

By the Committees on Rules; and Regulated Industries; and
Senators Garcia, Rodriguez, and Artiles

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1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.111,
3 F.S.; prohibiting an officer, director, or manager of
4 a condominium association from soliciting, offering to
5 accept, or accepting a kickback for which
6 consideration has not been provided; providing
7 criminal penalties; requiring that an officer or
8 director charged with certain crimes be removed from
9 office; providing requirements for filling the vacancy
10 left by such removal; prohibiting such officer or
11 director from being appointed or elected or having
12 access to official condominium association records for
13 a specified time; providing an exception; requiring an
14 officer or director to be reinstated if the charges
15 are resolved without a finding of guilt; prohibiting
16 an association from hiring an attorney who represents
17 the management company of the association; prohibiting
18 a board member, manager, or management company from
19 purchasing a unit at a foreclosure sale under certain
20 circumstances; revising recordkeeping requirements;
21 providing that the official records of an association
22 are open to inspection by unit renters; providing that
23 a renter of a unit has a right to inspect and copy the
24 association's bylaws and rules; providing requirements
25 relating to the posting of specified documents on an
26 association's website; providing a remedy for an
27 association's failure to provide a unit owner with a
28 copy of the most recent financial report; requiring
29 the Division of Florida Condominiums, Timeshares, and

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30 Mobile Homes to maintain and provide copies of
31 financial reports; prohibiting a condominium
32 association and its officers, directors, employees,
33 and agents from using a debit card issued in the name
34 of the association or billed to the association;
35 providing that use of such a debit card for any
36 expense that is not a lawful obligation of the
37 association may be prosecuted as credit card fraud;
38 providing direction to the Department of Business and
39 Professional Regulation; amending s. 718.112, F.S.;
40 providing board member term limits; providing an
41 exception; deleting certification requirements
42 relating to the recall of board members; revising the
43 amount of time a recalled board member has to turn
44 over records and property of the association to the
45 board; prohibiting certain associations from employing
46 or contracting with a service provider owned or
47 operated by certain persons; amending s. 718.1255,
48 F.S.; authorizing, rather than requiring, the division
49 to employ full-time attorneys to conduct certain
50 arbitration hearings; providing requirements for the
51 certification of arbitrators; prohibiting the
52 Department of Business and Professional Regulation
53 from entering into a legal services contract for
54 certain arbitration hearings; requiring the division
55 to assign or enter into contracts with arbitrators;
56 requiring arbitrators to conduct hearings within a
57 specified period; providing an exception; providing
58 arbitration proceeding requirements; amending s.

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59 718.3025, F.S.; prohibiting specified parties from
60 purchasing a unit at a foreclosure sale resulting from
61 the association's foreclosure of association lien for
62 unpaid assessments or from taking a deed in lieu of
63 foreclosure; authorizing a contract with a party
64 providing maintenance or management services to be
65 canceled by a majority vote of certain unit owners
66 under specified conditions; creating s. 718.3027,
67 F.S.; providing requirements relating to board
68 director and officer conflicts of interest; providing
69 that certain contracts are voidable if they do not
70 meet specified notice requirements and terminate,
71 subject to a certain condition; defining the term
72 "relative"; amending s. 718.303, F.S.; providing
73 requirements relating to the suspension of voting
74 rights of unit owners and members; prohibiting a
75 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) of that

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88 section, and 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

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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 used in a condominium
131 association election or voting certificate 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 destruction of any document that is an official record of a
135 condominium association in furtherance of any crime is
136 punishable as tampering with evidence as provided in s. 918.13
137 or as obstruction of justice as provided in s. 843.02. An
138 officer or director charged by information or indictment with a
139 crime referenced in this paragraph must be removed from office,
140 and the vacancy shall be filled as provided in s.
141 718.112(2)(d)2. until the earlier of the end of the officer's or
142 director's period of suspension or the end of his or her term of
143 office. While a criminal charge is pending against the officer
144 or director, he or she may not be appointed or elected to a
145 position as an officer or director of any association and may

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146 not have access to the official records of any association,
147 except pursuant to a court order. However, if the charges are
148 resolved without a finding of guilt, the officer or director
149 must be reinstated for the remainder of his or her term of
150 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

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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 the

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204 association, or other documents creating the association, and
205 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 meetings
208 of the association, the board of administration, and the unit
209 owners, which minutes must be retained for at least 7 years.

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

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

224 9. A current copy of any management agreement, lease, or
225 other contract to which the association is a party or under
226 which the association or the unit owners have an obligation or
227 responsibility.

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

230 11. Accounting records for the association and separate
231 accounting records for each condominium that the association
232 operates. All accounting records must be maintained for at least

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233 7 years. Any person who knowingly or intentionally defaces or
234 destroys such records, or who knowingly or intentionally fails
235 to create or maintain such records, with the intent of causing
236 harm to the association or one or more of its members, is
237 personally subject to a civil penalty pursuant to s.

238 718.501(1)(d). The accounting records must include, but are not
239 limited to:

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

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

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

248 d. All contracts for work to be performed. Bids for work to
249 be performed are also considered official records and must be
250 maintained by the association.

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

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

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

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

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262 operation of the association.

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

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

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

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

288 2. Any person who knowingly or intentionally defaces or
289 destroys accounting records that are required by this chapter to
290 be maintained during the period for which such records are

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291 required to be maintained, or who knowingly or intentionally
292 fails to create or maintain accounting records that are required
293 to be created or maintained, with the intent of causing harm to
294 the association or one or more of its members, is personally
295 subject to a civil penalty pursuant to s. 718.501(1)(d).

296 3. The association shall maintain an adequate number of
297 copies of the declaration, articles of incorporation, bylaws,
298 and rules, and all amendments to each of the foregoing, as well
299 as the question and answer sheet as described in s. 718.504 and
300 year-end financial information required under this section, on
301 the condominium property to ensure their availability to unit
302 owners and prospective purchasers, and may charge its actual
303 costs for preparing and furnishing these documents to those
304 requesting the documents. An association shall allow a member or
305 his or her authorized representative to use a portable device,
306 including a smartphone, tablet, portable scanner, or any other
307 technology capable of scanning or taking photographs, to make an
308 electronic copy of the official records in lieu of the
309 association's providing the member or his or her authorized
310 representative with a copy of such records. The association may
311 not charge a member or his or her authorized representative for
312 the use of a portable device. Notwithstanding this paragraph,
313 the following records are not accessible to unit owners:

314 a.1. Any record protected by the lawyer-client privilege as
315 described in s. 90.502 and any record protected by the work-
316 product privilege, including a record prepared by an association
317 attorney or prepared at the attorney's express direction, which
318 reflects a mental impression, conclusion, litigation strategy,
319 or legal theory of the attorney or the association, and which

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320 was prepared exclusively for civil or criminal litigation or for
321 adversarial administrative proceedings, or which was prepared in
322 anticipation of such litigation or proceedings until the
323 conclusion of the litigation or proceedings.

324 b.2. Information obtained by an association in connection
325 with the approval of the lease, sale, or other transfer of a
326 unit.

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

335 d.4. Medical records of unit owners.

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

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

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

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

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

368 a. The association's website must be:

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

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

377 b. The association's website must be accessible through the

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

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

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

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

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

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

399 d. The rules of the association.

400 e. Any management agreement, lease, or other contract to
401 which the association is a party or under which the association
402 or the unit owners have an obligation or responsibility.
403 Summaries of bids for materials, equipment, or services must be
404 maintained on the website for 1 year.

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

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

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

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

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

419 k. The notice of any unit owner meeting and the agenda for
420 the meeting, as required by s. 718.112(2)(d)3., no later than 14
421 days before the meeting. The notice must be posted in plain view
422 on the front page of the website, or on a separate subpage of
423 the website labeled "Notices" which is conspicuously visible and
424 linked from the front page. The association must also post on
425 its website any document to be considered and voted on by the
426 owners during the meeting or any document listed on the agenda
427 at least 7 days before the meeting at which the document or the
428 information within the document will be considered.

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

433 3. The association shall ensure that the information and
434 records described in paragraph (c), which are not permitted to
435 be accessible to unit owners, are not posted on the

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436 association's website. If protected information or information
437 restricted from being accessible to unit owners is included in
438 documents that are required to be posted on the association's
439 website, the association shall ensure the information is
440 redacted before posting the documents online.

441 (13) FINANCIAL REPORTING.—Within 90 days after the end of
442 the fiscal year, or annually on a date provided in the bylaws,
443 the association shall prepare and complete, or contract for the
444 preparation and completion of, a financial report for the
445 preceding fiscal year. Within 21 days after the final financial
446 report is completed by the association or received from the
447 third party, but not later than 120 days after the end of the
448 fiscal year or other date as provided in the bylaws, the
449 association shall mail to each unit owner at the address last
450 furnished to the association by the unit owner, or hand deliver
451 to each unit owner, a copy of the most recent financial report
452 or a notice that a copy of the most recent financial report will
453 be mailed or hand delivered to the unit owner, without charge,
454 within 5 business days after ~~upon~~ receipt of a written request
455 from the unit owner. The division shall adopt rules setting
456 forth uniform accounting principles and standards to be used by
457 all associations and addressing the financial reporting
458 requirements for multicondominium associations. The rules must
459 include, but not be limited to, standards for presenting a
460 summary of association reserves, including a good faith estimate
461 disclosing the annual amount of reserve funds that would be
462 necessary for the association to fully fund reserves for each
463 reserve item based on the straight-line accounting method. This
464 disclosure is not applicable to reserves funded via the pooling

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465 method. In adopting such rules, the division shall consider the
466 number of members and annual revenues of an association.
467 Financial reports shall be prepared as follows:

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

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

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

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

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

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

488 ~~3.~~ A report of cash receipts and disbursements must
489 disclose the amount of receipts by accounts and receipt
490 classifications and the amount of expenses by accounts and
491 expense classifications, including, but not limited to, the
492 following, as applicable: costs for security, professional and
493 management fees and expenses, taxes, costs for recreation

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494 facilities, expenses for refuse collection and utility services,
495 expenses for lawn care, costs for building maintenance and
496 repair, insurance costs, administration and salary expenses, and
497 reserves accumulated and expended for capital expenditures,
498 deferred maintenance, and any other category for which the
499 association maintains reserves.

