

Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professions
 2 Subcommittee

3 Representative Rodriguez, A. offered the following:

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Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (d) of subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(d) Of disputes occurring in condominium associations as described in s. 718.1255, in cooperative associations as described in s. 719.1255 and in the homeowners' associations as described in s. 720.311(2)(a), which shall be concurrent with jurisdiction of the circuit courts.

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17 Section 2. Paragraph (a) of subsection (2) of section
18 514.0115, Florida Statutes, is amended to read:

19 514.0115 Exemptions from supervision or regulation;
20 variances.—

21 (2) (a) Pools serving condominium, cooperative, homeowners'
22 associations, and other property associations, which have no
23 more than 32 units or parcels and ~~condominium or cooperative~~
24 ~~units which~~ are not operated as a public lodging establishments
25 ~~establishment~~ shall be exempt from supervision under this
26 chapter, except for water quality.

27 Section 3. Subsection (4) of section 627.714, Florida
28 Statutes, is amended to read:

29 627.714 Residential condominium unit owner coverage; loss
30 assessment coverage required.—

31 (4) Every individual unit owner's residential property
32 policy must contain a provision stating that the coverage
33 afforded by such policy is excess coverage over the amount
34 recoverable under any other policy covering the same property.
35 An insurance policy issued to an individual unit owner may not
36 provide rights of subrogation against the condominium
37 association operating the condominium in which such individual's
38 unit is located.

39 Section 4. Paragraphs (a), (b), (c), and (g) of subsection
40 (12) of section 718.111, Florida Statutes, are amended to read:

41 718.111 The association.—

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42 (12) OFFICIAL RECORDS.—

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

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

48 2. A photocopy of the recorded declaration of condominium
49 of each condominium operated by the association and each
50 amendment to each declaration.

51 3. A photocopy of the recorded bylaws of the association
52 and each amendment to the bylaws.

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

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

57 6. A book or books that contain the minutes of all
58 meetings of the association, the board of administration, and
59 the unit owners.

60 7. A current roster of all unit owners and their mailing
61 addresses, unit identifications, voting certifications, and, if
62 known, telephone numbers. The association shall also maintain
63 the e-mail addresses and facsimile numbers of unit owners
64 consenting to receive notice by electronic transmission. The e-
65 mail addresses and facsimile numbers are not accessible to unit
66 owners if consent to receive notice by electronic transmission

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67 is not provided in accordance with sub-subparagraph (c)3.e.
68 However, the association is not liable for an inadvertent
69 disclosure of the e-mail address or facsimile number for
70 receiving electronic transmission of notices.

71 8. All current insurance policies of the association and
72 condominiums operated by the association.

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

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

79 11. Accounting records for the association and separate
80 accounting records for each condominium that the association
81 operates. Any person who knowingly or intentionally defaces or
82 destroys such records, or who knowingly or intentionally fails
83 to create or maintain such records, with the intent of causing
84 harm to the association or one or more of its members, is
85 personally subject to a civil penalty pursuant to s.
86 718.501(1)(d). The accounting records must include, but are not
87 limited to:

88 a. Accurate, itemized, and detailed records of all
89 receipts and expenditures.

90 b. A current account and a monthly, bimonthly, or
91 quarterly statement of the account for each unit designating the

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92 name of the unit owner, the due date and amount of each
93 assessment, the amount paid on the account, and the balance due.

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

96 d. All contracts for work to be performed. Bids for work
97 to be performed are also considered official records and must be
98 maintained by the association for at least 1 year after receipt
99 of the bid.

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

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

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

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

112 ~~15.16.~~ A copy of the inspection report as described in s.
113 718.301(4)(p).

114 ~~16.17.~~ Bids for materials, equipment, or services.

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115 17. All other records of the association not specifically
116 included in subparagraphs 1.-16. which are related to the
117 operation of the association.

118 (b) The official records specified in subparagraphs (a)1.-
119 6. must be permanently maintained from the inception of the
120 association. Bids for work to be performed or for materials,
121 equipment, or services must be maintained for 1 year after
122 receipt of the bid. All other official records must be
123 maintained within the state for at least 7 years, unless
124 otherwise provided by general law. The records of the
125 association shall be made available to a unit owner within 45
126 miles of the condominium property or within the county in which
127 the condominium property is located within 10 working days after
128 receipt of a written request by the board or its designee.
129 However, such distance requirement does not apply to an
130 association governing a timeshare condominium. This paragraph
131 may be complied with by having a copy of the official records of
132 the association available for inspection or copying on the
133 condominium property or association property, or the association
134 may offer the option of making the records available to a unit
135 owner electronically via the Internet or by allowing the records
136 to be viewed in electronic format on a computer screen and
137 printed upon request. The association is not responsible for the
138 use or misuse of the information provided to an association
139 member or his or her authorized representative pursuant to the

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140 compliance requirements of this chapter unless the association
141 has an affirmative duty not to disclose such information
142 pursuant to this chapter.

143 (c)1. The official records of the association are open to
144 inspection by any association member or the authorized
145 representative of such member at all reasonable times. The right
146 to inspect the records includes the right to make or obtain
147 copies, at the reasonable expense, if any, of the member or
148 authorized representative of such member. A renter of a unit has
149 a right to inspect and copy the association's bylaws and rules.
150 The association may adopt reasonable rules regarding the
151 frequency, time, location, notice, and manner of record
152 inspections and copying, but may not require a unit owner to
153 demonstrate any purpose for the inspection or state any reason
154 for the inspection. The failure of an association to provide the
155 records within 10 working days after receipt of a written
156 request creates a rebuttable presumption that the association
157 willfully failed to comply with this paragraph. A unit owner who
158 is denied access to official records is entitled to the actual
159 damages or minimum damages for the association's willful failure
160 to comply. Minimum damages are \$50 per calendar day for up to 10
161 days, beginning on the 11th working day after receipt of the
162 written request. The failure to permit inspection entitles any
163 person prevailing in an enforcement action to recover reasonable

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164 attorney fees from the person in control of the records who,
165 directly or indirectly, knowingly denied access to the records.

166 2. Any person who knowingly or intentionally defaces or
167 destroys accounting records that are required by this chapter to
168 be maintained during the period for which such records are
169 required to be maintained, or who knowingly or intentionally
170 fails to create or maintain accounting records that are required
171 to be created or maintained, with the intent of causing harm to
172 the association or one or more of its members, is personally
173 subject to a civil penalty pursuant to s. 718.501(1)(d).

174 3. The association shall maintain an adequate number of
175 copies of the declaration, articles of incorporation, bylaws,
176 and rules, and all amendments to each of the foregoing, as well
177 as the question and answer sheet as described in s. 718.504 and
178 year-end financial information required under this section, on
179 the condominium property to ensure their availability to unit
180 owners and prospective purchasers, and may charge its actual
181 costs for preparing and furnishing these documents to those
182 requesting the documents. An association shall allow a member or
183 his or her authorized representative to use a portable device,
184 including a smartphone, tablet, portable scanner, or any other
185 technology capable of scanning or taking photographs, to make an
186 electronic copy of the official records in lieu of the
187 association's providing the member or his or her authorized
188 representative with a copy of such records. The association may

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189 not charge a member or his or her authorized representative for
190 the use of a portable device. Notwithstanding this paragraph,
191 the following records are not accessible to unit owners:

192 a. Any record protected by the lawyer-client privilege as
193 described in s. 90.502 and any record protected by the work-
194 product privilege, including a record prepared by an association
195 attorney or prepared at the attorney's express direction, which
196 reflects a mental impression, conclusion, litigation strategy,
197 or legal theory of the attorney or the association, and which
198 was prepared exclusively for civil or criminal litigation or for
199 adversarial administrative proceedings, or which was prepared in
200 anticipation of such litigation or proceedings until the
201 conclusion of the litigation or proceedings.

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

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

212 d. Medical records of unit owners.

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213 e. Social security numbers, driver license numbers, credit
214 card numbers, e-mail addresses, telephone numbers, facsimile
215 numbers, emergency contact information, addresses of a unit
216 owner other than as provided to fulfill the association's notice
217 requirements, and other personal identifying information of any
218 person, excluding the person's name, unit designation, mailing
219 address, property address, and any address, e-mail address, or
220 facsimile number provided to the association to fulfill the
221 association's notice requirements. Notwithstanding the
222 restrictions in this sub-subparagraph, an association may print
223 and distribute to parcel owners a directory containing the name,
224 parcel address, and all telephone numbers of each parcel owner.
225 However, an owner may exclude his or her telephone numbers from
226 the directory by so requesting in writing to the association. An
227 owner may consent in writing to the disclosure of other contact
228 information described in this sub-subparagraph. The association
229 is not liable for the inadvertent disclosure of information that
230 is protected under this sub-subparagraph if the information is
231 included in an official record of the association and is
232 voluntarily provided by an owner and not requested by the
233 association.

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

236 g. The software and operating system used by the
237 association which allow the manipulation of data, even if the

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238 owner owns a copy of the same software used by the association.
239 The data is part of the official records of the association.

240 (g)1. By January 1, 2019, an association managing a
241 condominium with 150 or more units which does not contain
242 timeshare units shall post digital copies of the documents
243 specified in subparagraph 2. on its website or application
244 downloadable on mobile devices.

245 a. The association's website or application downloadable
246 on mobile devices must be:

247 (I) An independent website, application downloadable on
248 mobile devices, or web portal wholly owned and operated by the
249 association; or

250 (II) A website, application downloadable on mobile
251 devices, or web portal operated by a third-party provider with
252 whom the association owns, leases, rents, or otherwise obtains
253 the right to operate a web page, subpage, web portal,
254 application downloadable on mobile devices, or collection of
255 subpages or web portals dedicated to the association's
256 activities and on which required notices, records, and documents
257 may be posted by the association.

258 b. The association's website or application downloadable
259 on mobile devices must be accessible through the Internet and
260 must contain a subpage, web portal, or other protected
261 electronic location that is inaccessible to the general public

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262 and accessible only to unit owners and employees of the
263 association.

264 c. Upon a unit owner's written request, the association
265 must provide the unit owner with a username and password and
266 access to the protected sections of the association's website or
267 application downloadable on mobile devices that contain any
268 notices, records, or documents that must be electronically
269 provided.

270 2. A current copy of the following documents must be
271 posted in digital format on the association's website or
272 application downloadable on mobile devices:

273 a. The recorded declaration of condominium of each
274 condominium operated by the association and each amendment to
275 each declaration.

276 b. The recorded bylaws of the association and each
277 amendment to the bylaws.

278 c. The articles of incorporation of the association, or
279 other documents creating the association, and each amendment
280 thereto. The copy posted pursuant to this sub-subparagraph must
281 be a copy of the articles of incorporation filed with the
282 Department of State.

283 d. The rules of the association.

284 e. A list of all executory contracts or documents to which
285 the association is a party or under which the association or the
286 unit owners have an obligation or responsibility and, after

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287 bidding for the related materials, equipment, or services has
288 closed, a list of bids received by the association within the
289 past year. Summaries of bids for materials, equipment, or
290 services which exceed \$500 must be maintained on the website or
291 application downloadable on mobile devices for 1 year. In lieu
292 of summaries, complete copies of the bids may be posted.

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

295 g. The financial report required by subsection (13) and
296 any monthly income or expense statement to be considered at a
297 meeting.

298 h. The certification of each director required by s.
299 718.112(2)(d)4.b.

300 i. All contracts or transactions between the association
301 and any director, officer, corporation, firm, or association
302 that is not an affiliated condominium association or any other
303 entity in which an association director is also a director or
304 officer and financially interested.

305 j. Any contract or document regarding a conflict of
306 interest or possible conflict of interest as provided in ss.
307 468.436(2)(b)6. and 718.3027(3).

308 k. The notice of any unit owner meeting and the agenda for
309 the meeting, as required by s. 718.112(2)(d)3., no later than 14
310 days before the meeting. The notice must be posted in plain view
311 on the front page of the website, application downloadable on

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312 mobile devices, or on a separate subpage of the website labeled
313 "Notices" which is conspicuously visible and linked from the
314 front page. The association must also post on its website or
315 application downloadable on mobile devices any document to be
316 considered and voted on by the owners during the meeting or any
317 document listed on the agenda at least 7 days before the meeting
318 at which the document or the information within the document
319 will be considered.

320 1. Notice of any board meeting, the agenda, and any other
321 document required for the meeting as required by s.
322 718.112(2)(c), which must be posted no later than the date
323 required for notice pursuant to s. 718.112(2)(c).

324 3. The association shall ensure that the information and
325 records described in paragraph (c), which are not allowed to be
326 accessible to unit owners, are not posted on the association's
327 website or application downloadable on mobile devices. If
328 protected information or information restricted from being
329 accessible to unit owners is included in documents that are
330 required to be posted on the association's website or
331 application downloadable on mobile application, the association
332 shall ensure the information is redacted before posting the
333 documents online. Notwithstanding the foregoing, the association
334 or its agent is not liable for disclosing information that is
335 protected or restricted pursuant to this paragraph unless such

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336 disclosure was made with a knowing or intentional disregard of
337 the protected or restricted nature of such information.

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

342 Section 5. Paragraphs (d), (i), (j), (k), and (p) of
343 subsection (2) of section 718.112, Florida Statutes, are amended
344 to read:

345 718.112 Bylaws.—

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

349 (d) Unit owner meetings.—

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

356 2. Unless the bylaws provide otherwise, a vacancy on the
357 board caused by the expiration of a director's term must be
358 filled by electing a new board member, and the election must be
359 by secret ballot. An election is not required if the number of
360 vacancies equals or exceeds the number of candidates. For

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361 purposes of this paragraph, the term "candidate" means an
362 eligible person who has timely submitted the written notice, as
363 described in sub-subparagraph 4.a., of his or her intention to
364 become a candidate. Except in a timeshare or nonresidential
365 condominium, or if the staggered term of a board member does not
366 expire until a later annual meeting, or if all members' terms
367 would otherwise expire but there are no candidates, the terms of
368 all board members expire at the annual meeting, and such members
369 may stand for reelection unless prohibited by the bylaws. Board
370 members may serve terms longer than 1 year if permitted by the
371 bylaws or articles of incorporation. A board member may not
372 serve more than 8 consecutive years unless approved by an
373 affirmative vote of unit owners representing two-thirds of all
374 votes cast in the election or unless there are not enough
375 eligible candidates to fill the vacancies on the board at the
376 time of the vacancy. Any board service prior to July 1, 2018
377 will not apply, and this "term limit" provision is intended to
378 apply prospectively from July 1, 2018. If the number of board
379 members whose terms expire at the annual meeting equals or
380 exceeds the number of candidates, the candidates become members
381 of the board effective upon the adjournment of the annual
382 meeting. Unless the bylaws provide otherwise, any remaining
383 vacancies shall be filled by the affirmative vote of the
384 majority of the directors making up the newly constituted board
385 even if the directors constitute less than a quorum or there is

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386 only one director. In a residential condominium association of
387 more than 10 units or in a residential condominium association
388 that does not include timeshare units or timeshare interests,
389 coowners of a unit may not serve as members of the board of
390 directors at the same time unless they own more than one unit or
391 unless there are not enough eligible candidates to fill the
392 vacancies on the board at the time of the vacancy. A unit owner
393 in a residential condominium desiring to be a candidate for
394 board membership must comply with sub-subparagraph 4.a. and must
395 be eligible to be a candidate to serve on the board of directors
396 at the time of the deadline for submitting a notice of intent to
397 run in order to have his or her name listed as a proper
398 candidate on the ballot or to serve on the board. A person who
399 has been suspended or removed by the division under this
400 chapter, or who is delinquent in the payment of any monetary
401 obligation due to the association, is not eligible to be a
402 candidate for board membership and may not be listed on the
403 ballot. A person who has been convicted of any felony in this
404 state or in a United States District or Territorial Court, or
405 who has been convicted of any offense in another jurisdiction
406 which would be considered a felony if committed in this state,
407 is not eligible for board membership unless such felon's civil
408 rights have been restored for at least 5 years as of the date
409 such person seeks election to the board. The validity of an
410 action by the board is not affected if it is later determined

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411 that a board member is ineligible for board membership due to
412 having been convicted of a felony. This subparagraph does not
413 limit the term of a member of the board of a nonresidential or
414 timeshare condominium.

415 3. The bylaws must provide the method of calling meetings
416 of unit owners, including annual meetings. Written notice must
417 include an agenda, must be mailed, hand delivered, or
418 electronically transmitted to each unit owner at least 14 days
419 before the annual meeting, and must be posted in a conspicuous
420 place on the condominium property at least 14 continuous days
421 before the annual meeting. Upon notice to the unit owners, the
422 board shall, by duly adopted rule, designate a specific location
423 on the condominium property where all notices of unit owner
424 meetings must be posted. This requirement does not apply if
425 there is no condominium property for posting notices. In lieu
426 of, or in addition to, the physical posting of meeting notices,
427 the association may, by reasonable rule, adopt a procedure for
428 conspicuously posting and repeatedly broadcasting the notice and
429 the agenda on a closed-circuit cable television system serving
430 the condominium association. However, if broadcast notice is
431 used in lieu of a notice posted physically on the condominium
432 property, the notice and agenda must be broadcast at least four
433 times every broadcast hour of each day that a posted notice is
434 otherwise required under this section. If broadcast notice is
435 provided, the notice and agenda must be broadcast in a manner

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436 and for a sufficient continuous length of time so as to allow an
437 average reader to observe the notice and read and comprehend the
438 entire content of the notice and the agenda. In addition to any
439 of the authorized means of providing notice of a meeting of the
440 board, the association may, by rule, adopt a procedure for
441 conspicuously posting the meeting notice and the agenda on a
442 website serving the condominium association for at least the
443 minimum period of time for which a notice of a meeting is also
444 required to be physically posted on the condominium property.
445 Any rule adopted shall, in addition to other matters, include a
446 requirement that the association send an electronic notice in
447 the same manner as a notice for a meeting of the members, which
448 must include a hyperlink to the website where the notice is
449 posted, to unit owners whose e-mail addresses are included in
450 the association's official records. Unless a unit owner waives
451 in writing the right to receive notice of the annual meeting,
452 such notice must be hand delivered, mailed, or electronically
453 transmitted to each unit owner. