 consent right allocated to a unit owner or member which has been
1215 suspended by the association shall be subtracted from the total
1216 number of voting interests in the association, which shall be
1217 reduced by the number of suspended voting interests when
1218 calculating the total percentage or number of all voting
1219 interests available to take or approve any action, and the
1220 suspended voting interests shall not be considered for any
1221 purpose, including, but not limited to, the percentage or number
1222 of voting interests necessary to constitute a quorum, the
1223 percentage or number of voting interests required to conduct an
1224 election, or the percentage or number of voting interests
1225 required to approve an action under this chapter or pursuant to

1226 the declaration, articles of incorporation, or bylaws. The
1227 suspension ends upon full payment of all obligations currently
1228 due or overdue the association. The notice and hearing
1229 requirements under subsection (3) do not apply to a suspension
1230 imposed under this subsection.

1231 (8) A receiver may not exercise voting rights of any unit
1232 owner whose unit is placed in receivership for the benefit of
1233 the association pursuant to this chapter.

1234 Section 8. Subsection (5) of section 718.5012, Florida
1235 Statutes, is amended to read:

1236 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1237 have the powers that are necessary to carry out the duties of
1238 his or her office, including the following specific powers:

1239 (5) To monitor and review procedures and disputes
1240 concerning condominium elections or meetings, including, but not
1241 limited to, recommending that the division pursue enforcement
1242 action in any manner where there is reasonable cause to believe
1243 that election misconduct has occurred and reviewing secret
1244 ballots cast at a vote of the association.

1245 Section 9. Section 718.71, Florida Statutes, is created to
1246 read:

1247 718.71 Financial reporting.—An association shall provide
1248 an annual report to the department containing the names of all
1249 of the financial institutions with which it maintains accounts,
1250 and a copy of such report may be obtained from the department

CS/CS/HB 1237

2017

1251 | upon written request of any association member.

1252 | Section 10. This act shall take effect July 1, 2017.