

**By** the Committee on Regulated Industries; and Senators Garcia, Rodriguez, and Artiles

580-03447-17

20171682c1

1                                   A bill to be entitled  
2       An act relating to condominiums; amending s. 718.111,  
3       F.S.; prohibiting an association from hiring an  
4       attorney that represents the management company of the  
5       association; prohibiting a board member, manager, or  
6       management company from purchasing a unit at a  
7       foreclosure sale under certain circumstances;  
8       providing recordkeeping requirements; providing that  
9       the official records of an association are open to  
10      inspection by unit renters; providing that a renter of  
11      a unit has a right to inspect and copy the  
12      association's bylaws and rules; providing criminal  
13      penalties; providing a definition; providing  
14      requirements relating to the posting of specified  
15      documents on an association's website; providing a  
16      remedy for an association's failure to provide a unit  
17      owner with a copy of the most recent financial report;  
18      requiring the Division of Florida Condominiums,  
19      Timeshares, and Mobile Homes to maintain and provide  
20      copies of financial reports; amending s. 718.112,  
21      F.S.; providing board member term limits; providing an  
22      exception; deleting certification requirements  
23      relating to the recall of board members; revising the  
24      amount of time in which a recalled board member must  
25      turn over records and property of the association to  
26      the board; prohibiting certain associations from  
27      employing or contracting with a service provider that  
28      is owned or operated by certain persons; amending s.  
29      718.1255, F.S.; authorizing, rather than requiring,

580-03447-17

20171682c1

30 the division to employ full-time attorneys to conduct  
31 certain arbitration hearings; providing requirements  
32 for the certification of arbitrators; prohibiting the  
33 Department of Business and Professional Regulation  
34 from entering into a legal services contract for  
35 certain arbitration hearings; requiring the division  
36 to assign or enter into contracts with arbitrators;  
37 requiring arbitrators to conduct hearings within a  
38 specified period; providing an exception; providing  
39 arbitration proceeding requirements; creating s.  
40 718.129, F.S.; providing that certain activities  
41 constitute fraudulent voting activities related to  
42 association elections; providing criminal penalties;  
43 amending s. 718.3025, F.S.; prohibiting specified  
44 parties from purchasing a unit at a foreclosure sale  
45 resulting from the association's foreclosure of  
46 association lien for unpaid assessments or from taking  
47 a deed in lieu of foreclosures; authorizing a contract  
48 with a party providing maintenance or management  
49 services to be cancelled by a majority vote of certain  
50 unit owners under specified conditions; creating s.  
51 718.3027, F.S.; providing requirements relating to  
52 board director and officer conflicts of interest;  
53 providing that certain contracts are voidable if they  
54 do not meet specified notice requirements and  
55 terminate, subject to a certain condition; amending s.  
56 718.303, F.S.; providing requirements relating to the  
57 suspension of voting rights of unit owners and  
58 members; prohibiting a receiver from exercising the

580-03447-17

20171682c1

59 voting rights of a unit owner whose unit is placed in  
60 receivership; amending s. 718.5012, F.S.; providing  
61 the ombudsman with an additional power; creating s.  
62 718.71, F.S.; providing financial reporting  
63 requirements of an association; providing an effective  
64 date.

65

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

67

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

72 718.111 The association.—

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

75 (a) The association may contract, sue, or be sued with  
76 respect to the exercise or nonexercise of its powers. For these  
77 purposes, the powers of the association include, but are not  
78 limited to, the maintenance, management, and operation of the  
79 condominium property. After control of the association is  
80 obtained by unit owners other than the developer, the  
81 association may institute, maintain, settle, or appeal actions  
82 or hearings in its name on behalf of all unit owners concerning  
83 matters of common interest to most or all unit owners,  
84 including, but not limited to, the common elements; the roof and  
85 structural components of a building or other improvements;  
86 mechanical, electrical, and plumbing elements serving an  
87 improvement or a building; representations of the developer

580-03447-17

20171682c1

88 pertaining to any existing or proposed commonly used facilities;  
89 and protesting ad valorem taxes on commonly used facilities and  
90 on units; and may defend actions in eminent domain or bring  
91 inverse condemnation actions. If the association has the  
92 authority to maintain a class action, the association may be  
93 joined in an action as representative of that class with  
94 reference to litigation and disputes involving the matters for  
95 which the association could bring a class action. Nothing herein  
96 limits any statutory or common-law right of any individual unit  
97 owner or class of unit owners to bring any action without  
98 participation by the association which may otherwise be  
99 available.

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

102 (9) PURCHASE OF UNITS.—The association has the power,  
103 unless prohibited by the declaration, articles of incorporation,  
104 or bylaws of the association, to purchase units in the  
105 condominium and to acquire and hold, lease, mortgage, and convey  
106 them. There shall be no limitation on the association's right to  
107 purchase a unit at a foreclosure sale resulting from the  
108 association's foreclosure of its lien for unpaid assessments, or  
109 to take title by deed in lieu of foreclosure. However, except  
110 for a timeshare condominium, a board member, manager, or  
111 management company may not purchase a unit at a foreclosure sale  
112 resulting from the association's foreclosure of its lien for  
113 unpaid assessments or take title by deed in lieu of foreclosure.

114 (12) OFFICIAL RECORDS.—

115 (a) From the inception of the association, the association  
116 shall maintain each of the following items, if applicable, which

580-03447-17

20171682c1

117 constitutes the official records of the association:

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

120 2. A photocopy of the recorded declaration of condominium  
121 of each condominium operated by the association and each  
122 amendment to each declaration.

123 3. A photocopy of the recorded bylaws of the association  
124 and each amendment to the bylaws.

125 4. A certified copy of the articles of incorporation of the  
126 association, or other documents creating the association, and  
127 each amendment thereto.

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

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

132 7. A current roster of all unit owners and their mailing  
133 addresses, unit identifications, voting certifications, and, if  
134 known, telephone numbers. The association shall also maintain  
135 the electronic mailing addresses and facsimile numbers of unit  
136 owners consenting to receive notice by electronic transmission.  
137 The electronic mailing addresses and facsimile numbers are not  
138 accessible to unit owners if consent to receive notice by  
139 electronic transmission is not provided in accordance with sub-  
140 subparagraph (c)5.e. ~~subparagraph (c)5.~~ However, the association  
141 is not liable for an inadvertent disclosure of the electronic  
142 mail address or facsimile number for receiving electronic  
143 transmission of notices.

144 8. All current insurance policies of the association and  
145 condominiums operated by the association.

580-03447-17

20171682c1

146 9. A current copy of any management agreement, lease, or  
147 other contract to which the association is a party or under  
148 which the association or the unit owners have an obligation or  
149 responsibility.

150 10. Bills of sale or transfer for all property owned by the  
151 association.

152 11. Accounting records for the association and separate  
153 accounting records for each condominium that the association  
154 operates. All accounting records must be maintained for at least  
155 7 years. Any person who knowingly or intentionally defaces or  
156 destroys such records, or who knowingly or intentionally fails  
157 to create or maintain such records, with the intent of causing  
158 harm to the association or one or more of its members, is  
159 personally subject to a civil penalty pursuant to s.  
160 718.501(1)(d). The accounting records must include, but are not  
161 limited to:

162 a. Accurate, itemized, and detailed records of all receipts  
163 and expenditures.

164 b. A current account and a monthly, bimonthly, or quarterly  
165 statement of the account for each unit designating the name of  
166 the unit owner, the due date and amount of each assessment, the  
167 amount paid on the account, and the balance due.

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

170 d. All contracts for work to be performed. Bids for work to  
171 be performed are also considered official records and must be  
172 maintained by the association.

173 12. Ballots, sign-in sheets, voting proxies, and all other  
174 papers relating to voting by unit owners, which must be

580-03447-17

20171682c1

175 maintained for 1 year from the date of the election, vote, or  
176 meeting to which the document relates, notwithstanding paragraph  
177 (b).

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

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

182 15. All other written records of the association not  
183 specifically included in the foregoing which are related to the  
184 operation of the association.

185 16. A copy of the inspection report as described in s.  
186 718.301(4)(p).

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

188 (c)1. The official records of the association are open to  
189 inspection by any association member or the authorized  
190 representative of such member at all reasonable times. The right  
191 to inspect the records includes the right to make or obtain  
192 copies, at the reasonable expense, if any, of the member or  
193 authorized representative of such member. A renter of a unit has  
194 a right to inspect and copy the association's bylaws and rules.

195 The association may adopt reasonable rules regarding the  
196 frequency, time, location, notice, and manner of record  
197 inspections and copying. The failure of an association to  
198 provide the records within 10 working days after receipt of a  
199 written request creates a rebuttable presumption that the  
200 association willfully failed to comply with this paragraph. A  
201 unit owner who is denied access to official records is entitled  
202 to the actual damages or minimum damages for the association's  
203 willful failure to comply. Minimum damages are \$50 per calendar

580-03447-17

20171682c1

204 day for up to 10 days, beginning on the 11th working day after  
205 receipt of the written request. The failure to permit inspection  
206 entitles any person prevailing in an enforcement action to  
207 recover reasonable attorney fees from the person in control of  
208 the records who, directly or indirectly, knowingly denied access  
209 to the records.

210 2. Any director or member of the board or association who  
211 knowingly, willfully, and repeatedly violates subparagraph 1.  
212 commits a misdemeanor of the second degree, punishable as  
213 provided in s. 775.082 or s. 775.083. For purposes of this  
214 subparagraph, the term "repeatedly violates" means more than two  
215 violations within a 12-month period.

216 3. Any person who knowingly or intentionally defaces or  
217 destroys accounting records that are required by this chapter to  
218 be maintained during the period for which such records are  
219 required to be maintained, or who knowingly or intentionally  
220 fails to create or maintain accounting records that are required  
221 to be created or maintained, with the intent of causing harm to  
222 the association or one or more of its members, commits a  
223 misdemeanor of the first degree, punishable as provided in s.  
224 775.082 or s. 775.083.

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

232 5. The association shall maintain an adequate number of

580-03447-17

20171682c1

233 copies of the declaration, articles of incorporation, bylaws,  
234 and rules, and all amendments to each of the foregoing, as well  
235 as the question and answer sheet as described in s. 718.504 and  
236 year-end financial information required under this section, on  
237 the condominium property to ensure their availability to unit  
238 owners and prospective purchasers, and may charge its actual  
239 costs for preparing and furnishing these documents to those  
240 requesting the documents. An association shall allow a member or  
241 his or her authorized representative to use a portable device,  
242 including a smartphone, tablet, portable scanner, or any other  
243 technology capable of scanning or taking photographs, to make an  
244 electronic copy of the official records in lieu of the  
245 association's providing the member or his or her authorized  
246 representative with a copy of such records. The association may  
247 not charge a member or his or her authorized representative for  
248 the use of a portable device. Notwithstanding this paragraph,  
249 the following records are not accessible to unit owners:

250 ~~a.1.~~ Any record protected by the lawyer-client privilege as  
251 described in s. 90.502 and any record protected by the work-  
252 product privilege, including a record prepared by an association  
253 attorney or prepared at the attorney's express direction, which  
254 reflects a mental impression, conclusion, litigation strategy,  
255 or legal theory of the attorney or the association, and which  
256 was prepared exclusively for civil or criminal litigation or for  
257 adversarial administrative proceedings, or which was prepared in  
258 anticipation of such litigation or proceedings until the  
259 conclusion of the litigation or proceedings.

260 ~~b.2.~~ Information obtained by an association in connection  
261 with the approval of the lease, sale, or other transfer of a

580-03447-17

20171682c1

262 unit.

263 ~~c.3.~~ Personnel records of association or management company  
264 employees, including, but not limited to, disciplinary, payroll,  
265 health, and insurance records. For purposes of this sub-  
266 subparagraph ~~subparagraph~~, the term "personnel records" does not  
267 include written employment agreements with an association  
268 employee or management company, or budgetary or financial  
269 records that indicate the compensation paid to an association  
270 employee.

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

272 ~~e.5.~~ Social security numbers, driver license numbers,  
273 credit card numbers, e-mail addresses, telephone numbers,  
274 facsimile numbers, emergency contact information, addresses of a  
275 unit owner other than as provided to fulfill the association's  
276 notice requirements, and other personal identifying information  
277 of any person, excluding the person's name, unit designation,  
278 mailing address, property address, and any address, e-mail  
279 address, or facsimile number provided to the association to  
280 fulfill the association's notice requirements. Notwithstanding  
281 the restrictions in this sub-subparagraph ~~subparagraph~~, an  
282 association may print and distribute to parcel owners a  
283 directory containing the name, parcel address, and all telephone  
284 numbers of each parcel owner. However, an owner may exclude his  
285 or her telephone numbers from the directory by so requesting in  
286 writing to the association. An owner may consent in writing to  
287 the disclosure of other contact information described in this  
288 sub-subparagraph ~~subparagraph~~. The association is not liable for  
289 the inadvertent disclosure of information that is protected  
290 under this sub-subparagraph ~~subparagraph~~ if the information is

580-03447-17

20171682c1

291 included in an official record of the association and is  
292 voluntarily provided by an owner and not requested by the  
293 association.

294 ~~f.6.~~ Electronic security measures that are used by the  
295 association to safeguard data, including passwords.

296 ~~g.7.~~ The software and operating system used by the  
297 association which allow the manipulation of data, even if the  
298 owner owns a copy of the same software used by the association.  
299 The data is part of the official records of the association.

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

304 a. The association's website must be:

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

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

313 b. The association's website must be accessible through the  
314 Internet and must contain a subpage, web portal, or other  
315 protected electronic location that is inaccessible to the  
316 general public and accessible only to unit owners and employees  
317 of the association.

318 c. Upon a unit owner's written request, the association  
319 must provide the unit owner with a username and password and

580-03447-17

20171682c1

320 access to the protected sections of the association's website  
321 that contain any notices, records, or documents that must be  
322 electronically provided.

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

325 a. The recorded declaration of condominium of each  
326 condominium operated by the association and each amendment to  
327 each declaration.

328 b. The recorded bylaws of the association and each  
329 amendment to the bylaws.

330 c. The articles of incorporation of the association, or  
331 other documents creating the association, and each amendment  
332 thereto. The copy posted pursuant to this sub-subparagraph must  
333 be a copy of the articles of incorporation filed with the  
334 Department of State.

335 d. The rules of the association.

336 e. Any management agreement, lease, or other contract to  
337 which the association is a party or under which the association  
338 or the unit owners have an obligation or responsibility.  
339 Summaries of bids for materials, equipment, or services must be  
340 maintained on the website for 1 year.

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

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

345 h. The certification of each director required by s.  
346 718.112(2)(d)4.b.

347 i. All contracts or transactions between the association  
348 and any director, officer, corporation, firm, or association

580-03447-17

20171682c1

349 that is not an affiliated condominium association or any other  
350 entity in which an association director is also a director or  
351 officer and financially interested.

352 j. Any contract or document regarding a conflict of  
353 interest or possible conflict of interest as provided in ss.  
354 468.436(2) and 718.3026(3).

355 k. The notice of any unit owner meeting and the agenda for  
356 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
357 days before the meeting. The notice must be posted in plain view  
358 on the front page of the website, or on a separate subpage of  
359 the website labeled "Notices" which is conspicuously visible and  
360 linked from the front page. The association must also post on  
361 its website any document to be considered and voted on by the  
362 owners during the meeting or any document listed on the agenda  
363 at least 7 days before the meeting at which the document or the  
364 information within the document will be considered.

365 1. Notice of any board meeting, and the agenda and any  
366 other document required for the meeting as required by s.  
367 718.112(2)(c), which must be posted no later than the date  
368 required for notice pursuant to s. 718.112(2)(c).

369 3. The association shall ensure that the information and  
370 records described in paragraph (c), which are not permitted to  
371 be accessible to unit owners, are not posted on the  
372 association's website. If protected information or information  
373 restricted from being accessible to unit owners is included in  
374 documents that are required to be posted on the association's  
375 website, the association shall ensure the information is  
376 redacted before posting the documents online.

377 (13) FINANCIAL REPORTING.—Within 90 days after the end of

580-03447-17

20171682c1

378 the fiscal year, or annually on a date provided in the bylaws,  
379 the association shall prepare and complete, or contract for the  
380 preparation and completion of, a financial report for the  
381 preceding fiscal year. Within 21 days after the final financial  
382 report is completed by the association or received from the  
383 third party, but not later than 120 days after the end of the  
384 fiscal year or other date as provided in the bylaws, the  
385 association shall mail to each unit owner at the address last  
386 furnished to the association by the unit owner, or hand deliver  
387 to each unit owner, a copy of the most recent financial report  
388 or a notice that a copy of the most recent financial report will  
389 be mailed or hand delivered to the unit owner, without charge,  
390 within 5 business days after ~~upon~~ receipt of a written request  
391 from the unit owner. The division shall adopt rules setting  
392 forth uniform accounting principles and standards to be used by  
393 all associations and addressing the financial reporting  
394 requirements for multicondominium associations. The rules must  
395 include, but not be limited to, standards for presenting a  
396 summary of association reserves, including a good faith estimate  
397 disclosing the annual amount of reserve funds that would be  
398 necessary for the association to fully fund reserves for each  
399 reserve item based on the straight-line accounting method. This  
400 disclosure is not applicable to reserves funded via the pooling  
401 method. In adopting such rules, the division shall consider the  
402 number of members and annual revenues of an association.  
403 Financial reports shall be prepared as follows:

404 (a) An association that meets the criteria of this  
405 paragraph shall prepare a complete set of financial statements  
406 in accordance with generally accepted accounting principles. The

580-03447-17

20171682c1

407 financial statements must be based upon the association's total  
408 annual revenues, as follows:

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

412 2. An association with total annual revenues of at least  
413 \$300,000, but less than \$500,000, shall prepare reviewed  
414 financial statements.

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

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

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

424 3. A report of cash receipts and disbursements must  
425 disclose the amount of receipts by accounts and receipt  
426 classifications and the amount of expenses by accounts and  
427 expense classifications, including, but not limited to, the  
428 following, as applicable: costs for security, professional and  
429 management fees and expenses, taxes, costs for recreation  
430 facilities, expenses for refuse collection and utility services,  
431 expenses for lawn care, costs for building maintenance and  
432 repair, insurance costs, administration and salary expenses, and  
433 reserves accumulated and expended for capital expenditures,  
434 deferred maintenance, and any other category for which the  
435 association maintains reserves.

580-03447-17

20171682c1

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

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

441 2. Reviewed or audited financial statements, if the  
442 association is required to prepare compiled financial  
443 statements; or

444 3. Audited financial statements if the association is  
445 required to prepare reviewed financial statements.

446 (d) If approved by a majority of the voting interests  
447 present at a properly called meeting of the association, an  
448 association may prepare:

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

451 2. A report of cash receipts and expenditures or a compiled  
452 financial statement in lieu of a reviewed or audited financial  
453 statement; or

454 3. A report of cash receipts and expenditures, a compiled  
455 financial statement, or a reviewed financial statement in lieu  
456 of an audited financial statement.

457

458 Such meeting and approval must occur before the end of the  
459 fiscal year and is effective only for the fiscal year in which  
460 the vote is taken, except that the approval may also be  
461 effective for the following fiscal year. If the developer has  
462 not turned over control of the association, all unit owners,  
463 including the developer, may vote on issues related to the  
464 preparation of the association's financial reports, from the

580-03447-17

20171682c1

465 date of incorporation of the association through the end of the  
466 second fiscal year after the fiscal year in which the  
467 certificate of a surveyor and mapper is recorded pursuant to s.  
468 718.104(4)(e) or an instrument that transfers title to a unit in  
469 the condominium which is not accompanied by a recorded  
470 assignment of developer rights in favor of the grantee of such  
471 unit is recorded, whichever occurs first. Thereafter, all unit  
472 owners except the developer may vote on such issues until  
473 control is turned over to the association by the developer. Any  
474 audit or review prepared under this section shall be paid for by  
475 the developer if done before turnover of control of the  
476 association. An association may not waive the financial  
477 reporting requirements of this section for more than 3  
478 consecutive years.

479 (e) If the division determines that an association has not  
480 mailed or hand delivered to the unit owner a copy of the most  
481 recent financial report within 5 business days after receipt of  
482 a written request from the unit owner, the unit owner may give  
483 notice to the division of the association's failure to comply.  
484 Upon notification, the division shall give notice to the  
485 association that the association must mail or hand deliver the  
486 copy of the most recent financial report to the unit owner and  
487 the division within 5 business days after such notice. Any  
488 association that fails to comply with the division's request may  
489 not waive the financial reporting requirement provided in  
490 paragraph (d). A financial report received by the division  
491 pursuant to this paragraph shall be maintained, and the division  
492 shall provide a copy of such report to an association member  
493 upon his or her request.

580-03447-17

20171682c1

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

497 718.112 Bylaws.—

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

501 (d) *Unit owner meetings.*—

502 1. An annual meeting of the unit owners shall be held at  
503 the location provided in the association bylaws and, if the  
504 bylaws are silent as to the location, the meeting shall be held  
505 within 45 miles of the condominium property. However, such  
506 distance requirement does not apply to an association governing  
507 a timeshare condominium.

508 2. Unless the bylaws provide otherwise, a vacancy on the  
509 board caused by the expiration of a director's term shall be  
510 filled by electing a new board member, and the election must be  
511 by secret ballot. An election is not required if the number of  
512 vacancies equals or exceeds the number of candidates. For  
513 purposes of this paragraph, the term "candidate" means an  
514 eligible person who has timely submitted the written notice, as  
515 described in sub-subparagraph 4.a., of his or her intention to  
516 become a candidate. Except in a timeshare or nonresidential  
517 condominium, or if the staggered term of a board member does not  
518 expire until a later annual meeting, or if all members' terms  
519 would otherwise expire but there are no candidates, the terms of  
520 all board members expire at the annual meeting, and such members  
521 may stand for reelection unless prohibited by the bylaws. ~~If the~~  
522 ~~bylaws or articles of incorporation permit terms of no more than~~

580-03447-17

20171682c1

523 ~~2 years, the association~~ Board members may serve 2-year terms if  
524 permitted by the bylaws or articles of incorporation. A board  
525 member may not serve more than four consecutive 2-year terms,  
526 unless approved by an affirmative vote of two-thirds of the  
527 total voting interests of the association. If the number of  
528 board members whose terms expire at the annual meeting equals or  
529 exceeds the number of candidates, the candidates become members  
530 of the board effective upon the adjournment of the annual  
531 meeting. Unless the bylaws provide otherwise, any remaining  
532 vacancies shall be filled by the affirmative vote of the  
533 majority of the directors making up the newly constituted board  
534 even if the directors constitute less than a quorum or there is  
535 only one director. In a residential condominium association of  
536 more than 10 units or in a residential condominium association  
537 that does not include timeshare units or timeshare interests,  
538 coowners of a unit may not serve as members of the board of  
539 directors at the same time unless they own more than one unit or  
540 unless there are not enough eligible candidates to fill the  
541 vacancies on the board at the time of the vacancy. A unit owner  
542 in a residential condominium desiring to be a candidate for  
543 board membership must comply with sub-subparagraph 4.a. and must  
544 be eligible to be a candidate to serve on the board of directors  
545 at the time of the deadline for submitting a notice of intent to  
546 run in order to have his or her name listed as a proper  
547 candidate on the ballot or to serve on the board. A person who  
548 has been suspended or removed by the division under this  
549 chapter, or who is delinquent in the payment of any monetary  
550 obligation due to the association, is not eligible to be a  
551 candidate for board membership and may not be listed on the

580-03447-17

20171682c1

552 ballot. A person who has been convicted of any felony in this  
553 state or in a United States District or Territorial Court, or  
554 who has been convicted of any offense in another jurisdiction  
555 which would be considered a felony if committed in this state,  
556 is not eligible for board membership unless such felon's civil  
557 rights have been restored for at least 5 years as of the date  
558 such person seeks election to the board. The validity of an  
559 action by the board is not affected if it is later determined  
560 that a board member is ineligible for board membership due to  
561 having been convicted of a felony. This subparagraph does not  
562 limit the term of a member of the board of a nonresidential  
563 condominium.

564 3. The bylaws must provide the method of calling meetings  
565 of unit owners, including annual meetings. Written notice must  
566 include an agenda, must be mailed, hand delivered, or  
567 electronically transmitted to each unit owner at least 14 days  
568 before the annual meeting, and must be posted in a conspicuous  
569 place on the condominium property at least 14 continuous days  
570 before the annual meeting. Upon notice to the unit owners, the  
571 board shall, by duly adopted rule, designate a specific location  
572 on the condominium property or association property where all  
573 notices of unit owner meetings shall be posted. This requirement  
574 does not apply if there is no condominium property or  
575 association property for posting notices. In lieu of, or in  
576 addition to, the physical posting of meeting notices, the  
577 association may, by reasonable rule, adopt a procedure for  
578 conspicuously posting and repeatedly broadcasting the notice and  
579 the agenda on a closed-circuit cable television system serving  
580 the condominium association. However, if broadcast notice is

580-03447-17

20171682c1

581 used in lieu of a notice posted physically on the condominium  
582 property, the notice and agenda must be broadcast at least four  
583 times every broadcast hour of each day that a posted notice is  
584 otherwise required under this section. If broadcast notice is  
585 provided, the notice and agenda must be broadcast in a manner  
586 and for a sufficient continuous length of time so as to allow an  
587 average reader to observe the notice and read and comprehend the  
588 entire content of the notice and the agenda. Unless a unit owner  
589 waives in writing the right to receive notice of the annual  
590 meeting, such notice must be hand delivered, mailed, or  
591 electronically transmitted to each unit owner. Notice for  
592 meetings and notice for all other purposes must be mailed to  
593 each unit owner at the address last furnished to the association  
594 by the unit owner, or hand delivered to each unit owner.  
595 However, if a unit is owned by more than one person, the  
596 association must provide notice to the address that the  
597 developer identifies for that purpose and thereafter as one or  
598 more of the owners of the unit advise the association in  
599 writing, or if no address is given or the owners of the unit do  
600 not agree, to the address provided on the deed of record. An  
601 officer of the association, or the manager or other person  
602 providing notice of the association meeting, must provide an  
603 affidavit or United States Postal Service certificate of  
604 mailing, to be included in the official records of the  
605 association affirming that the notice was mailed or hand  
606 delivered in accordance with this provision.

607 4. The members of the board of a residential condominium  
608 shall be elected by written ballot or voting machine. Proxies  
609 may not be used in electing the board in general elections or

580-03447-17

20171682c1

610 elections to fill vacancies caused by recall, resignation, or  
611 otherwise, unless otherwise provided in this chapter. This  
612 subparagraph does not apply to an association governing a  
613 timeshare condominium.

614 a. At least 60 days before a scheduled election, the  
615 association shall mail, deliver, or electronically transmit, by  
616 separate association mailing or included in another association  
617 mailing, delivery, or transmission, including regularly  
618 published newsletters, to each unit owner entitled to a vote, a  
619 first notice of the date of the election. A unit owner or other  
620 eligible person desiring to be a candidate for the board must  
621 give written notice of his or her intent to be a candidate to  
622 the association at least 40 days before a scheduled election.  
623 Together with the written notice and agenda as set forth in  
624 subparagraph 3., the association shall mail, deliver, or  
625 electronically transmit a second notice of the election to all  
626 unit owners entitled to vote, together with a ballot that lists  
627 all candidates. Upon request of a candidate, an information  
628 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
629 furnished by the candidate at least 35 days before the election,  
630 must be included with the mailing, delivery, or transmission of  
631 the ballot, with the costs of mailing, delivery, or electronic  
632 transmission and copying to be borne by the association. The  
633 association is not liable for the contents of the information  
634 sheets prepared by the candidates. In order to reduce costs, the  
635 association may print or duplicate the information sheets on  
636 both sides of the paper. The division shall by rule establish  
637 voting procedures consistent with this sub-subparagraph,  
638 including rules establishing procedures for giving notice by

580-03447-17

20171682c1

639 electronic transmission and rules providing for the secrecy of  
640 ballots. Elections shall be decided by a plurality of ballots  
641 cast. There is no quorum requirement; however, at least 20  
642 percent of the eligible voters must cast a ballot in order to  
643 have a valid election. A unit owner may not permit any other  
644 person to vote his or her ballot, and any ballots improperly  
645 cast are invalid. A unit owner who violates this provision may  
646 be fined by the association in accordance with s. 718.303. A  
647 unit owner who needs assistance in casting the ballot for the  
648 reasons stated in s. 101.051 may obtain such assistance. The  
649 regular election must occur on the date of the annual meeting.  
650 Notwithstanding this sub-subparagraph, an election is not  
651 required unless more candidates file notices of intent to run or  
652 are nominated than board vacancies exist.

