By the Committee on Regulated Industries; and Senators Passidomo and Mayfield

A bill to be entitled
An act relating to community associations; amending s. 718.111, F.S.; deleting a provision prohibiting an association from hiring an attorney who represents the management company of the association; revising condominium association recordkeeping and financial reporting requirements; revising the list of documents that the association is required to post online; limiting an association’s liability for inadvertent disclosure of protected or restricted information; providing that the failure of an association to post certain information is not sufficient, in and of itself, to invalidate any action or decision of the association; amending s. 718.112, F.S.; revising provisions relating to required association bylaws; authorizing an association to adopt rules for posting certain notices on the association’s website; revising board term limits; providing responsibilities for unit owners who receive electronic notices; revising and providing board member recall and challenge requirements; authorizing the recovery of attorney fees and costs in an action to challenge the validity of a board member recall; amending s. 718.113, F.S.; revising voting requirements relating to alterations and additions to certain common elements or association property; amending s. 718.3026, F.S.; removing a provision relating to certain contracts or transactions regarding conflicts of interest; amending s. 718.3027, F.S.; providing requirements for proposed
activity that is identified as a conflict of interest; amending s. 718.303, F.S.; revising fine and suspension requirements; amending s. 718.707, F.S.; revising the time limitation for classification as a bulk assignee or bulk buyer; amending s. 719.104, F.S.; revising cooperative association recordkeeping requirements; amending s. 719.106, F.S.; revising the composition of boards of administration; placing an additional restriction on service as a board member; prohibiting a board member from voting via e-mail; requiring that a notice for certain meetings contain certain information; authorizing an association to adopt rules for posting certain notices on a website; requiring that an adopted rule contain a certain requirement related to electronic notice; providing responsibilities for unit owners who receive electronic notices; providing that directors or officers who are delinquent in certain payments owed in excess of certain periods of time are deemed to have abandoned their offices; amending s. 719.107, F.S.; specifying that certain services that are obtained pursuant to a bulk contract are deemed a common expense; amending s. 719.303, F.S.; revising fine and suspension requirements; specifying a fine payment is due within a certain timeframe after the fine is approved by the committee; requiring the association to provide written notice of certain fines or suspensions to certain persons; amending s. 720.303, F.S.; prohibiting a board member from voting
via e-mail; revising reserve account requirements; providing requirements for votes relating to reserve accounts; providing applicability; requiring that meetings at which a proposed annual budget will be considered be open to all parcel owners; providing requirements for special meetings held to consider a substitute annual budget; amending s. 720.305, F.S.; expanding the list of persons required to be notified of a fine or suspension before the fine or suspension may be imposed; specifying that a payment for a fine is due within a certain timeframe; amending s. 720.306, F.S.; prohibiting write-in nominations for certain elections; requiring certain candidates to commence service on the board of directors regardless of whether a quorum is attained; amending s. 720.3085, F.S.; clarifying applicability; amending s. 720.401, F.S.; revising the statements required to be included in the disclosure summary; providing an effective date.

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

Section 1. Subsection (3), paragraphs (a), (b), (c), (e), and (g) of subsection (12), and paragraph (e) of subsection (13) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—
(3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT, SUE, AND BE SUED; CONFLICT OF INTEREST.—
(a) The association may contract, sue, or be sued with
respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and on units; and may defend actions in eminent domain or bring inverse condemnation actions. If the association has the authority to maintain a class action, the association may be joined in an action as representative of that class with reference to litigation and disputes involving the matters for which the association could bring a class action. Nothing herein limits any statutory or common-law right of any individual unit owner or class of unit owners to bring any action without participation by the association which may otherwise be available.

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

(12) OFFICIAL RECORDS.—

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

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

2. A photoco
copy of the recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.

3. A photoco
copy of the recorded bylaws of the association and each amendment to the bylaws.

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

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

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

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

8. All current insurance policies of the association and condominiums operated by the association.
9. A current copy of any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility.

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

11. Accounting records for the association and separate accounting records for each condominium that the association operates. All accounting records must be maintained for at least 7 years. Any person who knowingly or intentionally defaces or destroys such records, or who knowingly or intentionally fails to create or maintain such records, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty pursuant to s. 718.501(1)(d). The accounting records must include, but are not limited to:
   a. Accurate, itemized, and detailed records of all receipts and expenditures.
   b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid on the account, and the balance due.
   c. All audits, reviews, accounting statements, and financial reports of the association or condominium.
   d. All contracts for work to be performed. Bids for work to be performed are also considered official records and must be maintained by the association for a period of 1 year after the date of receipt.

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

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

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

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

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

17. Bids for materials, equipment, or services, which must be maintained by the association for a period of 1 year after the date of receipt.

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. All other official records of the association must be maintained within the state for at least 7 years, unless otherwise provided by law. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the
condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative pursuant to the compliance requirements of this chapter unless the association has an affirmative duty not to disclose such information pursuant to this chapter.

(c)1. The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the member or authorized representative of such member. A renter of a unit has a right to inspect and copy the association’s bylaws and rules. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A unit owner who is denied access to official records is entitled to the actual damages or minimum damages for the association’s willful failure to comply. Minimum damages are $50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to allow inspection entitles any person prevailing in an enforcement
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233 action to recover reasonable attorney fees from the person in
234 control of the records who, directly or indirectly, knowingly
235 denied access to the records.

236 2. Any person who knowingly or intentionally defaces or
237 destroys accounting records that are required by this chapter to
238 be maintained during the period for which such records are
239 required to be maintained, or who knowingly or intentionally
240 fails to create or maintain accounting records that are required
241 to be created or maintained, with the intent of causing harm to
242 the association or one or more of its members, is personally
243 subject to a civil penalty pursuant to s. 718.501(1)(d).

244 3. The association shall maintain an adequate number of
245 copies of the declaration, articles of incorporation, bylaws,
246 and rules, and all amendments to each of the foregoing, as well
247 as the question and answer sheet as described in s. 718.504 and
248 year-end financial information required under this section, on
249 the condominium property to ensure their availability to unit
250 owners and prospective purchasers, and may charge its actual
251 costs for preparing and furnishing these documents to those
252 requesting the documents. An association shall allow a member or
253 his or her authorized representative to use a portable device,
254 including a smartphone, tablet, portable scanner, or any other
255 technology capable of scanning or taking photographs, to make an
256 electronic copy of the official records in lieu of the
257 association’s providing the member or his or her authorized
258 representative with a copy of such records. The association may
259 not charge a member or his or her authorized representative for
260 the use of a portable device. Notwithstanding this paragraph,
261 the following records are not accessible to unit owners:

CODING: Words stricken are deletions; words underlined are additions.
a. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including a record prepared by an association attorney or prepared at the attorney’s express direction, which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association, and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings, or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

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

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

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association’s notice requirements, and other personal identifying information of any person, excluding the person’s name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the
an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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

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

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

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

(g)1. By July 1, 2018, an association managing a condominium with 150 or more units which does not contain timeshare units shall post digital copies of the documents specified in subparagraph 2. on its website.

a. The association’s website must be:

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

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

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

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

2. A current copy of the following documents must be posted in digital format on the association’s website:
   a. The recorded declaration of condominium of each condominium operated by the association and each amendment to each declaration.
   b. The recorded bylaws of the association and each amendment to the bylaws.
   c. The articles of incorporation of the association, or other documents creating the association, and each amendment thereto. The copy posted pursuant to this sub-subparagraph must be a copy of the articles of incorporation filed with the Department of State.
   d. The rules of the association, if any.
   e. A list of all executory contracts or documents Any management agreement, lease, or other contract to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed $2,500 must be maintained on the website for 1 year.
   f. The annual budget required by s. 718.112(2)(f) and any proposed budget to be considered at the annual meeting.
   g. The financial report required by subsection (13) and any proposed financial report to be considered at a meeting.
   h. The certification of each director required by s.
718.112(2)(d)4.b.
   i. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated condominium association or any other entity in which an association director is also a director or officer and financially interested.
   j. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 718.3027(3) ss. 468.436(2) and 718.3026(3).
   k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website, or on a separate subpage of the website labeled “Notices” which is conspicuously visible and linked from the front page. The association must also post on its website any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.
      1. Notice of any board meeting, the agenda, and any other document required for the meeting as required by s. 718.112(2)(c), which must be posted no later than the date required for notice pursuant to s. 718.112(2)(c).
      3. The association shall ensure that the information and records described in paragraph (c), which are not allowed permitted to be accessible to unit owners, are not posted on the association’s website. If protected information or information restricted from being accessible to unit owners is included in documents that are required to be posted on the association’s
website, the association shall ensure the information is redacted before posting the documents online. Notwithstanding the foregoing, the association or its agent is not liable for disclosing information that is protected or restricted pursuant to this paragraph unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

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

(13) FINANCIAL REPORTING.—Within 90 days after the end of the fiscal year, or annually on a date provided in the bylaws, the association shall prepare and complete, or contract for the preparation and completion of, a financial report for the preceding fiscal year. Within 21 days after the final financial report is completed by the association or received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall mail to each unit owner at the address last furnished to the association by the unit owner, or hand deliver to each unit owner, a copy of the most recent financial report or a notice that a copy of the most recent financial report will be mailed or hand delivered to the unit owner, without charge, within 5 business days after receipt of a written request from the unit owner. The division shall adopt rules setting forth uniform accounting principles and standards to be used by all associations and addressing the financial reporting requirements for multicondominium associations. The rules must include, but
not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(e) A unit owner may provide written notice to the division of the association’s failure to mail or hand deliver him or her a copy of the most recent financial report within 5 business days after he or she submitted a written request to the association for a copy of such report. If the division determines that the association failed to mail or hand deliver a copy of the most recent financial report to the unit owner, the division shall provide written notice to the association that the association must mail or hand deliver a copy of the most recent financial report to the unit owner and the division within 5 business days after it receives such notice from the division. An association that fails to comply with the division’s request may not waive the financial reporting requirement provided in paragraph (d) for the fiscal year in which the unit owner’s request was made and the following fiscal year. A financial report received by the division pursuant to this paragraph shall be maintained, and the division shall provide a copy of such report to an association member upon his or her request.

Section 2. Paragraphs (a), (c), (d), and (j) of subsection
(2) of section 718.112, Florida Statutes, are amended to read:

718.112 Bylaws.—

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

(a) Administration.—

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, unless the exception in the case of a condominium which has five or fewer units. The board shall consist of not fewer than three members in condominiums with five or fewer units that are not-for-profit corporations, in which case in a not-for-profit corporation the board shall consist of not fewer than three members. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

2. When a unit owner of a residential condominium files a

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written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days after receipt of the inquiry. The board’s response shall either give a substantive response to the inquirer, notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been requested from the division. If the board requests advice from the division, the board shall, within 10 days after its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a substantive response to the inquiry. The failure to provide a substantive response to the inquiry as provided herein precludes the board from recovering attorney fees and costs in any subsequent litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may through its board of administration adopt reasonable rules and regulations regarding the frequency and manner of responding to unit owner inquiries, one of which may be that the association is only obligated to respond to one written inquiry per unit in any given 30-day period. In such a case, any additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as applicable.

(c) Board of administration meetings.—Meetings of the board of administration at which a quorum of the members is present are open to all unit owners. Members of the board of administration may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit owner may tape record or videotape the meetings. The right to
attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose. An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting. However, Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost and description of the
purposes for such assessments. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium or association property where all notices of board meetings must be posted. If there is no condominium property or association property where notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of or in addition to the physical posting of the notice on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on the condominium association’s website for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted, in addition to other matters, must include a requirement that the association send an electronic notice in the same manner as
a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the nature, estimated cost, and description of the purposes for such assessments.

2. Meetings of a committee to take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to this section, unless those meetings are exempted from this section by the bylaws of the association.

3. Notwithstanding any other law, the requirement that board meetings and committee meetings be open to the unit owners does not apply to:

   a. Meetings between the board or a committee and the association’s attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice; or

   b. Board meetings held for the purpose of discussing personnel matters.

(d) Unit owner meetings.—

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

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director’s term must be filled by electing a new board member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term “candidate” means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members’ terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve 2-year terms longer than 1 year if allowed by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years of four consecutive 2-year terms, unless approved by an affirmative vote of two-thirds of all votes cast in the election the total voting interests of the association or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up...
the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, coowners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon’s civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member...
of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice must include an agenda, must be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting, and must be posted in a conspicuous place on the condominium property at least 14 continuous days before the annual meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings shall be posted. This requirement does not apply if there is no condominium property or association property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on the...
condominium association’s website for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted, in addition to other matters, must include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

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

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by
electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not permit any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the board of an association of a residential condominium, each newly elected or appointed director shall certify in writing to the secretary of the association that he or she has read the association’s declaration of condominium, articles of incorporation, bylaws, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association’s members. In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of
elected or appointed. The written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption. A director of an association of a residential condominium who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause the association to retain a director’s written certification or educational certificate for inspection by the members for 5 years after a director’s election or the duration of the director’s uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

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

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

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

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

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

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

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

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

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

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

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

3. If the board fails to duly notice and hold a board
meeting within 5 full business days after service of an
agreement in writing or within 5 full business days after the
adjournment of the unit owner recall meeting, the recall shall
be deemed effective and the board members so recalled shall turn
over to the board within 10 full business days after the vote
any and all records and property of the association.

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

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

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

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

Section 3. Subsection (2) of section 718.113, Florida Statutes, is amended to read:

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

(2)(a) Except as otherwise provided in this section, there shall be no material alteration or substantial additions to the common elements or to real property which is association property, except in a manner provided in the declaration as originally recorded or as amended under the procedures provided therein. If the declaration as originally recorded or as amended under the procedures provided therein does not specify the procedure for approval of material alterations or substantial additions, 75 percent of the total voting interests of the association must approve the alterations or additions before the
material alterations or substantial additions are commenced. This paragraph is intended to clarify existing law and applies to associations existing on July 1, 2018 October 1, 2008.

(b) There may shall not be any material alteration of, or substantial addition to, the common elements of any condominium operated by a multicondominium association unless approved in the manner provided in the declaration of the affected condominium or condominiums as originally recorded or as amended under the procedures provided therein. If a declaration as originally recorded or as amended under the procedures provided therein does not specify a procedure for approving such an alteration or addition, the approval of 75 percent of the total voting interests of each affected condominium is required before the material alterations or substantial additions are commenced. This subsection does not prohibit a provision in any declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein requiring the approval of unit owners in any condominium operated by the same association or requiring board approval before a material alteration or substantial addition to the common elements is permitted. This paragraph is intended to clarify existing law and applies to associations existing on July 1, 2018 the effective date of this act.

(c) There may shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein. If the declaration, articles of incorporation, or bylaws as
originally recorded or as amended under the procedures provided therein do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required before the material alterations or substantial additions are commenced. This paragraph is intended to clarify existing law and applies to associations existing on July 1, 2018 the effective date of this act.

Section 4. Subsection (3) of section 718.3026, Florida Statutes, is amended to read:

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

(3) As to any contract or other transaction between an association and one or more of its directors or any other corporation, firm, association, or entity in which one or more of its directors are directors or officers or are financially interested:

(a) The association shall comply with the requirements of s. 617.0832.

(b) The disclosures required by s. 617.0832 shall be entered into the written minutes of the meeting.

(c) Approval of the contract or other transaction shall require an affirmative vote of two-thirds of the directors present.

(d) At the next regular or special meeting of the members,
the existence of the contract or other transaction shall be disclosed to the members. Upon motion of any member, the contract or transaction shall be brought up for a vote and may be canceled by a majority vote of the members present. Should the members cancel the contract, the association shall only be liable for the reasonable value of goods and services provided up to the time of cancellation and shall not be liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

Section 5. Section 718.3027, Florida Statutes, is amended to read:

718.3027 Conflicts of interest.—

(1) Directors and officers of a board of an association that is not a timeshare condominium association, and the relatives of such directors and officers, must disclose to the board any activity that may reasonably be construed to be a conflict of interest. A rebuttable presumption of a conflict of interest exists if any of the following occurs without prior notice, as required in subsection (5) (4):

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

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

(2) If a director or an officer, or a relative of a
director or an officer, proposes to engage in an activity that is a conflict of interest, as described in subsection (1), the proposed activity must be listed on, and all contracts and transactional documents related to the proposed activity must be attached to, the meeting agenda. The association shall comply with the requirements of s. 617.0832, and the disclosures required by s. 617.0832 must be entered into the written minutes of the meeting. Approval of the contract or other transaction requires an affirmative vote of two-thirds of all other directors present. At the next regular or special meeting of the members, the existence of the contract or other transaction must be disclosed to the members. Upon motion of any member, the contract or transaction must be brought up for a vote and may be canceled by a majority vote of the members present. If the contract is canceled, the association is liable only for the reasonable value of the goods and services provided up to the time of cancellation and is not liable for any termination fee, liquidated damages, or other form of penalty for such cancellation.

(3) If the board votes against the proposed activity, the director or officer, or the relative of the director or officer, must notify the board in writing of his or her intention not to pursue the proposed activity or to withdraw from office. If the board finds that an officer or a director has violated this subsection, the officer or director shall be deemed removed from office. The vacancy shall be filled according to general law.

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

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

(6) As used in this section, the term “relative” means a relative within the third degree of consanguinity by blood or marriage.

Section 6. Paragraph (b) of subsection (3) of section 718.303, Florida Statutes, is amended to read:

718.303 Obligations of owners and occupants; remedies.—
(3) The association may levy reasonable fines for the failure of the owner of the unit or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. A fine may not become a lien against a unit. A fine may be levied by the board on the basis of each day of a continuing violation,
with a single notice and opportunity for hearing before a committee as provided in paragraph (b). However, the fine may not exceed $100 per violation, or $1,000 in the aggregate.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days’ written notice and an opportunity for a hearing to the unit owner and, if applicable, to any its occupant, licensee, or invitee of the unit owner sought to be fined or suspended and provides an opportunity for a hearing. The hearing must be held before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee other unit owners who are neither board members nor persons residing in a board member’s household. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the committee does not approve agree, the proposed fine or suspension by majority vote, the fine or suspension may not be imposed. If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association must provide written notice of such fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

Section 7. Section 718.707, Florida Statutes, is amended to read:

718.707 Time limitation for classification as bulk assignee or bulk buyer.—A person acquiring condominium parcels may not be
classified as a bulk assignee or bulk buyer unless the
condominium parcels were acquired on or after July 1, 2010, but
before July 1, 2018. The date of such acquisition shall be
determined by the date of recording a deed or other instrument
of conveyance for such parcels in the public records of the
county in which the condominium is located, or by the date of
issuing a certificate of title in a foreclosure proceeding with
respect to such condominium parcels.

Section 8. Paragraphs (a) and (b) of subsection (2) of
section 719.104, Florida Statutes, are amended to read:

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

(2) OFFICIAL RECORDS.—

(a) From the inception of the association, the association
shall maintain a copy of each of the following, where
applicable, which shall constitute the official records of the
association:

1. The plans, permits, warranties, and other items provided
by the developer pursuant to s. 719.301(4).

2. A photocopy of the cooperative documents.

3. A copy of the current rules of the association.

4. A book or books containing the minutes of all meetings
of the association, of the board of directors, and of the unit
owners, which minutes shall be retained for a period of not less
than 7 years.

5. A current roster of all unit owners and their mailing
addresses, unit identifications, voting certifications, and, if
known, telephone numbers. The association shall also maintain
the electronic mailing addresses and the numbers designated by
unit owners for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

6. All current insurance policies of the association.

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

8. Bills of sale or transfer for all property owned by the association.

9. Accounting records for the association and separate accounting records for each unit it operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records must include, but not be limited to:
   a. Accurate, itemized, and detailed records of all receipts and expenditures.
   b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.
   c. All audits, reviews, accounting statements, and financial reports of the association.
d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of 1 year.

10. Ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting by unit owners, which shall be maintained for a period of 1 year after the date of the election, vote, or meeting to which the document relates.

11. All rental records where the association is acting as agent for the rental of units.

12. A copy of the current question and answer sheet as described in s. 719.504.

13. All other written records of the association not specifically included in the foregoing which are related to the operation of the association.

(b) The official records of the association must be maintained within the state for at least 7 years. The records of the association must shall be made available to a unit owner within 45 miles of the cooperative property or within the county in which the cooperative property is located within 10 working days after receipt of written request by the board or its designee. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the cooperative property or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in an electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative.
pursuant to the compliance requirements of this chapter unless
the association has an affirmative duty not to disclose such
information pursuant to this chapter.

Section 9. Paragraphs (a), (c), and (d) of subsection (1)
of section 719.106, Florida Statutes, are amended, and paragraph
(m) is added to that subsection, to read:
719.106 Bylaws; cooperative ownership.—
(1) MANDATORY PROVISIONS.—The bylaws or other cooperative
documents shall provide for the following, and if they do not,
they shall be deemed to include the following:
(a) Administration.—
1. The form of administration of the association shall be
described, indicating the titles of the officers and board of
administration and specifying the powers, duties, manner of
selection and removal, and compensation, if any, of officers and
board members. In the absence of such a provision, the board of
administration shall be composed of five members, unless the
cooperative has except in the case of cooperatives having five
or fewer units, in which case in not-for-profit corporations,
The board shall consist of not fewer than three members in
cooperatives with five or fewer units that are not-for-profit
corporations. In a residential cooperative association of more
than 10 units, co-owners of a unit may not serve as members of
the board of directors at the same time unless the co-owners own
more than one unit or unless there are not enough eligible
candidates to fill the vacancies on the board at the time of the
vacancy. In the absence of provisions to the contrary, the board
of administration must shall have a president, a secretary, and
a treasurer, who shall perform the duties of those offices
customarily performed by officers of corporations. Unless
prohibited in the bylaws, the board of administration may
appoint other officers and grant them those duties it deems
appropriate. Unless otherwise provided in the bylaws, the
officers shall serve without compensation and at the pleasure of
the board. Unless otherwise provided in the bylaws, the members
of the board shall serve without compensation.

2. A person who has been suspended or removed by the
division under this chapter, or who is delinquent in the payment
of any monetary obligation due to the association, is not
eligible to be a candidate for board membership and may not be
listed on the ballot. A director or officer charged by
information or indictment with a felony theft or embezzlement
offense involving the association’s funds or property is
suspended from office. The board shall fill the vacancy
according to general law until the end of the period of the
suspension or the end of the director’s term of office,
whichever occurs first. However, if the charges are resolved
without a finding of guilt or without acceptance of a plea of
guilty or nolo contendere, the director or officer shall be
reinstated for any remainder of his or her term of office. A
member who has such criminal charges pending may not be
appointed or elected to a position as a director or officer. A
person who has been convicted of any felony in this state or in
any United States District Court, or who has been convicted of
any offense in another jurisdiction which would be considered a
felony if committed in this state, is not eligible for board
membership unless such felon’s civil rights have been restored
for at least 5 years as of the date such person seeks election.
to the board. The validity of an action by the board is not
affected if it is later determined that a board member is
ineligible for board membership due to having been convicted of
a felony.

3. When a unit owner files a written inquiry by certified
mail with the board of administration, the board shall respond
in writing to the unit owner within 30 days of receipt of the
inquiry. The board’s response shall either give a substantive
response to the inquirer, notify the inquirer that a legal
opinion has been requested, or notify the inquirer that advice
has been requested from the division. If the board requests
advice from the division, the board shall, within 10 days of its
receipt of the advice, provide in writing a substantive response
to the inquirer. If a legal opinion is requested, the board
shall, within 60 days after the receipt of the inquiry, provide
in writing a substantive response to the inquirer. The failure
to provide a substantive response to the inquirer as provided
herein precludes the board from recovering attorney’s fees and
costs in any subsequent litigation, administrative proceeding,
or arbitration arising out of the inquiry. The association may,
through its board of administration, adopt reasonable rules and
regulations regarding the frequency and manner of responding to
the unit owners’ inquiries, one of which may be that the
association is obligated to respond to only one written inquiry
per unit in any given 30-day period. In such case, any
additional inquiry or inquiries must be responded to in the
subsequent 30-day period, or periods, as applicable.

   (c) Board of administration meetings.—Members of the board
of administration may use e-mail as a means of communication but
may not cast a vote on an association matter via e-mail.

Meetings of the board of administration at which a quorum of the members is present shall be open to all unit owners. Any unit owner may tape record or videotape meetings of the board of administration. The right to attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt reasonable written rules governing the frequency, duration, and manner of unit owner statements. Adequate notice of all meetings shall be posted in a conspicuous place upon the cooperative property at least 48 continuous hours preceding the meeting, except in an emergency. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. Notice of any meeting in which regular or special assessments against unit owners are to be considered must specifically state that assessments will be considered and provide the estimated cost for and description of the purpose for such assessments. However, Written notice of any meeting at which nonemergency special assessments, or at which amendment to rules regarding unit use, will be considered shall be mailed, delivered, or electronically transmitted to the unit owners and posted conspicuously on the cooperative property not less than 14 days before the meeting. Evidence of compliance with this 14-day notice shall be made by an affidavit executed by the person providing the notice and filed among the official records of the association. Upon notice to the unit owners, the
board shall by duly adopted rule designate a specific location on the cooperative property upon which all notices of board meetings shall be posted. In lieu of or in addition to the physical posting of notice of any meeting of the board of administration on the cooperative property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the cooperative association. However, if broadcast notice is used in lieu of a notice posted physically on the cooperative property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on the cooperative association’s website for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the cooperative property. Any rule adopted must, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Notice of any meeting in
which regular assessments against unit owners are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments. Meetings of a committee to take final action on behalf of the board or to make recommendations to the board regarding the association budget are subject to the provisions of this paragraph. Meetings of a committee that does not take final action on behalf of the board or make recommendations to the board regarding the association budget are subject to the provisions of this section, unless those meetings are exempted from this section by the bylaws of the association.

Notwithstanding any other law to the contrary, the requirement that board meetings and committee meetings be open to the unit owners does not apply to board or committee meetings held for the purpose of discussing personnel matters or meetings between the board or a committee and the association’s attorney, with respect to proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal advice.

(d) Shareholder meetings.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership must comply with subparagraph 1. The bylaws must provide the method for calling meetings, including annual meetings. Written notice, which must incorporate an identification of agenda items, shall be given to each unit owner at least 14 days before the annual meeting and posted in a conspicuous place on the cooperative property at least 14 days before the annual meeting.
continuous days preceding the annual meeting. Upon notice to the
unit owners, the board must by duly adopted rule designate a
specific location on the cooperative property upon which all
notice of unit owner meetings are posted. In lieu of or in
addition to the physical posting of the meeting notice, the
association may, by reasonable rule, adopt a procedure for
conspicuously posting and repeatedly broadcasting the notice and
the agenda on a closed-circuit cable television system serving
the cooperative association. However, if broadcast notice is
used in lieu of a posted notice, the notice and agenda must be
broadcast at least four times every broadcast hour of each day
that a posted notice is otherwise required under this section.
If broadcast notice is provided, the notice and agenda must be
broadcast in a manner and for a sufficient continuous length of
time to allow an average reader to observe the notice and read
and comprehend the entire content of the notice and the agenda.
In addition to any of the authorized means of providing notice
of a meeting of the shareholders, the association may, by rule,
adopt a procedure for conspicuously posting the meeting notice
and the agenda on the cooperative association’s website for at
least the minimum period of time for which a notice of a meeting
is also required to be physically posted on the cooperative
property. Any rule adopted must, in addition to other matters,
include a requirement that the association send an electronic
notice in the same manner as a notice for a meeting of the
members, which must include a hyperlink to the website where the
notice is posted, to unit owners whose e-mail addresses are
included in the association’s official records. Unless a unit
owner waives in writing the right to receive notice of the
annual meeting, the notice of the annual meeting must be sent by mail, hand delivered, or electronically transmitted to each unit owner. An officer of the association must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed, hand delivered, or electronically transmitted, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. The board of administration shall be elected by written ballot or voting machine. A proxy may not be used in electing the board of administration in general elections or elections to fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter.

   a. At least 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, the association shall include an information
sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets provided by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of those ballots cast. There is no quorum requirement. However, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not permit any other person to vote his or her ballot, and any such ballots improperly cast are invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election must occur on the date of the annual meeting. This subparagraph does not apply to timeshare cooperatives. Notwithstanding this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board. Any challenge to the election process must be commenced within 60 days after the election results are announced. b. Within 90 days after being elected or appointed to the
board, each new director shall certify in writing to the
director that he or she has read the
association’s bylaws, articles of incorporation, proprietary
lease, and current written policies; that he or she will work to
uphold such documents and policies to the best of his or her
ability; and that he or she will faithfully discharge his or her
fiduciary responsibility to the association’s members. Within 90
days after being elected or appointed to the board, in lieu of
this written certification, the newly elected or appointed
director may submit a certificate of having satisfactorily
completed the educational curriculum administered by an
education provider as approved by the division pursuant to the
requirements established in chapter 718 within 1 year before or
90 days after the date of election or appointment. The
educational certificate is valid and does not have to be
resubmitted as long as the director serves on the board without
interruption. A director who fails to timely file the written
certification or educational certificate is suspended from
service on the board until he or she complies with this sub-
subparagraph. The board may temporarily fill the vacancy during
the period of suspension. The secretary of the association shall
cause the association to retain a director’s written
certification or educational certificate for inspection by the
members for 5 years after a director’s election or the duration
of the director’s uninterrupted tenure, whichever is longer.
Failure to have such written certification or educational
certificate on file does not affect the validity of any board
action.

2. Any approval by unit owners called for by this chapter,
or the applicable cooperative documents, must be made at a duly
noticed meeting of unit owners and is subject to this chapter or
the applicable cooperative documents relating to unit owner
decisionmaking, except that unit owners may take action by
written agreement, without meetings, on matters for which action
by written agreement without meetings is expressly allowed by
the applicable cooperative documents or law which provides for
the unit owner action.

3. Unit owners may waive notice of specific meetings if
allowed by the applicable cooperative documents or law. Notice
of meetings of the board of administration, shareholder
meetings, except shareholder meetings called to recall board
members under paragraph (f), and committee meetings may be given
by electronic transmission to unit owners who consent to receive
notice by electronic transmission. A unit owner who consents to
receiving notices by electronic transmission is solely
responsible for removing or bypassing filters that may block
receipt of mass e-mails sent to members on behalf of the
association in the course of giving electronic notices.

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

5. Any unit owner may tape record or videotape meetings of
the unit owners subject to reasonable rules adopted by the
division.

6. Unless otherwise provided in the bylaws, a vacancy
occurring on the board before the expiration of a term may be
filled by the affirmative vote of the majority of the remaining
directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this subparagraph shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (f) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)1., an association may, by the affirmative vote of a majority of the total voting interests, provide for a different voting and election procedure in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

(m) Director or officer delinquencies.—A director or officer more than 90 days delinquent in the payment of any monetary obligation due the association is deemed to have abandoned the office, and such vacancy in the office must be filled according to law.

Section 10. Paragraph (b) of subsection (1) of section 719.107, Florida Statutes, is amended to read:

(b) If so provided in the bylaws, the cost of
communications services as defined in chapter 202, information services, or Internet services a master antenna television system or duly franchised cable television service obtained pursuant to a bulk contract shall be deemed a common expense, and if not obtained pursuant to a bulk contract, such cost shall be considered common expense if it is designated as such in a written contract between the board of administration and the company providing the communications services as defined in chapter 202, information services, or Internet services master television antenna system or the cable television service. The contract shall be for a term of not less than 2 years.

1. Any contract made by the board after April 2, 1992, for a community antenna system or duly franchised cable television service, communications services as defined in chapter 202, information services, or Internet services may be canceled by a majority of the voting interests present at the next regular or special meeting of the association. Any member may make a motion to cancel the contract, but if no motion is made or if such motion fails to obtain the required majority at the next regular or special meeting, whichever is sooner, following the making of the contract, then such contract shall be deemed ratified for the term therein expressed.

2. Any such contract shall provide, and shall be deemed to provide if not expressly set forth, that any hearing impaired or legally blind unit owner who does not occupy the unit with a nonhearing impaired or sighted person may discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such units, the owners may shall not be required to pay any common expenses charge related
Section 11. Paragraph (b) of subsection (3) of section 719.303, Florida Statutes, is amended to read:

719.303 Obligations of owners.—

(3) The association may levy reasonable fines for failure of the unit owner or the unit’s occupant, licensee, or invitee to comply with any provision of the cooperative documents or reasonable rules of the association. A fine may not become a lien against a unit. A fine may be levied by the board on the basis of each day of a continuing violation, with a single notice and opportunity for hearing before a committee as provided in paragraph (b). However, the fine may not exceed $100 per violation, or $1,000 in the aggregate.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days’ written notice and an opportunity for a hearing to the unit owner and, if applicable, to any its occupant, licensee, or invitee of the unit owner sought to be fined or suspended and provides an opportunity for a hearing. The hearing must be held before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee other unit owners who are neither board members nor persons residing...
in a board member’s household. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the committee does not approve the proposed fine or suspension by majority vote, the fine or suspension may not be imposed. If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association must provide written notice of such fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or invitee of the unit owner.

Section 12. Paragraphs (a) and (c) of subsection (2) and paragraphs (b) through (h) of subsection (6) of section 720.303, Florida Statutes, are amended, and paragraphs (i) and (j) are added to subsection (6) of that section, to read:

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

(2) BOARD MEETINGS.—

(a) Members of the board of administration may use e-mail as a means of communication, but may not cast a vote on an association matter via e-mail. A meeting of the board of directors of an association occurs whenever a quorum of the board gathers to conduct association business. Meetings of the board must be open to all members, except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. A meeting of the board must be held at a location that is accessible to a
physically handicapped person if requested by a physically handicapped person who has a right to attend the meeting. The provisions of this subsection shall also apply to the meetings of any committee or other similar body when a final decision will be made regarding the expenditure of association funds and to meetings of any body vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

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

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with more than 100 members, the association bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners’ association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day.
that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. The association may provide notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members to any member who has provided a facsimile number or e-mail address to the association to be used for such purposes; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.