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

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

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

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

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

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

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

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

521
522 Such meeting and approval must occur before the end of the

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

543 (e) If the division determines that an association has not
544 mailed or hand delivered to the unit owner a copy of the most
545 recent financial report within 5 business days after receipt of
546 a written request from the unit owner, the unit owner may give
547 notice to the division of the association's failure to comply.
548 Upon notification, the division shall give notice to the
549 association that the association must mail or hand deliver the
550 copy of the most recent financial report to the unit owner and
551 the division within 5 business days after such notice. Any

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552 association that fails to comply with the division's request may
553 not waive the financial reporting requirement provided in
554 paragraph (d). A financial report received by the division
555 pursuant to this paragraph shall be maintained, and the division
556 shall provide a copy of such report to an association member
557 upon his or her request.

558 (15) DEBIT CARDS.—An association or any officer, director,
559 employee, or agent of an association may not use a debit card
560 issued in the name of the association, or which is billed
561 directly to the association, for the payment of any association
562 expense. Use of a debit card issued in the name of the
563 association or billed directly to the association for any
564 expense that is not a lawful obligation of the association may
565 be prosecuted as credit card fraud pursuant to s. 817.61.

566 Section 2. In order to implement the website requirement in
567 section 1 of this act, the Department of Business and
568 Professional Regulation is directed to include in the next
569 condominium association annual fee statement required by s.
570 718.501(2)(a), Florida Statutes, a notice informing condominium
571 associations of 150 or more units of the requirement to create a
572 website for association documents which is operational no later
573 than July 1, 2018.

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

577 718.112 Bylaws.—

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

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581 (d) *Unit owner meetings.*—

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

588 2. Unless the bylaws provide otherwise, a vacancy on the
589 board caused by the expiration of a director's term shall be
590 filled by electing a new board member, and the election must be
591 by secret ballot. An election is not required if the number of
592 vacancies equals or exceeds the number of candidates. For
593 purposes of this paragraph, the term "candidate" means an
594 eligible person who has timely submitted the written notice, as
595 described in sub-subparagraph 4.a., of his or her intention to
596 become a candidate. Except in a timeshare or nonresidential
597 condominium, or if the staggered term of a board member does not
598 expire until a later annual meeting, or if all members' terms
599 would otherwise expire but there are no candidates, the terms of
600 all board members expire at the annual meeting, and such members
601 may stand for reelection unless prohibited by the bylaws. ~~If the~~
602 ~~bylaws or articles of incorporation permit terms of no more than~~
603 ~~2 years, the association~~ Board members may serve 2-year terms if
604 permitted by the bylaws or articles of incorporation. A board
605 member may not serve more than 4 consecutive 2-year terms,
606 unless approved by an affirmative vote of two-thirds of the
607 total voting interests of the association or unless there are
608 not enough eligible candidates to fill the vacancies on the
609 board at the time of the vacancy. If the number of board members

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610 whose terms expire at the annual meeting equals or exceeds the
611 number of candidates, the candidates become members of the board
612 effective upon the adjournment of the annual meeting. Unless the
613 bylaws provide otherwise, any remaining vacancies shall be
614 filled by the affirmative vote of the majority of the directors
615 making up the newly constituted board even if the directors
616 constitute less than a quorum or there is only one director. In
617 a residential condominium association of more than 10 units or
618 in a residential condominium association that does not include
619 timeshare units or timeshare interests, coowners of a unit may
620 not serve as members of the board of directors at the same time
621 unless they own more than one unit or unless there are not
622 enough eligible candidates to fill the vacancies on the board at
623 the time of the vacancy. A unit owner in a residential
624 condominium desiring to be a candidate for board membership must
625 comply with sub-subparagraph 4.a. and must be eligible to be a
626 candidate to serve on the board of directors at the time of the
627 deadline for submitting a notice of intent to run in order to
628 have his or her name listed as a proper candidate on the ballot
629 or to serve on the board. A person who has been suspended or
630 removed by the division under this chapter, or who is delinquent
631 in the payment of any monetary obligation due to the
632 association, is not eligible to be a candidate for board
633 membership and may not be listed on the ballot. A person who has
634 been convicted of any felony in this state or in a United States
635 District or Territorial Court, or who has been convicted of any
636 offense in another jurisdiction which would be considered a
637 felony if committed in this state, is not eligible for board
638 membership unless such felon's civil rights have been restored

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639 for at least 5 years as of the date such person seeks election
640 to the board. The validity of an action by the board is not
641 affected if it is later determined that a board member is
642 ineligible for board membership due to having been convicted of
643 a felony. This subparagraph does not limit the term of a member
644 of the board of a nonresidential or timeshare condominium.

645 3. The bylaws must provide the method of calling meetings
646 of unit owners, including annual meetings. Written notice must
647 include an agenda, must be mailed, hand delivered, or
648 electronically transmitted to each unit owner at least 14 days
649 before the annual meeting, and must be posted in a conspicuous
650 place on the condominium property at least 14 continuous days
651 before the annual meeting. Upon notice to the unit owners, the
652 board shall, by duly adopted rule, designate a specific location
653 on the condominium property or association property where all
654 notices of unit owner meetings shall be posted. This requirement
655 does not apply if there is no condominium property or
656 association property for posting notices. In lieu of, or in
657 addition to, the physical posting of meeting notices, the
658 association may, by reasonable rule, adopt a procedure for
659 conspicuously posting and repeatedly broadcasting the notice and
660 the agenda on a closed-circuit cable television system serving
661 the condominium association. However, if broadcast notice is
662 used in lieu of a notice posted physically on the condominium
663 property, the notice and agenda must be broadcast at least four
664 times every broadcast hour of each day that a posted notice is
665 otherwise required under this section. If broadcast notice is
666 provided, the notice and agenda must be broadcast in a manner
667 and for a sufficient continuous length of time so as to allow an

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668 average reader to observe the notice and read and comprehend the
669 entire content of the notice and the agenda. Unless a unit owner
670 waives in writing the right to receive notice of the annual
671 meeting, such notice must be hand delivered, mailed, or
672 electronically transmitted to each unit owner. Notice for
673 meetings and notice for all other purposes must be mailed to
674 each unit owner at the address last furnished to the association
675 by the unit owner, or hand delivered to each unit owner.
676 However, if a unit is owned by more than one person, the
677 association must provide notice to the address that the
678 developer identifies for that purpose and thereafter as one or
679 more of the owners of the unit advise the association in
680 writing, or if no address is given or the owners of the unit do
681 not agree, to the address provided on the deed of record. An
682 officer of the association, or the manager or other person
683 providing notice of the association meeting, must provide an
684 affidavit or United States Postal Service certificate of
685 mailing, to be included in the official records of the
686 association affirming that the notice was mailed or hand
687 delivered in accordance with this provision.

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

695 a. At least 60 days before a scheduled election, the
696 association shall mail, deliver, or electronically transmit, by

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697 separate association mailing or included in another association
698 mailing, delivery, or transmission, including regularly
699 published newsletters, to each unit owner entitled to a vote, a
700 first notice of the date of the election. A unit owner or other
701 eligible person desiring to be a candidate for the board must
702 give written notice of his or her intent to be a candidate to
703 the association at least 40 days before a scheduled election.
704 Together with the written notice and agenda as set forth in
705 subparagraph 3., the association shall mail, deliver, or
706 electronically transmit a second notice of the election to all
707 unit owners entitled to vote, together with a ballot that lists
708 all candidates. Upon request of a candidate, an information
709 sheet, no larger than 8 1/2 inches by 11 inches, which must be
710 furnished by the candidate at least 35 days before the election,
711 must be included with the mailing, delivery, or transmission of
712 the ballot, with the costs of mailing, delivery, or electronic
713 transmission and copying to be borne by the association. The
714 association is not liable for the contents of the information
715 sheets prepared by the candidates. In order to reduce costs, the
716 association may print or duplicate the information sheets on
717 both sides of the paper. The division shall by rule establish
718 voting procedures consistent with this sub-subparagraph,
719 including rules establishing procedures for giving notice by
720 electronic transmission and rules providing for the secrecy of
721 ballots. Elections shall be decided by a plurality of ballots
722 cast. There is no quorum requirement; however, at least 20
723 percent of the eligible voters must cast a ballot in order to
724 have a valid election. A unit owner may not permit any other
725 person to vote his or her ballot, and any ballots improperly

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726 cast are invalid. A unit owner who violates this provision may
727 be fined by the association in accordance with s. 718.303. A
728 unit owner who needs assistance in casting the ballot for the
729 reasons stated in s. 101.051 may obtain such assistance. The
730 regular election must occur on the date of the annual meeting.
731 Notwithstanding this sub-subparagraph, an election is not
732 required unless more candidates file notices of intent to run or
733 are nominated than board vacancies exist.

734 b. Within 90 days after being elected or appointed to the
735 board of an association of a residential condominium, each newly
736 elected or appointed director shall certify in writing to the
737 secretary of the association that he or she has read the
738 association's declaration of condominium, articles of
739 incorporation, bylaws, and current written policies; that he or
740 she will work to uphold such documents and policies to the best
741 of his or her ability; and that he or she will faithfully
742 discharge his or her fiduciary responsibility to the
743 association's members. In lieu of this written certification,
744 within 90 days after being elected or appointed to the board,
745 the newly elected or appointed director may submit a certificate
746 of having satisfactorily completed the educational curriculum
747 administered by a division-approved condominium education
748 provider within 1 year before or 90 days after the date of
749 election or appointment. The written certification or
750 educational certificate is valid and does not have to be
751 resubmitted as long as the director serves on the board without
752 interruption. A director of an association of a residential
753 condominium who fails to timely file the written certification
754 or educational certificate is suspended from service on the

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755 board until he or she complies with this sub-subparagraph. The
756 board may temporarily fill the vacancy during the period of
757 suspension. The secretary shall cause the association to retain
758 a director's written certification or educational certificate
759 for inspection by the members for 5 years after a director's
760 election or the duration of the director's uninterrupted tenure,
761 whichever is longer. Failure to have such written certification
762 or educational certificate on file does not affect the validity
763 of any board action.

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

766 5. Any approval by unit owners called for by this chapter
767 or the applicable declaration or bylaws, including, but not
768 limited to, the approval requirement in s. 718.111(8), must be
769 made at a duly noticed meeting of unit owners and is subject to
770 all requirements of this chapter or the applicable condominium
771 documents relating to unit owner decisionmaking, except that
772 unit owners may take action by written agreement, without
773 meetings, on matters for which action by written agreement
774 without meetings is expressly allowed by the applicable bylaws
775 or declaration or any law that provides for such action.

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

783 7. Unit owners have the right to participate in meetings of

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784 unit owners with reference to all designated agenda items.
785 However, the association may adopt reasonable rules governing
786 the frequency, duration, and manner of unit owner participation.

787 8. A unit owner may tape record or videotape a meeting of
788 the unit owners subject to reasonable rules adopted by the
789 division.

790 9. Unless otherwise provided in the bylaws, any vacancy
791 occurring on the board before the expiration of a term may be
792 filled by the affirmative vote of the majority of the remaining
793 directors, even if the remaining directors constitute less than
794 a quorum, or by the sole remaining director. In the alternative,
795 a board may hold an election to fill the vacancy, in which case
796 the election procedures must conform to sub-subparagraph 4.a.
797 unless the association governs 10 units or fewer and has opted
798 out of the statutory election process, in which case the bylaws
799 of the association control. Unless otherwise provided in the
800 bylaws, a board member appointed or elected under this section
801 shall fill the vacancy for the unexpired term of the seat being
802 filled. Filling vacancies created by recall is governed by
803 paragraph (j) and rules adopted by the division.

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

810

811 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
812 association of 10 or fewer units may, by affirmative vote of a

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813 majority of the total voting interests, provide for different
814 voting and election procedures in its bylaws, which may be by a
815 proxy specifically delineating the different voting and election
816 procedures. The different voting and election procedures may
817 provide for elections to be conducted by limited or general
818 proxy.

819 (j) *Recall of board members.*—Subject to s. 718.301, any
820 member of the board of administration may be recalled and
821 removed from office with or without cause by the vote or
822 agreement in writing by a majority of all the voting interests.
823 A special meeting of the unit owners to recall a member or
824 members of the board of administration may be called by 10
825 percent of the voting interests giving notice of the meeting as
826 required for a meeting of unit owners, and the notice shall
827 state the purpose of the meeting. Electronic transmission may
828 not be used as a method of giving notice of a meeting called in
829 whole or in part for this purpose.

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

841 2. If the proposed recall is by an agreement in writing by

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842 a majority of all voting interests, the agreement in writing or
843 a copy thereof shall be served on the association by certified
844 mail or by personal service in the manner authorized by chapter
845 48 and the Florida Rules of Civil Procedure. The board of
846 administration shall duly notice and hold a meeting of the board
847 within 5 full business days after receipt of the agreement in
848 writing. ~~At the meeting, the board shall either certify the~~
849 ~~written agreement to recall a member or members of the board, in~~
850 ~~which case~~ Such member or members shall be recalled effective
851 immediately and shall turn over to the board within 10 ~~5~~ full
852 business days any and all records and property of the
853 association in their possession, ~~or proceed as described in~~
854 ~~subparagraph 3.~~

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

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871 ~~recall.~~

872 ~~3.4.~~ If the board fails to duly notice and hold a board
873 meeting within 5 full business days after service of an
874 agreement in writing or within 5 full business days after the
875 adjournment of the unit owner recall meeting, the recall shall
876 be deemed effective and the board members so recalled shall
877 ~~immediately~~ turn over to the board within 10 full business days
878 after the vote any and all records and property of the
879 association.

880 ~~4.5.~~ If the board fails to duly notice and hold the
881 required meeting or fails to file the required petition, the
882 unit owner representative may file a petition pursuant to s.
883 718.1255 challenging the board's failure to act. The petition
884 must be filed within 60 days after the expiration of the
885 applicable 5-full-business-day period. The review of a petition
886 under this subparagraph is limited to the sufficiency of service
887 on the board and the facial validity of the written agreement or
888 ballots filed.

889 ~~5.6.~~ If a vacancy occurs on the board as a result of a
890 recall or removal and less than a majority of the board members
891 are removed, the vacancy may be filled by the affirmative vote
892 of a majority of the remaining directors, notwithstanding any
893 provision to the contrary contained in this subsection. If
894 vacancies occur on the board as a result of a recall and a
895 majority or more of the board members are removed, the vacancies
896 shall be filled in accordance with procedural rules to be
897 adopted by the division, which rules need not be consistent with
898 this subsection. The rules must provide procedures governing the
899 conduct of the recall election as well as the operation of the

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900 association during the period after a recall but before the
901 recall election.

902 ~~6.7.~~ A board member who has been recalled may file a
903 petition pursuant to s. 718.1255 challenging the validity of the
904 recall. The petition must be filed within 60 days after the
905 recall ~~is deemed certified~~. The association and the unit owner
906 representative shall be named as the respondents.

907 ~~7.8.~~ The division may not accept for filing a recall
908 petition, whether filed pursuant to subparagraph 1.,
909 subparagraph 2., subparagraph ~~4. 5.~~, or subparagraph ~~6. 7.~~ and
910 ~~regardless of whether the recall was certified~~, when there are
911 60 or fewer days until the scheduled reelection of the board
912 member sought to be recalled or when 60 or fewer days have
913 elapsed since the election of the board member sought to be
914 recalled.

915 (p) Service providers; conflicts of interest.—An
916 association that is not a timeshare condominium association may
917 not employ or contract with any service provider owned or
918 operated by a board member or with any person who has a
919 financial relationship with a board member or officer, or a
920 relative within the third degree of consanguinity by blood or
921 marriage of a board member or officer. This paragraph does not
922 apply to a service provider in which a board member or officer,
923 or a relative within the third degree of consanguinity by blood
924 or marriage of a board member or officer, owns less than 1
925 percent of the equity shares of the service provider.

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

928 718.1255 Alternative dispute resolution; voluntary

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929 mediation; mandatory nonbinding arbitration; legislative
930 findings.—

931 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
932 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
933 Mobile Homes of the Department of Business and Professional
934 Regulation may ~~shall~~ employ full-time attorneys to act as
935 arbitrators to conduct the arbitration hearings provided by this
936 chapter. The division may also certify attorneys who are not
937 employed by the division to act as arbitrators to conduct the
938 arbitration hearings provided by this chapter section. No person
939 may be employed by the department as a full-time arbitrator
940 unless he or she is a member in good standing of The Florida
941 Bar. A person may only be certified by the division to act as an
942 arbitrator if he or she has been a member in good standing of
943 The Florida Bar for at least 5 years and has mediated or
944 arbitrated at least 10 disputes involving condominiums in this
945 state during the 3 years immediately preceding the date of
946 application, mediated or arbitrated at least 30 disputes in any
947 subject area in this state during the 3 years immediately
948 preceding the date of application, or attained board
949 certification in real estate law or condominium and planned
950 development law from The Florida Bar. Arbitrator certification
951 is valid for 1 year. An arbitrator who does not maintain the
952 minimum qualifications for initial certification may not have
953 his or her certification renewed. The department may not enter
954 into a legal services contract for an arbitration hearing under
955 this chapter with an attorney who is not a certified arbitrator
956 unless a certified arbitrator is not available within 50 miles
957 of the dispute. The department shall adopt rules of procedure to

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958 govern such arbitration hearings including mediation incident
959 thereto. The decision of an arbitrator shall be final; however,
960 a decision shall not be deemed final agency action. Nothing in
961 this provision shall be construed to foreclose parties from
962 proceeding in a trial de novo unless the parties have agreed
963 that the arbitration is binding. If judicial proceedings are
964 initiated, the final decision of the arbitrator shall be
965 admissible in evidence in the trial de novo.

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

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

974 1. Advance written notice of the specific nature of the
975 dispute;

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

978 3. Notice of the intention to file an arbitration petition
979 or other legal action in the absence of a resolution of the
980 dispute.

981
982 Failure to include the allegations or proof of compliance with
983 these prerequisites requires dismissal of the petition without
984 prejudice.

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

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

995 (d) Upon determination by the division that a dispute
996 exists and that the petition substantially meets the
997 requirements of paragraphs (a) and (b) and any other applicable
998 rules, the division shall assign or enter into a contract with
999 an arbitrator and serve a copy of the petition ~~shall be served~~
1000 ~~by the division~~ upon all respondents. The arbitrator shall
1001 conduct a hearing within 30 days after being assigned or
1002 entering into a contract unless the petition is withdrawn or a
1003 continuance is granted for good cause shown.

1004 (e) Before or after the filing of the respondents' answer
1005 to the petition, any party may request that the arbitrator refer
1006 the case to mediation under this section and any rules adopted
1007 by the division. Upon receipt of a request for mediation, the
1008 division shall promptly contact the parties to determine if
1009 there is agreement that mediation would be appropriate. If all
1010 parties agree, the dispute must be referred to mediation.
1011 Notwithstanding a lack of an agreement by all parties, the
1012 arbitrator may refer a dispute to mediation at any time.

1013 (f) Upon referral of a case to mediation, the parties must
1014 select a mutually acceptable mediator. To assist in the
1015 selection, the arbitrator shall provide the parties with a list

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1016 of both volunteer and paid mediators that have been certified by
1017 the division under s. 718.501. If the parties are unable to
1018 agree on a mediator within the time allowed by the arbitrator,
1019 the arbitrator shall appoint a mediator from the list of
1020 certified mediators. If a case is referred to mediation, the
1021 parties shall attend a mediation conference, as scheduled by the
1022 parties and the mediator. If any party fails to attend a duly
1023 noticed mediation conference, without the permission or approval
1024 of the arbitrator or mediator, the arbitrator must impose
1025 sanctions against the party, including the striking of any
1026 pleadings filed, the entry of an order of dismissal or default
1027 if appropriate, and the award of costs and attorney ~~attorneys'~~
1028 fees incurred by the other parties. Unless otherwise agreed to
1029 by the parties or as provided by order of the arbitrator, a
1030 party is deemed to have appeared at a mediation conference by
1031 the physical presence of the party or its representative having
1032 full authority to settle without further consultation, provided
1033 that an association may comply by having one or more
1034 representatives present with full authority to negotiate a
1035 settlement and recommend that the board of administration ratify
1036 and approve such a settlement within 5 days from the date of the
1037 mediation conference. The parties shall share equally the
1038 expense of mediation, unless they agree otherwise.

1039 (g) The purpose of mediation as provided for by this
1040 section is to present the parties with an opportunity to resolve
1041 the underlying dispute in good faith, and with a minimum
1042 expenditure of time and resources.

1043 (h) Mediation proceedings must generally be conducted in
1044 accordance with the Florida Rules of Civil Procedure, and these

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1045 proceedings are privileged and confidential to the same extent
1046 as court-ordered mediation. Persons who are not parties to the
1047 dispute are not allowed to attend the mediation conference
1048 without the consent of all parties, with the exception of
1049 counsel for the parties and corporate representatives designated
1050 to appear for a party. If the mediator declares an impasse after
1051 a mediation conference has been held, the arbitration proceeding
1052 terminates, unless all parties agree in writing to continue the
1053 arbitration proceeding, in which case the arbitrator's decision
1054 shall be binding or nonbinding, as agreed upon by the parties;
1055 in the arbitration proceeding, the arbitrator shall not consider
1056 any evidence relating to the unsuccessful mediation except in a
1057 proceeding to impose sanctions for failure to appear at the
1058 mediation conference. If the parties do not agree to continue
1059 arbitration, the arbitrator shall enter an order of dismissal,
1060 and either party may institute a suit in a court of competent
1061 jurisdiction. The parties may seek to recover any costs and
1062 attorney ~~attorneys'~~ fees incurred in connection with arbitration
1063 and mediation proceedings under this section as part of the
1064 costs and fees that may be recovered by the prevailing party in
1065 any subsequent litigation.

1066 (i) Arbitration shall be conducted according to rules
1067 adopted by the division. The filing of a petition for
1068 arbitration shall toll the applicable statute of limitations.

1069 (j) At the request of any party to the arbitration, the
1070 arbitrator shall issue subpoenas for the attendance of witnesses
1071 and the production of books, records, documents, and other
1072 evidence and any party on whose behalf a subpoena is issued may
1073 apply to the court for orders compelling such attendance and

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1074 production. Subpoenas shall be served and shall be enforceable
1075 in the manner provided by the Florida Rules of Civil Procedure.
1076 Discovery may, in the discretion of the arbitrator, be permitted
1077 in the manner provided by the Florida Rules of Civil Procedure.
1078 Rules adopted by the division may authorize any reasonable
1079 sanctions except contempt for a violation of the arbitration
1080 procedural rules of the division or for the failure of a party
1081 to comply with a reasonable nonfinal order issued by an
1082 arbitrator which is not under judicial review.

1083 (k) The arbitration decision shall be rendered within 30
1084 days after the hearing and presented to the parties in writing.
1085 An arbitration decision is final in those disputes in which the
1086 parties have agreed to be bound. An arbitration decision is also
1087 final if a complaint for a trial de novo is not filed in a court
1088 of competent jurisdiction in which the condominium is located
1089 within 30 days. The right to file for a trial de novo entitles
1090 the parties to file a complaint in the appropriate trial court
1091 for a judicial resolution of the dispute. The prevailing party
1092 in an arbitration proceeding shall be awarded the costs of the
1093 arbitration and reasonable attorney ~~attorney's~~ fees in an amount
1094 determined by the arbitrator. Such an award shall include the
1095 costs and reasonable attorney ~~attorney's~~ fees incurred in the
1096 arbitration proceeding as well as the costs and reasonable
1097 attorney ~~attorney's~~ fees incurred in preparing for and attending
1098 any scheduled mediation. An arbitrator's failure to render a
1099 written decision within 30 days after the hearing may result in
1100 the cancellation of his or her arbitration certification.

1101 (l) The party who files a complaint for a trial de novo
1102 shall be assessed the other party's arbitration costs, court

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1103 costs, and other reasonable costs, including attorney ~~attorney's~~
1104 fees, investigation expenses, and expenses for expert or other
1105 testimony or evidence incurred after the arbitration hearing if
1106 the judgment upon the trial de novo is not more favorable than
1107 the arbitration decision. If the judgment is more favorable, the
1108 party who filed a complaint for trial de novo shall be awarded
1109 reasonable court costs and attorney ~~attorney's~~ fees.

1110 (m) Any party to an arbitration proceeding may enforce an
1111 arbitration award by filing a petition in a court of competent
1112 jurisdiction in which the condominium is located. A petition may
1113 not be granted unless the time for appeal by the filing of a
1114 complaint for trial de novo has expired. If a complaint for a
1115 trial de novo has been filed, a petition may not be granted with
1116 respect to an arbitration award that has been stayed. If the
1117 petition for enforcement is granted, the petitioner shall
1118 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1119 in enforcing the arbitration award. A mediation settlement may
1120 also be enforced through the county or circuit court, as
1121 applicable, and any costs and fees incurred in the enforcement
1122 of a settlement agreement reached at mediation must be awarded
1123 to the prevailing party in any enforcement action.

1124 Section 5. Subsection (5) is added to section 718.3025,
1125 Florida Statutes, to read:

1126 718.3025 Agreements for operation, maintenance, or
1127 management of condominiums; specific requirements.—

1128 (5) A party contracting to provide maintenance or
1129 management services to an association managing a residential
1130 condominium after transfer of control of the association, as
1131 provided in s. 718.301, which is not a timeshare condominium

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

1145 Section 6. Section 718.3027, Florida Statutes, is created
1146 to read:

1147 718.3027 Conflicts of interest.—

1148 (1) Directors and officers of a board of an association
1149 that is not a timeshare condominium association, and the
1150 relatives of such directors and officers, must disclose to the
1151 board any activity that may reasonably be construed to be a
1152 conflict of interest. A rebuttable presumption of a conflict of
1153 interest exists if any of the following occurs without prior
1154 notice, as required in subsection (4):

1155 (a) Any director, officer, or relative of any director or
1156 officer enters into a contract for goods or services with the
1157 association.

1158 (b) Any director, officer, or relative of any director or
1159 officer holds an interest in a corporation, limited liability
1160 corporation, partnership, limited liability partnership, or

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1161 other business entity that conducts business with the
1162 association or proposes to enter into a contract or other
1163 transaction with the association.

1164 (2) If any director, officer, or relative of any director
1165 or officer proposes to engage in an activity that is a conflict
1166 of interest, as described in subsection (1), the proposed
1167 activity must be listed on, and all contracts and transactional
1168 documents related to the proposed activity must be attached to,
1169 the meeting agenda. If the board votes against the proposed
1170 activity, the director, officer, or relative must notify the
1171 board in writing of his or her intention not to pursue the
1172 proposed activity, or the director or officer shall withdraw
1173 from office. If the board finds that any officer or director has
1174 violated this subsection, the officer or director shall be
1175 deemed removed from office. The vacancy shall be filled
1176 according to general law.

1177 (3) Any director, officer, or relative of any director or
1178 officer who is a party to, or has an interest in, an activity
1179 that is a possible conflict of interest, as described in
1180 subsection (1), may attend the meeting at which the activity is
1181 considered by the board, and is authorized to make a
1182 presentation to the board regarding the activity. After the
1183 presentation, the director, officer, or relative must leave the
1184 meeting during the discussion of, and the vote on, the activity.
1185 Any director or officer who is a party to, or has an interest
1186 in, the activity must recuse himself or herself from the vote.

1187 (4) Any contract entered into between any director,
1188 officer, or relative of any director or officer and the
1189 association, which is not a timeshare condominium association,

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1190 which has not been properly disclosed as a conflict of interest
1191 or potential conflict of interest as required by s.
1192 718.111(12)(g) is voidable and terminates upon the filing of a
1193 written notice terminating the contract with the board of
1194 directors which contains the consent of at least 20 percent of
1195 the voting interests of the association.

1196 (5) As used in this section, the term "relative" means a
1197 relative within the third degree of consanguinity by blood or
1198 marriage.

1199 Section 7. Subsection (5) of section 718.303, Florida
1200 Statutes, is amended, and subsection (8) is added to that
1201 section, to read:

1202 718.303 Obligations of owners and occupants; remedies.—

1203 (5) An association may suspend the voting rights of a unit
1204 owner or member due to nonpayment of any fee, fine, or other
1205 monetary obligation due to the association which is more than
1206 \$1,000 and more than 90 days delinquent. Proof of such
1207 obligation must be provided to the unit owner or member 30 days
1208 before such suspension takes effect. A voting interest or
1209 consent right allocated to a unit owner or member which has been
1210 suspended by the association shall be subtracted from the total
1211 number of voting interests in the association, which shall be
1212 reduced by the number of suspended voting interests when
1213 calculating the total percentage or number of all voting
1214 interests available to take or approve any action, and the
1215 suspended voting interests shall not be considered for any
1216 purpose, including, but not limited to, the percentage or number
1217 of voting interests necessary to constitute a quorum, the
1218 percentage or number of voting interests required to conduct an

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1219 election, or the percentage or number of voting interests
1220 required to approve an action under this chapter or pursuant to
1221 the declaration, articles of incorporation, or bylaws. The
1222 suspension ends upon full payment of all obligations currently
1223 due or overdue the association. The notice and hearing
1224 requirements under subsection (3) do not apply to a suspension
1225 imposed under this subsection.

1226 (8) A receiver may not exercise voting rights of any unit
1227 owner whose unit is placed in receivership for the benefit of
1228 the association pursuant to this chapter.

1229 Section 8. Subsection (5) of section 718.5012, Florida
1230 Statutes, is amended to read:

1231 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1232 have the powers that are necessary to carry out the duties of
1233 his or her office, including the following specific powers:

1234 (5) To monitor and review procedures and disputes
1235 concerning condominium elections or meetings, including, but not
1236 limited to, recommending that the division pursue enforcement
1237 action in any manner where there is reasonable cause to believe
1238 that election misconduct has occurred and reviewing secret
1239 ballots cast at a vote of the association.

1240 Section 9. Section 718.71, Florida Statutes, is created to
1241 read:

1242 718.71 Financial reporting.—An association shall provide an
1243 annual report to the department containing the names of all of
1244 the financial institutions with which it maintains accounts, and
1245 a copy of such report may be obtained from the department upon
1246 written request of any association member.

1247 Section 10. This act shall take effect July 1, 2017.