653       b. Within 90 days after being elected or appointed to the  
654 board of an association of a residential condominium, each newly  
655 elected or appointed director shall certify in writing to the  
656 secretary of the association that he or she has read the  
657 association's declaration of condominium, articles of  
658 incorporation, bylaws, and current written policies; that he or  
659 she will work to uphold such documents and policies to the best  
660 of his or her ability; and that he or she will faithfully  
661 discharge his or her fiduciary responsibility to the  
662 association's members. In lieu of this written certification,  
663 within 90 days after being elected or appointed to the board,  
664 the newly elected or appointed director may submit a certificate  
665 of having satisfactorily completed the educational curriculum  
666 administered by a division-approved condominium education  
667 provider within 1 year before or 90 days after the date of

580-03447-17

20171682c1

668 election or appointment. The written certification or  
669 educational certificate is valid and does not have to be  
670 resubmitted as long as the director serves on the board without  
671 interruption. A director of an association of a residential  
672 condominium who fails to timely file the written certification  
673 or educational certificate is suspended from service on the  
674 board until he or she complies with this sub-subparagraph. The  
675 board may temporarily fill the vacancy during the period of  
676 suspension. The secretary shall cause the association to retain  
677 a director's written certification or educational certificate  
678 for inspection by the members for 5 years after a director's  
679 election or the duration of the director's uninterrupted tenure,  
680 whichever is longer. Failure to have such written certification  
681 or educational certificate on file does not affect the validity  
682 of any board action.

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

685 5. Any approval by unit owners called for by this chapter  
686 or the applicable declaration or bylaws, including, but not  
687 limited to, the approval requirement in s. 718.111(8), must be  
688 made at a duly noticed meeting of unit owners and is subject to  
689 all requirements of this chapter or the applicable condominium  
690 documents relating to unit owner decisionmaking, except that  
691 unit owners may take action by written agreement, without  
692 meetings, on matters for which action by written agreement  
693 without meetings is expressly allowed by the applicable bylaws  
694 or declaration or any law that provides for such action.

695 6. Unit owners may waive notice of specific meetings if  
696 allowed by the applicable bylaws or declaration or any law.

580-03447-17

20171682c1

697 Notice of meetings of the board of administration, unit owner  
698 meetings, except unit owner meetings called to recall board  
699 members under paragraph (j), and committee meetings may be given  
700 by electronic transmission to unit owners who consent to receive  
701 notice by electronic transmission.

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

706 8. A unit owner may tape record or videotape a meeting of  
707 the unit owners subject to reasonable rules adopted by the  
708 division.

709 9. Unless otherwise provided in the bylaws, any vacancy  
710 occurring on the board before the expiration of a term may be  
711 filled by the affirmative vote of the majority of the remaining  
712 directors, even if the remaining directors constitute less than  
713 a quorum, or by the sole remaining director. In the alternative,  
714 a board may hold an election to fill the vacancy, in which case  
715 the election procedures must conform to sub-subparagraph 4.a.  
716 unless the association governs 10 units or fewer and has opted  
717 out of the statutory election process, in which case the bylaws  
718 of the association control. Unless otherwise provided in the  
719 bylaws, a board member appointed or elected under this section  
720 shall fill the vacancy for the unexpired term of the seat being  
721 filled. Filling vacancies created by recall is governed by  
722 paragraph (j) and rules adopted by the division.

723 10. This chapter does not limit the use of general or  
724 limited proxies, require the use of general or limited proxies,  
725 or require the use of a written ballot or voting machine for any

580-03447-17

20171682c1

726 agenda item or election at any meeting of a timeshare  
727 condominium association or nonresidential condominium  
728 association.

729  
730 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
731 association of 10 or fewer units may, by affirmative vote of a  
732 majority of the total voting interests, provide for different  
733 voting and election procedures in its bylaws, which may be by a  
734 proxy specifically delineating the different voting and election  
735 procedures. The different voting and election procedures may  
736 provide for elections to be conducted by limited or general  
737 proxy.

738 (j) *Recall of board members.*—Subject to s. 718.301, any  
739 member of the board of administration may be recalled and  
740 removed from office with or without cause by the vote or  
741 agreement in writing by a majority of all the voting interests.  
742 A special meeting of the unit owners to recall a member or  
743 members of the board of administration may be called by 10  
744 percent of the voting interests giving notice of the meeting as  
745 required for a meeting of unit owners, and the notice shall  
746 state the purpose of the meeting. Electronic transmission may  
747 not be used as a method of giving notice of a meeting called in  
748 whole or in part for this purpose.

749 1. If the recall is approved by a majority of all voting  
750 interests by a vote at a meeting, the recall will be effective  
751 as provided in this paragraph. The board shall duly notice and  
752 hold a board meeting within 5 full business days after the  
753 adjournment of the unit owner meeting to recall one or more  
754 board members. ~~At the meeting, the board shall either certify~~

580-03447-17

20171682c1

755 ~~the recall, in which case~~ Such member or members shall be  
756 recalled effective immediately and shall turn over to the board  
757 within 10 ~~5~~ full business days after the vote any and all  
758 records and property of the association in their possession, ~~or~~  
759 ~~shall proceed as set forth in subparagraph 3.~~

760 2. If the proposed recall is by an agreement in writing by  
761 a majority of all voting interests, the agreement in writing or  
762 a copy thereof shall be served on the association by certified  
763 mail or by personal service in the manner authorized by chapter  
764 48 and the Florida Rules of Civil Procedure. The board of  
765 administration shall duly notice and hold a meeting of the board  
766 within 5 full business days after receipt of the agreement in  
767 writing. ~~At the meeting, the board shall either certify the~~  
768 ~~written agreement to recall a member or members of the board, in~~  
769 ~~which case such member or members shall be recalled effective~~  
770 ~~immediately and shall turn over to the board within 5 full~~  
771 ~~business days any and all records and property of the~~  
772 ~~association in their possession, or proceed as described in~~  
773 ~~subparagraph 3.~~

774 3. ~~If the board determines not to certify the written~~  
775 ~~agreement to recall a member or members of the board, or does~~  
776 ~~not certify the recall by a vote at a meeting, The board shall,~~  
777 ~~within 5 full business days after the meeting, file with the~~  
778 ~~division a petition for arbitration pursuant to the procedures~~  
779 ~~in s. 718.1255. For the purposes of this section, the unit~~  
780 ~~owners who voted at the meeting or who executed the agreement in~~  
781 ~~writing shall constitute one party under the petition for~~  
782 ~~arbitration. If the arbitrator certifies the recall as to any~~  
783 ~~member or members of the board, the recall will be effective~~

580-03447-17

20171682c1

784 ~~upon mailing of the final order of arbitration to the~~  
785 ~~association. If the association fails to comply with the order~~  
786 ~~of the arbitrator, the division may take action pursuant to s.~~  
787 ~~718.501. Any member or members so recalled shall deliver to the~~  
788 ~~board any and all records of the association in their possession~~  
789 ~~within 5 full business days after the effective date of the~~  
790 ~~recall.~~

791 ~~3.4.~~ If the board fails to duly notice and hold a board  
792 meeting within 5 full business days after service of an  
793 agreement in writing or within 5 full business days after the  
794 adjournment of the unit owner recall meeting, the recall shall  
795 be deemed effective and the board members so recalled shall  
796 ~~immediately~~ turn over to the board within 10 full business days  
797 after the vote any and all records and property of the  
798 association.

799 ~~4.5.~~ If the board fails to duly notice and hold the  
800 required meeting or fails to file the required petition, the  
801 unit owner representative may file a petition pursuant to s.  
802 718.1255 challenging the board's failure to act. The petition  
803 must be filed within 60 days after the expiration of the  
804 applicable 5-full-business-day period. The review of a petition  
805 under this subparagraph is limited to the sufficiency of service  
806 on the board and the facial validity of the written agreement or  
807 ballots filed.

808 ~~5.6.~~ If a vacancy occurs on the board as a result of a  
809 recall or removal and less than a majority of the board members  
810 are removed, the vacancy may be filled by the affirmative vote  
811 of a majority of the remaining directors, notwithstanding any  
812 provision to the contrary contained in this subsection. If

580-03447-17

20171682c1

813 vacancies occur on the board as a result of a recall and a  
814 majority or more of the board members are removed, the vacancies  
815 shall be filled in accordance with procedural rules to be  
816 adopted by the division, which rules need not be consistent with  
817 this subsection. The rules must provide procedures governing the  
818 conduct of the recall election as well as the operation of the  
819 association during the period after a recall but before the  
820 recall election.

821 ~~6.7.~~ A board member who has been recalled may file a  
822 petition pursuant to s. 718.1255 challenging the validity of the  
823 recall. The petition must be filed within 60 days after the  
824 recall ~~is deemed certified~~. The association and the unit owner  
825 representative shall be named as the respondents.

826 ~~7.8.~~ The division may not accept for filing a recall  
827 petition, whether filed pursuant to subparagraph 1.,  
828 subparagraph 2., subparagraph ~~4. 5.~~, or subparagraph ~~6. 7.~~ ~~and~~  
829 ~~regardless of whether the recall was certified,~~ when there are  
830 60 or fewer days until the scheduled reelection of the board  
831 member sought to be recalled or when 60 or fewer days have  
832 elapsed since the election of the board member sought to be  
833 recalled.

834 (p) Service providers; conflicts of interest.—An  
835 association that is not a timeshare condominium association may  
836 not employ or contract with any service provider that is owned  
837 or operated by a board member or with any person who has a  
838 financial relationship with a board member or officer.

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

841 718.1255 Alternative dispute resolution; voluntary

580-03447-17

20171682c1

842 mediation; mandatory nonbinding arbitration; legislative  
843 findings.—

844 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF  
845 DISPUTES.—The Division of Florida Condominiums, Timeshares, and  
846 Mobile Homes of the Department of Business and Professional  
847 Regulation may ~~shall~~ employ full-time attorneys to act as  
848 arbitrators to conduct the arbitration hearings provided by this  
849 chapter. The division may also certify attorneys who are not  
850 employed by the division to act as arbitrators to conduct the  
851 arbitration hearings provided by this chapter section. No person  
852 may be employed by the department as a full-time arbitrator  
853 unless he or she is a member in good standing of The Florida  
854 Bar. A person may only be certified by the division to act as an  
855 arbitrator if he or she has been a member in good standing of  
856 The Florida Bar for at least 5 years and has mediated or  
857 arbitrated at least 10 disputes involving condominiums in this  
858 state during the 3 years immediately preceding the date of  
859 application, mediated or arbitrated at least 30 disputes in any  
860 subject area in this state during the 3 years immediately  
861 preceding the date of application, or attained board  
862 certification in real estate law or condominium and planned  
863 development law from The Florida Bar. Arbitrator certification  
864 is valid for 1 year. An arbitrator who does not maintain the  
865 minimum qualifications for initial certification may not have  
866 his or her certification renewed. The department may not enter  
867 into a legal services contract for an arbitration hearing under  
868 this chapter with an attorney who is not a certified arbitrator  
869 unless a certified arbitrator is not available within 50 miles  
870 of the dispute. The department shall adopt rules of procedure to

580-03447-17

20171682c1

871 govern such arbitration hearings including mediation incident  
872 thereto. The decision of an arbitrator shall be final; however,  
873 a decision shall not be deemed final agency action. Nothing in  
874 this provision shall be construed to foreclose parties from  
875 proceeding in a trial de novo unless the parties have agreed  
876 that the arbitration is binding. If judicial proceedings are  
877 initiated, the final decision of the arbitrator shall be  
878 admissible in evidence in the trial de novo.

879 (a) Prior to the institution of court litigation, a party  
880 to a dispute shall petition the division for nonbinding  
881 arbitration. The petition must be accompanied by a filing fee in  
882 the amount of \$50. Filing fees collected under this section must  
883 be used to defray the expenses of the alternative dispute  
884 resolution program.

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

887 1. Advance written notice of the specific nature of the  
888 dispute;

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

891 3. Notice of the intention to file an arbitration petition  
892 or other legal action in the absence of a resolution of the  
893 dispute.

894  
895 Failure to include the allegations or proof of compliance with  
896 these prerequisites requires dismissal of the petition without  
897 prejudice.

898 (c) Upon receipt, the petition shall be promptly reviewed  
899 by the division to determine the existence of a dispute and

580-03447-17

20171682c1

900 compliance with the requirements of paragraphs (a) and (b). If  
901 emergency relief is required and is not available through  
902 arbitration, a motion to stay the arbitration may be filed. The  
903 motion must be accompanied by a verified petition alleging facts  
904 that, if proven, would support entry of a temporary injunction,  
905 and if an appropriate motion and supporting papers are filed,  
906 the division may abate the arbitration pending a court hearing  
907 and disposition of a motion for temporary injunction.

908 (d) Upon determination by the division that a dispute  
909 exists and that the petition substantially meets the  
910 requirements of paragraphs (a) and (b) and any other applicable  
911 rules, the division shall assign or enter into a contract with  
912 an arbitrator and serve a copy of the petition ~~shall be served~~  
913 ~~by the division~~ upon all respondents. The arbitrator shall  
914 conduct a hearing within 30 days after being assigned or  
915 entering into a contract unless the petition is withdrawn or a  
916 continuance is granted for good cause shown.

917 (e) Before or after the filing of the respondents' answer  
918 to the petition, any party may request that the arbitrator refer  
919 the case to mediation under this section and any rules adopted  
920 by the division. Upon receipt of a request for mediation, the  
921 division shall promptly contact the parties to determine if  
922 there is agreement that mediation would be appropriate. If all  
923 parties agree, the dispute must be referred to mediation.  
924 Notwithstanding a lack of an agreement by all parties, the  
925 arbitrator may refer a dispute to mediation at any time.

926 (f) Upon referral of a case to mediation, the parties must  
927 select a mutually acceptable mediator. To assist in the  
928 selection, the arbitrator shall provide the parties with a list

580-03447-17

20171682c1

929 of both volunteer and paid mediators that have been certified by  
930 the division under s. 718.501. If the parties are unable to  
931 agree on a mediator within the time allowed by the arbitrator,  
932 the arbitrator shall appoint a mediator from the list of  
933 certified mediators. If a case is referred to mediation, the  
934 parties shall attend a mediation conference, as scheduled by the  
935 parties and the mediator. If any party fails to attend a duly  
936 noticed mediation conference, without the permission or approval  
937 of the arbitrator or mediator, the arbitrator must impose  
938 sanctions against the party, including the striking of any  
939 pleadings filed, the entry of an order of dismissal or default  
940 if appropriate, and the award of costs and attorney ~~attorneys'~~  
941 fees incurred by the other parties. Unless otherwise agreed to  
942 by the parties or as provided by order of the arbitrator, a  
943 party is deemed to have appeared at a mediation conference by  
944 the physical presence of the party or its representative having  
945 full authority to settle without further consultation, provided  
946 that an association may comply by having one or more  
947 representatives present with full authority to negotiate a  
948 settlement and recommend that the board of administration ratify  
949 and approve such a settlement within 5 days from the date of the  
950 mediation conference. The parties shall share equally the  
951 expense of mediation, unless they agree otherwise.

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

956 (h) Mediation proceedings must generally be conducted in  
957 accordance with the Florida Rules of Civil Procedure, and these

580-03447-17

20171682c1

958 proceedings are privileged and confidential to the same extent  
959 as court-ordered mediation. Persons who are not parties to the  
960 dispute are not allowed to attend the mediation conference  
961 without the consent of all parties, with the exception of  
962 counsel for the parties and corporate representatives designated  
963 to appear for a party. If the mediator declares an impasse after  
964 a mediation conference has been held, the arbitration proceeding  
965 terminates, unless all parties agree in writing to continue the  
966 arbitration proceeding, in which case the arbitrator's decision  
967 shall be binding or nonbinding, as agreed upon by the parties;  
968 in the arbitration proceeding, the arbitrator shall not consider  
969 any evidence relating to the unsuccessful mediation except in a  
970 proceeding to impose sanctions for failure to appear at the  
971 mediation conference. If the parties do not agree to continue  
972 arbitration, the arbitrator shall enter an order of dismissal,  
973 and either party may institute a suit in a court of competent  
974 jurisdiction. The parties may seek to recover any costs and  
975 attorney ~~attorneys'~~ fees incurred in connection with arbitration  
976 and mediation proceedings under this section as part of the  
977 costs and fees that may be recovered by the prevailing party in  
978 any subsequent litigation.

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

982 (j) At the request of any party to the arbitration, the  
983 arbitrator shall issue subpoenas for the attendance of witnesses  
984 and the production of books, records, documents, and other  
985 evidence and any party on whose behalf a subpoena is issued may  
986 apply to the court for orders compelling such attendance and

580-03447-17

20171682c1

987 production. Subpoenas shall be served and shall be enforceable  
988 in the manner provided by the Florida Rules of Civil Procedure.  
989 Discovery may, in the discretion of the arbitrator, be permitted  
990 in the manner provided by the Florida Rules of Civil Procedure.  
991 Rules adopted by the division may authorize any reasonable  
992 sanctions except contempt for a violation of the arbitration  
993 procedural rules of the division or for the failure of a party  
994 to comply with a reasonable nonfinal order issued by an  
995 arbitrator which is not under judicial review.

996 (k) The arbitration decision shall be rendered within 30  
997 days after the hearing and presented to the parties in writing.  
998 An arbitration decision is final in those disputes in which the  
999 parties have agreed to be bound. An arbitration decision is also  
1000 final if a complaint for a trial de novo is not filed in a court  
1001 of competent jurisdiction in which the condominium is located  
1002 within 30 days. The right to file for a trial de novo entitles  
1003 the parties to file a complaint in the appropriate trial court  
1004 for a judicial resolution of the dispute. The prevailing party  
1005 in an arbitration proceeding shall be awarded the costs of the  
1006 arbitration and reasonable attorney ~~attorney's~~ fees in an amount  
1007 determined by the arbitrator. Such an award shall include the  
1008 costs and reasonable attorney ~~attorney's~~ fees incurred in the  
1009 arbitration proceeding as well as the costs and reasonable  
1010 attorney ~~attorney's~~ fees incurred in preparing for and attending  
1011 any scheduled mediation. An arbitrator's failure to render a  
1012 written decision within 30 days after the hearing may result in  
1013 the cancellation of his or her arbitration certification.

1014 (l) The party who files a complaint for a trial de novo  
1015 shall be assessed the other party's arbitration costs, court

580-03447-17

20171682c1

1016 costs, and other reasonable costs, including attorney ~~attorney's~~  
1017 fees, investigation expenses, and expenses for expert or other  
1018 testimony or evidence incurred after the arbitration hearing if  
1019 the judgment upon the trial de novo is not more favorable than  
1020 the arbitration decision. If the judgment is more favorable, the  
1021 party who filed a complaint for trial de novo shall be awarded  
1022 reasonable court costs and attorney ~~attorney's~~ fees.

1023 (m) Any party to an arbitration proceeding may enforce an  
1024 arbitration award by filing a petition in a court of competent  
1025 jurisdiction in which the condominium is located. A petition may  
1026 not be granted unless the time for appeal by the filing of a  
1027 complaint for trial de novo has expired. If a complaint for a  
1028 trial de novo has been filed, a petition may not be granted with  
1029 respect to an arbitration award that has been stayed. If the  
1030 petition for enforcement is granted, the petitioner shall  
1031 recover reasonable attorney ~~attorney's~~ fees and costs incurred  
1032 in enforcing the arbitration award. A mediation settlement may  
1033 also be enforced through the county or circuit court, as  
1034 applicable, and any costs and fees incurred in the enforcement  
1035 of a settlement agreement reached at mediation must be awarded  
1036 to the prevailing party in any enforcement action.

1037 Section 4. Section 718.129, Florida Statutes, is created to  
1038 read:

1039 718.129 Fraudulent voting activities related to association  
1040 elections; penalties.—The following acts constitute fraudulent  
1041 voting activities related to association elections:

1042 (1) A person who willfully, knowingly, and falsely swears  
1043 or affirms to an oath or affirmation, or procures another person  
1044 to willfully, knowingly, and falsely swear or affirm to an oath

580-03447-17

20171682c1

1045 or affirmation, in connection with or arising out of voting or  
1046 casting a ballot in an association election commits a felony of  
1047 the third degree, punishable as provided in s. 775.082, s.  
1048 775.083, or s. 775.084.

1049 (2) A person who willfully and knowingly perpetrates or  
1050 attempts to perpetrate, or willfully and knowingly aids another  
1051 person in perpetrating or attempting to perpetrate, fraud in  
1052 connection with or arising out of a vote or ballot cast, to be  
1053 cast, or attempted to be cast by an elector in an association  
1054 election commits a felony of the third degree, punishable as  
1055 provided in s. 775.082, s. 775.083, or s. 775.084.

1056 (3) A person who willfully, knowingly, and fraudulently  
1057 changes or attempts to change a vote or ballot cast, to be cast,  
1058 or attempted to be cast by an elector in an association election  
1059 to prevent such elector from voting or casting a ballot as he or  
1060 she intended in such election commits a felony of the third  
1061 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1062 775.084.

1063 (4) (a) A person who willfully and knowingly aids or advises  
1064 another person in committing a violation of this section shall  
1065 be punished as if he or she had committed the violation.

1066 (b) A person who willfully and knowingly agrees, conspires,  
1067 combines, or confederates with another person in committing a  
1068 violation of this section shall be punished as if he or she had  
1069 committed the violation.

1070 (c) A person who willfully and knowingly aids or advises a  
1071 person who has committed a violation of this section in avoiding  
1072 or escaping detection, arrest, trial, or punishment shall be  
1073 punished as if he or she had committed the violation. This

580-03447-17

20171682c1

1074 paragraph does not prohibit a member of The Florida Bar from  
1075 giving legal advice to a client.

1076 Section 5. Subsection (5) is added to section 718.3025,  
1077 Florida Statutes, to read:

1078 718.3025 Agreements for operation, maintenance, or  
1079 management of condominiums; specific requirements.—

1080 (5) A party contracting to provide maintenance or  
1081 management services to an association managing a residential  
1082 condominium after transfer of control of the association, as  
1083 provided in s. 718.301, which is not a timeshare condominium  
1084 association, or an officer or board member of such party, may  
1085 not purchase a unit at a foreclosure sale resulting from the  
1086 association's foreclosure of association lien for unpaid  
1087 assessments or take a deed in lieu of foreclosure. If 50 percent  
1088 or more of the units in the condominium are owned by a party  
1089 contracting to provide maintenance or management services to an  
1090 association managing a residential condominium after transfer of  
1091 control of the association, as provided in s. 718.301, which is  
1092 not a timeshare condominium association, or by an officer or  
1093 board member of such party, the contract with the party  
1094 providing maintenance or management services may be cancelled by  
1095 a majority vote of the unit owners other than the contracting  
1096 party or an officer or board member of such party.

1097 Section 6. Section 718.3027, Florida Statutes, is created  
1098 to read:

1099 718.3027 Conflicts of interest.—

1100 (1) Directors and officers of a board of an association  
1101 that is not a timeshare condominium association, and the  
1102 relatives of such directors and officers, must disclose to the

580-03447-17

20171682c1

1103 board any activity that may reasonably be construed to be a  
1104 conflict of interest. A rebuttable presumption of a conflict of  
1105 interest exists if any of the following occurs without prior  
1106 notice, as required in subsection (4):

1107 (a) Any director, officer, or relative of any director or  
1108 officer enters into a contract for goods or services with the  
1109 association.

1110 (b) Any director, officer, or relative of any director or  
1111 officer holds an interest in a corporation, limited liability  
1112 corporation, partnership, limited liability partnership, or  
1113 other business entity that conducts business with the  
1114 association or proposes to enter into a contract or other  
1115 transaction with the association.

1116 (2) If any director, officer, or relative of any director  
1117 or officer proposes to engage in an activity that is a conflict  
1118 of interest, as described in subsection (1), the proposed  
1119 activity must be listed on, and all contracts and transactional  
1120 documents related to the proposed activity must be attached to,  
1121 the meeting agenda. If the board votes against the proposed  
1122 activity, the director, officer, or relative must notify the  
1123 board in writing of his or her intention not to pursue the  
1124 proposed activity, or the director or officer shall withdraw  
1125 from office. If the board finds that any officer or director has  
1126 violated this subsection, the officer or director shall be  
1127 deemed removed from office. The vacancy shall be filled  
1128 according to general law.

1129 (3) Any director, officer, or relative of any director or  
1130 officer who is a party to, or has an interest in, an activity  
1131 that is a possible conflict of interest, as described in

580-03447-17

20171682c1

1132 subsection (1), may attend the meeting at which the activity is  
1133 considered by the board, and is authorized to make a  
1134 presentation to the board regarding the activity. After the  
1135 presentation, the director, officer, or relative must leave the  
1136 meeting during the discussion of, and the vote on, the activity.  
1137 Any director or officer who is a party to, or has an interest  
1138 in, the activity must recuse himself or herself from the vote.

1139 (4) The board must provide notice to unit owners of a  
1140 possible conflict of interest, as described in subsection (1),  
1141 in accordance with the procedures in s. 718.112(2)(c). All  
1142 contracts and transactional documents related to the possible  
1143 conflict of interest must be attached to, and made available  
1144 with, the meeting agenda.

1145 (5) Any contract entered into between any director,  
1146 officer, or relative of any director or officer and the  
1147 association which has not been properly disclosed as a conflict  
1148 of interest or potential conflict of interest as required by s.  
1149 718.111(12)(g) is voidable and terminates upon the filing of a  
1150 written notice terminating the contract with the board of  
1151 directors which contains the consent of at least 20 percent of  
1152 the voting interests of the association.

1153 Section 7. Subsection (5) of section 718.303, Florida  
1154 Statutes, is amended, and subsection (8) is added to that  
1155 section, to read:

1156 718.303 Obligations of owners and occupants; remedies.—

1157 (5) An association may suspend the voting rights of a unit  
1158 owner or member due to nonpayment of any fee, fine, or other  
1159 monetary obligation due to the association which is more than  
1160 \$1,000 and more than 90 days delinquent. Proof of such

580-03447-17

20171682c1

1161 obligation must be provided to the unit owner or member 30 days  
1162 before such suspension takes effect. A voting interest or  
1163 consent right allocated to a unit owner or member which has been  
1164 suspended by the association shall be subtracted from the total  
1165 number of voting interests in the association, which shall be  
1166 reduced by the number of suspended voting interests when  
1167 calculating the total percentage or number of all voting  
1168 interests available to take or approve any action, and the  
1169 suspended voting interests shall not be considered for any  
1170 purpose, including, but not limited to, the percentage or number  
1171 of voting interests necessary to constitute a quorum, the  
1172 percentage or number of voting interests required to conduct an  
1173 election, or the percentage or number of voting interests  
1174 required to approve an action under this chapter or pursuant to  
1175 the declaration, articles of incorporation, or bylaws. The  
1176 suspension ends upon full payment of all obligations currently  
1177 due or overdue the association. The notice and hearing  
1178 requirements under subsection (3) do not apply to a suspension  
1179 imposed under this subsection.

1180 (8) A receiver may not exercise voting rights of any unit  
1181 owner whose unit is placed in receivership for the benefit of  
1182 the association pursuant to this chapter.

1183 Section 8. Subsection (5) of section 718.5012, Florida  
1184 Statutes, is amended to read:

1185 718.5012 Ombudsman; powers and duties.—The ombudsman shall  
1186 have the powers that are necessary to carry out the duties of  
1187 his or her office, including the following specific powers:

1188 (5) To monitor and review procedures and disputes  
1189 concerning condominium elections or meetings, including, but not

580-03447-17

20171682c1

1190 limited to, recommending that the division pursue enforcement  
1191 action in any manner where there is reasonable cause to believe  
1192 that election misconduct has occurred and reviewing secret  
1193 ballots cast at a vote of the association.

1194 Section 9. Section 718.71, Florida Statutes, is created to  
1195 read:

1196 718.71 Financial reporting.—An association shall provide an  
1197 annual report to the department containing the names of all of  
1198 the financial institutions with which it maintains accounts, and  
1199 a copy of such report may be obtained from the department upon  
1200 written request of any association member.

1201 Section 10. This act shall take effect July 1, 2017.