3. Directors may not vote by proxy or by secret ballot at board meetings, except that secret ballots may be used in the election of officers. This subsection also applies to the meetings of any committee or other similar body, when a final decision will be made regarding the expenditure of association funds, and to any body vested with the power to approve or disapprove architectural decisions with respect to a specific
(6) BUDGETS; BUDGET MEETINGS.—
(b) In addition to annual operating expenses, for all associations incorporated on or after July 1, 2018, and any association incorporated before that date that, by a majority vote of the members of the association who are present at a meeting, in person or by proxy, at which a quorum is present, affirmatively votes to be bound by the provisions of this subsection, the budget may include reserve accounts for the capital expenditures and deferred maintenance of any item with a deferred maintenance expense exceeding $100,000 which is the obligation of for which the association under is responsible. If reserve accounts are not established pursuant to paragraph (d), funding of such reserves is limited to the extent that the governing documents. However, subsequent to the transfer of control of the association to its members, other than pursuant to s. 720.307, and the developer no longer having authority to appoint members to the board of directors, the board of directors may elect to reserve money for any item that has a deferred maintenance expense exceeding $25,000. The board may elect to reserve money for any item that has a deferred maintenance expense of less than $25,000 if approved by a majority of the members present at a meeting, in person or by proxy, at which a quorum is present. The amount to be reserved must be calculated using a formula based upon the estimated deferred maintenance expense of each reserve item divided by the estimated remaining useful life of that item. However, and notwithstanding the amount disclosed as being the total required
reserve amount, each parcel that is obligated to pay annual
reserves to the association each year must be assessed for only
the amount determined by dividing the total annual reserve
amount disclosed in the budget by the total number of parcels
that will ultimately be operated by the association. The
assessments actually collected must be less than the full amount
of required reserves as disclosed in the proposed annual budget
until all parcels that will ultimately be operated by the
association are obligated to pay assessments for reserves. The
association may adjust the deferred maintenance reserve
assessments annually to take into account any changes in
estimates or the useful life of a reserve item, of the
anticipated cost of the deferred maintenance, or any changes in
the number of parcels that will ultimately be operated by the
association. This paragraph does not apply to an adopted budget
when the members of the association have determined, by a
majority vote of the members present at a meeting, in person or
by proxy, at which a quorum is present, not to provide reserves
or reserves in an amount less than required by this subsection
limit increases in assessments, including reserves. If the
budget of the association includes reserve accounts established
pursuant to paragraph (d), such reserves shall be determined,
maintained, and waived in the manner provided in this
subsection. Once an association provides for reserve accounts
pursuant to paragraph (d), the association shall thereafter
determine, maintain, and waive reserves in compliance with this
subsection. This paragraph section does not preclude an
association from ceasing to add money to a reserve account
established pursuant to this paragraph upon a majority vote of
the members present at a meeting, in person or by proxy, at which a quorum is present. Upon such approval, reserves may not be included in the budget for that year. Only parcels with completed improvements as evidenced by certificates of occupancy for such improvements are obligated to pay assessments for reserves. A developer who subsidizes the association’s budget under s. 720.308(1) or establishes a guarantee under s. 720.308(2), is not obligated to include reserve contributions in any such guarantee or subsidy payment. The termination of a reserve account established pursuant to this paragraph upon approval of a majority of the total voting interests of the association. Upon such approval, the terminating reserve account shall be removed from the budget.

(c) The developer may vote the voting interests allocated to its parcels with completed improvements, as evidenced by certificates of occupancy for such improvements, to waive the reserves or reduce the funding of reserves. If a meeting of the parcel owners has been called to waive or reduce the funding of reserves and a waiver or reduction is not achieved or a quorum is not present, the reserves required by paragraph (b) must be maintained. If the budget of the association does not provide for reserve accounts pursuant to paragraph (d) and the association is responsible for the repair and maintenance of capital improvements that may result in a special assessment if reserves are not provided, each financial report for the preceding fiscal year required by subsection (7) must contain the following statement in conspicuous type:

THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT
MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

2. If the budget of the association does provide for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but such accounts are not created or established pursuant to paragraph (d), each financial report for the preceding fiscal year required under subsection (7) must also contain the following statement in conspicuous type:

THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

(d) Reserve funds and any interest accruing thereon must remain in the reserve account or accounts and may be used only for deferred maintenance. An association is deemed to have provided for reserve accounts if reserve accounts have been initially established by the developer or if the membership of the association affirmatively elects to provide for reserves. If reserve accounts are established by the developer, the budget must designate the components for which the reserve accounts may be used. If reserve accounts are not initially provided by the developer, the budget must designate the components for which the reserve accounts may be used.
developer, the membership of the association may elect to do so upon the affirmative approval of a majority of the total voting interests of the association. Such approval may be obtained by vote of the members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided in paragraph (f).

(e) The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves are the voting interests of the parcels subject to assessment to fund the reserves in question. Any vote taken pursuant to this subsection to waive or reduce reserves is applicable only for 1 budget year. Proxy questions relating to waiving or reducing the funding of reserves must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy ballot:

WAIVING OF RESERVES, IN WHOLE OR IN PART, MAY RESULT IN PARCEL OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS REGARDING THOSE ITEMS

The amount to be reserved in any account established shall be computed by means of a formula that is based upon estimated remaining useful life and estimated
replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item.

(f) Except as provided in paragraph (g), funding formulas for reserves required by this section must be based on a pooled analysis method of two or more of the assets for which reserves are required to be accrued. The projected annual cash inflows may include estimated earnings from investment of principal. The reserve funding formula must result in constant funding each year. However, based on the method for calculating the assessment for reserves as described in paragraph (b), the assessments actually collected may be less than the full amount of required reserves disclosed in the proposed annual budget until all parcels that will ultimately be operated by the association are obligated to pay assessments for reserves. After one or more reserve accounts are established, the membership of the association, upon a majority vote at a meeting at which a quorum is present, may provide for no reserves or less reserves than required by this section. If a meeting of the unit owners has been called to determine whether to waive or reduce the funding of reserves and such result is not achieved or a quorum is not present, the reserves as included in the budget go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves. Any vote taken pursuant to this subsection to waive or reduce reserves is applicable only to one budget year.

(g) As an alternative to the pooled analysis method described in paragraph (f), if approved by a majority vote of
the members present at a meeting, in person or by proxy, at
which a quorum is present, the funding formulas for the
disclosure of reserves required authorized by this section may
must be based on a separate analysis of each of the required
assets under the straight-line accounting method or a pooled
analysis of two or more of the required assets.

1. If the association maintains separate reserve accounts
for each of the required assets, under the straight-line
accounting method the amount of the contribution to each reserve
account is the sum of the following two calculations:

1.a. The total amount necessary, if any, to bring a
negative component balance to zero.

1.b. The total estimated deferred maintenance expense or
estimated replacement cost of the reserve component less the
estimated balance of the reserve component as of the beginning
of the period the budget will be in effect. The remainder, if
greater than zero, shall be divided by the estimated remaining
useful life of the component.

The formula may be adjusted each year for changes in estimates
and deferred maintenance performed during the year and may
include factors such as inflation and earnings on invested
funds. An association may convert its funding formulas from a
straight-line accounting method to a pooled analysis method, as
described in paragraph (f), and back to a straight-line
accounting method at any time if approved by a majority vote of
the members present at a meeting, in person or by proxy, at
which a quorum is present.

