

1                   A bill to be entitled  
2           An act relating to mobile home park lot tenancies;  
3           amending s. 723.011, F.S.; providing that certain  
4           deficiencies are limited to direct violations of a  
5           specified chapter; authorizing a park owner to request  
6           a certain receipt; amending s. 723.012, F.S.;  
7           requiring the disclosure of certain factors that  
8           affect the lot rental amount, if applicable; amending  
9           s. 723.035, F.S.; authorizing a park owner to enter a  
10          homeowner's lot to correct specified violations under  
11          certain conditions; prohibiting the date by which  
12          specified violations must be corrected from being  
13          extended; authorizing a park owner to charge a  
14          homeowner a certain fee; providing applicability;  
15          amending s. 723.061, F.S.; requiring a park owner to  
16          provide a copy of an eviction notice to the Division  
17          of Florida Condominiums, Timeshares, and Mobile Homes  
18          within a specified time; requiring the division to  
19          provide a copy of the notice to the Executive Director  
20          of the Florida Mobile Home Relocation Corporation;  
21          requiring the notice to be sent by United States mail;  
22          amending s. 723.076, F.S.; requiring a homeowners'  
23          association to notify a park owner upon election or  
24          appointment of new officers or members; amending s.  
25          723.078, F.S.; providing election and ballot

26 requirements; providing that certain meetings are  
27 closed to the public; requiring board of director  
28 nominations to be made at least 27 days before annual  
29 meeting; authorizing electronic transmission of  
30 certain notices; providing that certain documents are  
31 privileged and confidential; requiring the association  
32 to retain meeting minutes within the state for at  
33 least 5 years; amending s. 723.079, F.S.; requiring  
34 the association to retain certain documents within the  
35 state for at least 5 years; requiring the board to  
36 make official records available to members for  
37 inspection or photocopying within 20 business days  
38 after receipt of written request; revising provisions  
39 relating to statutory damages for members who are  
40 denied access to official records; requiring mandatory  
41 binding arbitration in certain disputes; amending s.  
42 723.1255, F.S.; requiring mandatory binding  
43 arbitration in certain disputes; providing for the  
44 award of attorney fees and costs; providing an  
45 effective date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Paragraph (b) of subsection (1) and subsection  
50 (5) of section 723.011, Florida Statutes, are amended to read:

51           723.011 Disclosure before ~~prior to~~ rental of a mobile home  
52 lot; prospectus, offering circular, filing, approval.-

53           (1)

54           (b) The division shall determine whether the proposed  
55 prospectus or offering circular is adequate to meet the  
56 requirements of this chapter and shall notify the park owner by  
57 mail, within 45 days after receipt of the document, that the  
58 division has found that the prospectus or offering circular is  
59 adequate or has found specified deficiencies. Specified  
60 deficiencies are limited to those items that are a direct  
61 violation of this chapter. If the division does not make either  
62 finding within 45 days, the prospectus or offering circular is  
63 considered to be ~~shall be deemed to have been found~~ adequate.

64           (5) The mobile home park owner may request that the  
65 homeowner sign a receipt indicating that the homeowner has  
66 received a copy of the prospectus, the rules and regulations,  
67 the rental agreement, and other pertinent documents so long as  
68 any such documents are clearly identified in the receipt itself.  
69 Such a receipt shall indicate nothing more than that the  
70 documents identified herein have been received by the mobile  
71 home owner. The receipt, if requested, shall be signed at the  
72 time of delivery of the identified documents. If the homeowner  
73 refuses to sign the receipt, the park owner shall still deliver  
74 to the homeowner a copy of the prospectus, rules and  
75 regulations, rental agreement, and other pertinent documents ~~any~~

76 | ~~other documents~~ which otherwise would have been delivered upon  
 77 | execution of the receipt. However, the homeowner shall  
 78 | thereafter be barred from claiming that the park owner has  
 79 | failed to deliver such documents. The refusal of the homeowner  
 80 | to sign the receipt shall under no circumstances constitute a  
 81 | ground for eviction of the homeowner or of a mobile home or for  
 82 | the imposition of any other penalty.

83 | Section 2. Paragraph (b) of subsection (9) of section  
 84 | 723.012, Florida Statutes, is amended to read:

85 | 723.012 Prospectus or offering circular.—The prospectus or  
 86 | offering circular, which is required to be provided by s.

87 | 723.011, must contain the following information:

88 | (9) An explanation of the manner in which the lot rental  
 89 | amount will be raised, including, but not limited to:

90 | (b) Disclosure of any factors which ~~may~~ affect the lot  
 91 | rental amount, if applicable, including, but not limited to:

- 92 | 1. Water rates.
- 93 | 2. Sewer rates.
- 94 | 3. Waste disposal rates.
- 95 | 4. Maintenance costs, including costs of deferred  
 96 | maintenance.
- 97 | 5. Management costs.
- 98 | 6. Property taxes.
- 99 | 7. Major repairs or improvements.
- 100 | 8. Any other fees, costs, entrance fees, or charges to

101 which the mobile home owner may be subjected.

102 Section 3. Subsection (2) of section 723.035, Florida  
103 Statutes, is amended, and subsection (3) is added to that  
104 section, to read:

105 723.035 Rules and regulations.—

106 (2) A ~~No~~ rule or regulation may not ~~shall~~ provide for  
107 payment of any fee, fine, assessment, or charge, except as  
108 otherwise provided in the prospectus or offering circular filed  
109 under s. 723.012, if one is required to be provided, and until  
110 after the park owner has complied with the procedure set forth  
111 in s. 723.037.

112 (3) (a) A mobile home park owner may take action, including  
113 entering a homeowner's mobile home lot, to correct the following  
114 violations of mobile home park rules and regulations after  
115 proper notice is given to the homeowner:

116 1. Failure to mow or edge the lot or lawn, or to trim the  
117 trees or shrubbery. The park owner must give the homeowner  
118 written notice by mail, and also post the written notice on the  
119 home or provide a copy of the notice to the homeowner by  
120 electronic transmission, specifying the action needed to correct  
121 the violation and the date by which the homeowner must correct  
122 the violation. Such date may not be less than 3 business days  
123 after the date of mailing of the notice to the homeowner's park  
124 address. The notice shall also provide the cost that the  
125 homeowner is responsible for paying if the park owner must take

126 action to correct the violation.

127 2. Failure to pressure wash the home, repair skirting or  
128 siding on the home, paint the home, or remove debris or junk  
129 from the lot. The park owner must give the homeowner written  
130 notice by mail, and also post the written notice on the home or  
131 provide a copy of the notice to the homeowner by electronic  
132 transmission, specifying the action needed to correct the  
133 violation and the date by which the homeowner must correct the  
134 violation. Such date may not be less than 30 business days after  
135 the date of mailing of the notice to the homeowner's park  
136 address. The notice shall also provide the cost that the  
137 homeowner is responsible for paying if the park owner must take  
138 action to correct the violation.

139 (b) The date by which the homeowner must correct the  
140 violation specified in the notice as required in paragraph (a)  
141 may not be extended because the notice was mailed.

142 (c) If the homeowner does not remedy the violation  
143 specified in the notice as required in paragraph (a), the park  
144 owner may enter the homeowner's lot and take corrective action  
145 to remedy the violation. The park owner may charge a fee  
146 sufficient to recover the costs incurred for taking corrective  
147 action and to encourage compliance in the future. The fee may  
148 not be unreasonable, as defined in s. 723.003, and does not need  
149 to be disclosed in the prospectus or rental agreement in order  
150 to be charged under this subsection.

151        (d) This subsection is a separate enforcement procedure  
 152 available to the park owner and is not required to be separately  
 153 stated in the prospectus, rental agreement, rules and  
 154 regulations, or other pertinent documents. However, the rules  
 155 and regulations must generally describe the requirements that  
 156 may be the basis of a violation under this subsection.

157        (e) This subsection does not limit a park owner's right of  
 158 entry onto a mobile home lot as provided in s. 723.025.

159        Section 4. Paragraph (d) of subsection (1) and subsection  
 160 (4) of section 723.061, Florida Statutes, are amended to read:

161        723.061 Eviction; grounds, proceedings.—

162        (1) A mobile home park owner may evict a mobile home  
 163 owner, a mobile home tenant, a mobile home occupant, or a mobile  
 164 home only on one or more of the following grounds:

165        (d) Change in use of the land comprising the mobile home  
 166 park, or the portion thereof from which mobile homes are to be  
 167 evicted, from mobile home lot rentals to some other use, if:

168        1. The park owner gives written notice to the homeowners'  
 169 association formed and operating under ss. 723.075-723.079 of  
 170 its right to purchase the mobile home park, if the land  
 171 comprising the mobile home park is changing use from mobile home  
 172 lot rentals to a different use, at the price and under the terms  
 173 and conditions set forth in the written notice.

174        a. The notice shall be delivered to the officers of the  
 175 homeowners' association by United States mail. Within 45 days

176 after the date of mailing of the notice, the homeowners'  
177 association may execute and deliver a contract to the park owner  
178 to purchase the mobile home park at the price and under the  
179 terms and conditions set forth in the notice. If the contract  
180 between the park owner and the homeowners' association is not  
181 executed and delivered to the park owner within the 45-day  
182 period, the park owner is under no further obligation to the  
183 homeowners' association except as provided in sub-subparagraph  
184 b.

185 b. If the park owner elects to offer or sell the mobile  
186 home park at a price lower than the price specified in her or  
187 his initial notice to the officers of the homeowners'  
188 association, the homeowners' association has an additional 10  
189 days to meet the revised price, terms, and conditions of the  
190 park owner by executing and delivering a revised contract to the  
191 park owner.

192 c. The park owner is not obligated under this subparagraph  
193 or s. 723.071 to give any other notice to, or to further  
194 negotiate with, the homeowners' association for the sale of the  
195 mobile home park to the homeowners' association after 6 months  
196 after the date of the mailing of the initial notice under sub-  
197 subparagraph a.

198 2. The park owner gives the affected mobile home owners  
199 and tenants at least 6 months' notice of the eviction due to the  
200 projected change in use and of their need to secure other

201 accommodations. The park owner shall provide a copy of each  
202 eviction notice that is given to an affected mobile home owner  
203 to the division within 20 days after giving the notice to the  
204 mobile home owner. The division shall provide a copy of each  
205 eviction notice to the Executive Director of the Florida Mobile  
206 Home Relocation Corporation.

207 a. The notice of eviction due to a change in use of the  
208 land must include in a font no smaller than the body of the  
209 notice the following statement:

210 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME  
211 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME  
212 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS  
213 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND  
214 PROFESSIONAL REGULATION.

215 b. The park owner may not give a notice of increase in lot  
216 rental amount within 90 days before giving notice of a change in  
217 use.

218 (4) Except for the notice to the officers of the  
219 homeowners' association under subparagraph (1)(d)1., any notice  
220 required by this section must be in writing, and must be posted  
221 on the premises and sent to the mobile home owner and tenant or  
222 occupant, as appropriate, by United States ~~certified or~~  
223 ~~registered~~ mail, ~~return receipt requested~~, addressed to the  
224 mobile home owner and tenant or occupant, as appropriate, at her  
225 or his last known address. Delivery of the mailed notice shall

226 | be deemed given 5 days after the date of postmark.

227 |       Section 5. Subsection (1) of section 723.076, Florida  
228 | Statutes, is amended to read:

229 |       723.076 Incorporation; notification of park owner.—

230 |       (1) Upon receipt of its certificate of incorporation, the  
231 | homeowners' association shall notify the park owner in writing  
232 | of such incorporation and shall advise the park owner of the  
233 | names and addresses of the officers of the homeowners'  
234 | association by personal delivery upon the park owner's  
235 | representative as designated in the prospectus or by certified  
236 | mail, return receipt requested. Thereafter, the homeowners'  
237 | association shall notify the park owner in writing by certified  
238 | mail, return receipt requested, of any change of names and  
239 | addresses of its president or registered agent. Upon election or  
240 | appointment of new officers or members, the homeowners'  
241 | association shall notify the park owner in writing by certified  
242 | mail, return receipt requested, of the names and addresses of  
243 | the new officers or members.

244 |       Section 6. Paragraphs (b) through (e) of subsection (2) of  
245 | section 723.078, Florida Statutes, are amended to read:

246 |       723.078 Bylaws of homeowners' associations.—

247 |       (2) The bylaws shall provide and, if they do not, shall be  
248 | deemed to include, the following provisions:

249 |       (b) Quorum; voting requirements; proxies.—

250 |       1. Unless otherwise provided in the bylaws, 30 percent of

251 the total membership is required to constitute a quorum.  
252 Decisions shall be made by a majority of members represented at  
253 a meeting at which a quorum is present.

254 2.a. A member may not vote by general proxy but may vote  
255 by limited proxies substantially conforming to a limited proxy  
256 form adopted by the division. Limited proxies and general  
257 proxies may be used to establish a quorum. Limited proxies may  
258 be used for votes taken to amend the articles of incorporation  
259 or bylaws pursuant to this section, and any other matters for  
260 which this chapter requires or permits a vote of members. A  
261 ~~except that no~~ proxy, limited or general, may not be used in the  
262 election of board members in general elections or elections to  
263 fill vacancies caused by recall, resignation, or otherwise. The  
264 board members shall be elected by written ballot or by voting in  
265 person. If a mobile home or subdivision lot is owned jointly,  
266 the owners of the mobile home or subdivision lot must be counted  
267 as one for the purpose of determining the number of votes  
268 required for a majority. Only one vote per mobile home or  
269 subdivision lot shall be counted. Any number greater than 50  
270 percent of the total number of votes constitutes a majority.  
271 Notwithstanding this section, members may vote in person at  
272 member meetings or by secret ballot, including absentee ballots,  
273 as defined by the division.

274 b. At least 20 percent of the eligible voters must cast a  
275 ballot in order for the election to be valid. Elections shall be

276 decided by a plurality of the ballots cast without a quorum  
277 requirement. A member may not allow any other person to vote his  
278 or her ballot, and any ballots improperly cast are invalid. An  
279 election is not required unless there are more candidates  
280 nominated than vacancies exist on the board.

281 c. The ballot shall indicate, in alphabetical order by  
282 surname, each member or other eligible person who desires to be  
283 a candidate for the board of directors. A ballot may not  
284 indicate if any of the candidates are incumbent on the board.  
285 All ballots shall be uniform in appearance. Write-in candidates  
286 and more than one vote per candidate, per ballot are not  
287 permitted. A ballot may not provide a space for the signature  
288 of, or any other means of identifying, a voter. If a ballot  
289 contains more votes than vacancies or fewer votes than  
290 vacancies, the ballot is invalid, unless otherwise stated in the  
291 bylaws.

292 d. An impartial committee shall be responsible for  
293 overseeing the election process and complying with all ballot  
294 requirements. For purposes of this section, the term "impartial"  
295 means a committee whose members do not include any of the  
296 following people or their spouses:

- 297 (I) Current board members.  
298 (II) Current association officers.  
299 (III) Candidates for the association or board.

300 e. The association bylaws shall provide a method for

301 determining the winner of an election where two or more  
302 candidates for the same position receive the same number of  
303 votes.

304 f. A person who has been convicted of a felony in this  
305 state or in a United States District or Territorial Court, or  
306 who has been convicted of any offense in another jurisdiction  
307 which would be considered a felony if committed in this state,  
308 may not seek election to the board and is not eligible for board  
309 membership unless the person's civil rights have been restored  
310 for at least 5 years before the date on which the person seeks  
311 election to the board. The validity of an action taken by the  
312 board is not affected if it is later determined that a member of  
313 the board is ineligible for board membership.

314 g. The division shall adopt procedural rules to govern  
315 elections, including rules for providing notice by electronic  
316 transmission and rules for maintaining the secrecy of ballots.

317 3. A proxy is effective only for the specific meeting for  
318 which originally given and any lawfully adjourned meetings  
319 thereof. In no event shall any proxy be valid for a period  
320 longer than 90 days after the date of the first meeting for  
321 which it was given. Every proxy shall be revocable at any time  
322 at the pleasure of the member executing it.

323 4. A member of the board of directors or a committee may  
324 submit in writing his or her agreement or disagreement with any  
325 action taken at a meeting that the member did not attend. This

326 agreement or disagreement may not be used as a vote for or  
327 against the action taken and may not be used for the purposes of  
328 creating a quorum.

329 (c) Board of directors' and committee meetings.—

330 1. Meetings of the board of directors and meetings of its  
331 committees at which a quorum is present shall be open to all  
332 members. Notwithstanding any other provision of law, the  
333 requirement that board meetings and committee meetings be open  
334 to the members does not apply to meetings between the park owner  
335 and the board of directors, or any of the board's committees, or  
336 to board or committee meetings held for the purpose of  
337 discussing personnel matters or meetings between the board or a  
338 committee and the association's attorney, with respect to  
339 potential or pending litigation, when ~~where~~ the meeting is held  
340 for the purpose of seeking or rendering legal advice, and when  
341 ~~where~~ the contents of the discussion would otherwise be governed  
342 by the attorney-client privilege. Notice of all meetings open to  
343 the members shall be posted in a conspicuous place upon the park  
344 property at least 48 hours in advance, except in an emergency.  
345 Notice of any meeting in which dues ~~assessments against members~~  
346 are to be considered for any reason shall specifically contain a  
347 statement that dues ~~assessments~~ will be considered and the  
348 nature of such dues ~~assessments~~.

349 2. A board or committee member's participation in a  
350 meeting via telephone, real-time videoconferencing, or similar

351 real-time telephonic, electronic, or video communication counts  
352 toward a quorum, and such member may vote as if physically  
353 present. A speaker shall be used so that the conversation of  
354 those board or committee members attending by telephone may be  
355 heard by the board or committee members attending in person, as  
356 well as by members present at a meeting.

357 3. Members of the board of directors may use e-mail as a  
358 means of communication but may not cast a vote on an association  
359 matter via e-mail.

360 4. The right to attend meetings of the board of directors  
361 and its committees includes the right to speak at such meetings  
362 with reference to all designated agenda items. The association  
363 may adopt reasonable written rules governing the frequency,  
364 duration, and manner of members' statements. Any item not  
365 included on the notice may be taken up on an emergency basis by  
366 at least a majority plus one of the members of the board. Such  
367 emergency action shall be noticed and ratified at the next  
368 regular meeting of the board. Any member may tape record or  
369 videotape meetings of the board of directors and its committees,  
370 except meetings between the board of directors or its appointed  
371 homeowners' committee and the park owner. The division shall  
372 adopt reasonable rules governing the tape recording and  
373 videotaping of the meeting.

374 5. Except as provided in paragraph (i), a vacancy  
375 occurring on the board of directors may be filled by the

376 affirmative vote of the majority of the remaining directors,  
377 even though the remaining directors constitute less than a  
378 quorum; by the sole remaining director; if the vacancy is not so  
379 filled or if no director remains, by the members; or, on the  
380 application of any person, by the circuit court of the county in  
381 which the registered office of the corporation is located.

382 6. The term of a director elected or appointed to fill a  
383 vacancy expires at the next annual meeting at which directors  
384 are elected. A directorship to be filled by reason of an  
385 increase in the number of directors may be filled by the board  
386 of directors, but only for the term of office continuing until  
387 the next election of directors by the members.

388 7. A vacancy that will occur at a specific later date, by  
389 reason of a resignation effective at a later date, may be filled  
390 before the vacancy occurs. However, the new director may not  
391 take office until the vacancy occurs.

392 8.a. The officers and directors of the association have a  
393 fiduciary relationship to the members.

394 b. A director and committee member shall discharge his or  
395 her duties in good faith, with the care an ordinarily prudent  
396 person in a like position would exercise under similar  
397 circumstances, and in a manner he or she reasonably believes to  
398 be in the best interests of the corporation.

399 9. In discharging his or her duties, a director may rely  
400 on information, opinions, reports, or statements, including

401 financial statements and other financial data, if prepared or  
402 presented by:

403 a. One or more officers or employees of the corporation  
404 who the director reasonably believes to be reliable and  
405 competent in the matters presented;

406 b. Legal counsel, public accountants, or other persons as  
407 to matters the director reasonably believes are within the  
408 persons' professional or expert competence; or

409 c. A committee of the board of directors of which he or  
410 she is not a member if the director reasonably believes the  
411 committee merits confidence.

412 10. A director is not acting in good faith if he or she  
413 has knowledge concerning the matter in question that makes  
414 reliance otherwise permitted by subparagraph 9. unwarranted.

415 11. A director is not liable for any action taken as a  
416 director, or any failure to take any action, if he or she  
417 performed the duties of his or her office in compliance with  
418 this section.

419 (d) Member meetings.—Members shall meet at least once each  
420 calendar year, and the meeting shall be the annual meeting. All  
421 members of the board of directors shall be elected at the annual  
422 meeting unless the bylaws provide for staggered election terms  
423 or for their election at another meeting. The bylaws shall not  
424 restrict any member desiring to be a candidate for board  
425 membership from being nominated from the floor. All nominations

426 from the floor must be made at a duly noticed meeting of the  
427 members held at least 27 ~~30~~ days before the annual meeting. The  
428 bylaws shall provide the method for calling the meetings of the  
429 members, including annual meetings. The method shall provide at  
430 least 14 days' written notice to each member in advance of the  
431 meeting and require the posting in a conspicuous place on the  
432 park property of a notice of the meeting at least 14 days before  
433 ~~prior to~~ the meeting. The right to receive written notice of  
434 membership meetings may be waived in writing by a member. Unless  
435 waived, the notice of the annual meeting shall be mailed, hand  
436 delivered, or electronically transmitted to each member, and  
437 shall constitute notice. Unless otherwise stated in the bylaws,  
438 an officer of the association shall provide an affidavit  
439 affirming that the notices were mailed, ~~or~~ hand delivered, or  
440 provided by electronic transmission in accordance with ~~the~~  
441 ~~provisions of~~ this section to each member at the address last  
442 furnished to the corporation. These meeting requirements do not  
443 prevent members from waiving notice of meetings or from acting  
444 by written agreement without meetings, if allowed by the bylaws.

445 (e) Minutes of meetings.—

446 1. Notwithstanding any other provision of law, the minutes  
447 of board or committee meetings that are closed to members are  
448 privileged and confidential and shall not be available for  
449 inspection or photocopying.

450 2. Minutes of all meetings of members of an association

451 and meetings open for members of~~7~~ the board of directors~~7~~ and a  
452 committee must be maintained in written form and approved by the  
453 members, board, or committee, as applicable. A vote or  
454 abstention from voting on each matter voted upon for each  
455 director present at a board meeting must be recorded in the  
456 minutes.

457 ~~3.2~~ All approved minutes of meetings of members,  
458 committees, and the board of directors shall be kept in a  
459 businesslike manner and shall be available for inspection by  
460 members, or their authorized representatives, and board members  
461 at reasonable times. The association shall retain these minutes  
462 within the state for a period of at least 5 7 years.

463 Section 7. Subsections (4) and (5) of section 723.079,  
464 Florida Statutes, are amended to read:

465 723.079 Powers and duties of homeowners' association.—

466 (4) The association shall maintain the following items,  
467 when applicable, which constitute the official records of the  
468 association:

469 (a) A copy of the association's articles of incorporation  
470 and each amendment to the articles of incorporation.

471 (b) A copy of the bylaws of the association and each  
472 amendment to the bylaws.

473 (c) A copy of the written rules or policies of the  
474 association and each amendment to the written rules or policies.

475 (d) The approved minutes of all meetings of the members of

476 an association and meetings open for members of~~7~~ the board of  
477 directors~~7~~ and committees of the board, which minutes must be  
478 retained within the state for at least 5 ~~7~~ years.

479 (e) A current roster of all members and their mailing  
480 addresses and lot identifications. The association shall also  
481 maintain the e-mail addresses and the numbers designated by  
482 members for receiving notice sent by electronic transmission of  
483 those members consenting to receive notice by electronic  
484 transmission. The e-mail addresses and numbers provided by  
485 members to receive notice by electronic transmission shall be  
486 removed from association records when consent to receive notice  
487 by electronic transmission is revoked. However, the association  
488 is not liable for an erroneous disclosure of the e-mail address  
489 or the number for receiving electronic transmission of notices.

490 (f) All of the association's insurance policies or copies  
491 thereof, which must be retained within the state for at least 5  
492 ~~7~~ years after the expiration date.

493 (g) A copy of all contracts or agreements to which the  
494 association is a party, including, without limitation, any  
495 written agreements with the park owner, lease, or other  
496 agreements or contracts under which the association or its  
497 members has any obligation or responsibility, which must be  
498 retained within the state for at least 5 ~~7~~ years after the  
499 expiration date.

500 (h) The financial and accounting records of the

501 association, kept according to good accounting practices. All  
 502 financial and accounting records must be maintained within the  
 503 state for ~~a period of~~ at least 5 ~~7~~ years. The financial and  
 504 accounting records must include:

505 1. Accurate, itemized, and detailed records of all  
 506 receipts and expenditures.

507 2. A current account and a periodic statement of the  
 508 account for each member, designating the name and current  
 509 address of each member who is obligated to pay dues or  
 510 assessments, the due date and amount of each assessment or other  
 511 charge against the member, the date and amount of each payment  
 512 on the account, and the balance due.

513 3. All tax returns, financial statements, and financial  
 514 reports of the association.

515 4. Any other records that identify, measure, record, or  
 516 communicate financial information.

517 (i) All other written records of the association not  
 518 specifically included in the foregoing which are related to the  
 519 operation of the association must be retained within the state  
 520 for at least 5 years after the expiration date, if applicable.

521 (5) The official records shall be ~~maintained within the~~  
 522 ~~state for at least 7 years and shall be~~ made available to a  
 523 member for inspection or photocopying within 20 ~~10~~ business days  
 524 after receipt by the board or its designee of a written request  
 525 submitted by certified mail, return receipt requested. The

526 requirements of this subsection are satisfied by having a copy  
527 of the official records available for inspection or copying in  
528 the park or, at the option of the association, by making the  
529 records available to a member electronically via the Internet or  
530 by allowing the records to be viewed in electronic format on a  
531 computer screen and printed upon request. If the association has  
532 a photocopy machine available where the records are maintained,  
533 it must provide a member with copies on request during the  
534 inspection if the entire request is no more than 25 pages. An  
535 association shall allow a member or his or her authorized  
536 representative to use a portable device, including a smartphone,  
537 tablet, portable scanner, or any other technology capable of  
538 scanning or taking photographs, to make an electronic copy of  
539 the official records in lieu of the association's providing the  
540 member or his or her authorized representative with a copy of  
541 such records. The association may not charge a fee to a member  
542 or his or her authorized representative for the use of a  
543 portable device.

544 (a) The failure of an association to provide access to the  
545 records within 20 ~~10~~ business days after receipt of a written  
546 request submitted by certified mail, return receipt requested,  
547 creates a rebuttable presumption that the association willfully  
548 failed to comply with this subsection.

549 (b) A member who is denied access to official records is  
550 entitled to statutory ~~the actual damages or minimum~~ damages for

551 the association's willful failure to comply with this  
552 subsection. The statutory ~~minimum~~ damages are ~~to be~~ \$10 per  
553 calendar day up to 10 days, for a total amount not to exceed  
554 \$100. The calculation for damages begins ~~to begin~~ on the 21st  
555 ~~11th~~ business day after receipt of the written request,  
556 submitted by certified mail, return receipt requested.

557 (c) Any inspection or photocopying dispute between a  
558 member and an association must be submitted to mandatory binding  
559 arbitration with the division. Such proceeding shall be  
560 conducted in the manner provided in s. 723.1255 and according to  
561 the procedural rules adopted by the division.

562 (d) ~~(e)~~ The association may adopt reasonable written rules  
563 governing the frequency, time, location, notice, records to be  
564 inspected, and manner of inspections, but may not require a  
565 member to demonstrate a proper purpose for the inspection, state  
566 a reason for the inspection, or limit a member's right to  
567 inspect records to less than 1 business day per month. The  
568 association may impose fees to cover the costs of providing  
569 copies of the official records, including the costs of copying  
570 and for personnel to retrieve and copy the records if the time  
571 spent retrieving and copying the records exceeds 30 minutes and  
572 if the personnel costs do not exceed \$20 per hour. Personnel  
573 costs may not be charged for records requests that result in the  
574 copying of 25 or fewer pages. The association may charge up to  
575 25 cents per page for copies made on the association's

576 photocopier. If the association does not have a photocopy  
577 machine available where the records are kept, or if the records  
578 requested to be copied exceed 25 pages in length, the  
579 association may have copies made by an outside duplicating  
580 service and may charge the actual cost of copying, as supported  
581 by the vendor invoice. The association shall maintain an  
582 adequate number of copies of the recorded governing documents,  
583 to ensure their availability to members and prospective members.  
584 Notwithstanding this paragraph, the following records are not  
585 accessible to members or home owners:

586       1. A record protected by the lawyer-client privilege as  
587 described in s. 90.502 and a record protected by the work-  
588 product privilege, including, but not limited to, a record  
589 prepared by an association attorney or prepared at the  
590 attorney's express direction which reflects a mental impression,  
591 conclusion, litigation strategy, or legal theory of the attorney  
592 or the association and which was prepared exclusively for civil  
593 or criminal litigation, for adversarial administrative  
594 proceedings, or in anticipation of such litigation or  
595 proceedings until the conclusion of the litigation or  
596 proceedings.

597       2. E-mail addresses, telephone numbers, facsimile numbers,  
598 emergency contact information, any addresses for a home owner  
599 other than as provided for association notice requirements, and  
600 other personal identifying information of any person, excluding

601 the person's name, lot designation, mailing address, and  
602 property address. Notwithstanding the restrictions in this  
603 subparagraph, an association may print and distribute to home  
604 owners a directory containing the name, park address, and  
605 telephone number of each home owner. However, a home owner may  
606 exclude his or her telephone number from the directory by so  
607 requesting in writing to the association. The association is not  
608 liable for the disclosure of information that is protected under  
609 this subparagraph if the information is included in an official  
610 record of the association and is voluntarily provided by a home  
611 owner and not requested by the association.

612 3. An electronic security measure that is used by the  
613 association to safeguard data, including passwords.

614 4. The software and operating system used by the  
615 association which allows the manipulation of data, even if the  
616 home owner owns a copy of the same software used by the  
617 association. The data is part of the official records of the  
618 association.

619 Section 8. Section 723.1255, Florida Statutes, is amended  
620 to read:

621 723.1255 Alternative resolution of recall, election, and  
622 inspection and photocopying of official records disputes.—~~The~~  
623 ~~Division of Florida Condominiums, Timeshares, and Mobile Homes~~  
624 ~~of the Department of Business and Professional Regulation shall~~  
625 ~~adopt rules of procedure to govern binding recall arbitration~~

626 ~~proceedings.~~

627 (1) A dispute between a mobile home owner and a  
628 homeowners' association regarding s. 723.078(2), involving the  
629 election and recall of officers or directors, or s. 723.079(5),  
630 involving the inspection and photocopying of official records,  
631 must be submitted to mandatory binding arbitration with the  
632 division. Such proceeding shall be conducted in accordance with  
633 this section and the procedural rules adopted by the division.

634 (2) The prevailing party in a mandatory binding  
635 arbitration proceeding shall be awarded reasonable attorney fees  
636 and costs, which the arbitrator shall calculate in accordance  
637 with the statewide uniform guidelines for taxation of costs in  
638 civil actions. The arbitrator shall follow the applicable  
639 Florida Rules of Civil Procedure in determining the timeframe  
640 for filing a motion for attorney fees and costs.

641 (3) The division shall adopt procedural rules to govern  
642 mandatory binding arbitration proceedings.

643 Section 9. This act shall take effect July 1, 2019.