2. If the association maintains a pooled account of two or
more of the required reserve assets, the amount of the contribution to the pooled reserve account as disclosed on the proposed budget may not be less than that required to ensure that the balance on hand at the beginning of the period the budget will go into effect plus the projected annual cash inflows over the remaining estimated useful life of all of the assets that make up the reserve pool are equal to or greater than the projected annual cash outflows over the remaining estimated useful lives of all the assets that make up the reserve pool, based on the current reserve analysis. The projected annual cash inflows may include estimated earnings from investment of principal and accounts receivable minus the allowance for doubtful accounts. The reserve funding formula may not include any type of balloon payments.

(h) 1. Meetings at which a proposed annual budget of an association will be considered by the board must be open to all parcel owners Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a meeting at which a quorum is present. Prior to turnover of control of an association by a developer to parcel owners, the developer-controlled association shall not vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association.

2. a. If a board adopts an annual budget that requires assessments against parcel owners which exceed 115 percent of
assessments for the preceding fiscal year and the board receives, within 21 days after adoption of the annual budget, a written request for a special meeting from at least 10 percent of all voting interests, the board must conduct a special meeting of the parcel owners to consider a substitute budget. The special meeting must be conducted within 60 days after adoption of the annual budget. At least 14 days before such special meeting, the board shall hand deliver to each parcel owner, or mail to each parcel owner at the address last furnished to the association, a notice of the meeting. An officer or manager of the association, or other person providing notice of such meeting, shall execute an affidavit evidencing compliance with this notice requirement and file the affidavit among the official records of the association. Parcel owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the governing documents require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget previously adopted by the board takes effect as scheduled.

b. Any determination on whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any provision for reasonable reserves for repair or deferred maintenance of items that are the obligation of the association under the governing documents, anticipated expenses of the association which the board does not expect to be incurred on a regular or annual basis, or assessments for improvements to the common areas or association property, or other items that are
the obligation of the association under the governing documents.

(i) Paragraphs (b)-(g) do not apply to mandatory reserve accounts for the deferred maintenance of the infrastructure which are required to be established and maintained by an association at the direction of a county or municipal government, water or drainage management district, community development district, or other political subdivision that has the authority to approve and control subdivision infrastructure that is being entrusted to the care of an association.

(j) Reserve funds must be held in a separate bank account established for such funds.

Section 13. Paragraph (b) of subsection (2) of section 720.305, Florida Statutes, is amended to read:

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

(2) The association may levy reasonable fines. A fine may not exceed $100 per violation against any member or any member’s tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed $1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than $1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.
(b) A fine or suspension levied may not be imposed by the board of administration unless the board first provides without at least 14 days’ notice to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner, person sought to be fined or suspended and provides an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the board imposes a fine or suspension levied by the board is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The association shall provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

Section 14. Paragraph (a) of subsection (9) of section 720.306, Florida Statutes, is amended to read:

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

(9) ELECTIONS AND BOARD VACANCIES.—

(a) Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. Except as provided in paragraph (b), all members of
the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held; provided, however, that if the election process allows candidates to be nominated in advance of the meeting, the association is not required to allow nominations at the meeting. An election is not required unless more candidates are nominated than vacancies exist. If an election is not required because there are either an equal number of candidates or fewer qualified candidates than vacancies, and if nominations from the floor are not required pursuant to this section or the bylaws, write-in nominations are not permitted, and such qualified candidates shall commence service on the board of directors, regardless of whether a quorum is attained at the annual meeting. Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any challenge to the election process must be commenced within 60 days after the election results are announced.

Section 15. Paragraph (b) of subsection (3) of section 720.3085, Florida Statutes, is amended to read:

720.3085 Payment for assessments; lien claims.—

(3) Assessments and installments on assessments that are not paid when due bear interest from the due date until paid at the rate provided in the declaration of covenants or the bylaws of the association, which rate may not exceed the rate allowed by law. If no rate is provided in the declaration or bylaws, interest accrues at the rate of 18 percent per year.

(b) Any payment received by an association and accepted
must be applied first to any interest accrued, then to any administrative late fee, then to any costs and reasonable attorney fees incurred in collection, and then to the delinquent assessment. This paragraph applies notwithstanding any restrictive endorsement, designation, or instruction placed on or accompanying a payment. A late fee is not subject to the provisions of chapter 687 and is not a fine. This paragraph is applicable notwithstanding s. 673.3111, any purported accord and satisfaction, or any restrictive endorsement, designation, or instruction placed on or accompanying a payment. The preceding sentence is intended to clarify existing law.

Section 16. Paragraph (a) of subsection (1) of section 720.401, Florida Statutes, is amended to read:

720.401 Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract cancellation.—

(1)(a) A prospective parcel owner in a community must be presented a disclosure summary before executing the contract for sale. The disclosure summary must be in a form substantially similar to the following form:

DISCLOSURE SUMMARY

FOR

(NAME OF COMMUNITY)

1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS’ ASSOCIATION.

2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS
COMMUNITY.

3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS $.... PER ..... YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS $.... PER .....  

4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS’ ASSOCIATION COULD RESULT IN A LIEN ON YOUR PROPERTY.

6. THE BUDGET OF THE ASSOCIATION DOES NOT NECESSARILY INCLUDE RESERVE FUNDS FOR DEFERRED MAINTENANCE SUFFICIENT TO COVER THE FULL COST OF DEFERRED MAINTENANCE OF COMMON AREAS. YOU SHOULD REVIEW THE BUDGET TO DETERMINE THE LEVEL OF RESERVE FUNDING, IF ANY.

7. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS’ ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS $.... PER .....  

8. THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

9. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING DOCUMENTS BEFORE PURCHASING PROPERTY.
10. THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED FROM THE DEVELOPER.

DATE: PURCHASER: PURCHASER:

The disclosure must be supplied by the developer, or by the parcel owner if the sale is by an owner that is not the developer. Any contract or agreement for sale shall refer to and incorporate the disclosure summary and shall include, in prominent language, a statement that the potential buyer should not execute the contract or agreement until they have received and read the disclosure summary required by this section.

Section 17. This act shall take effect July 1, 2018.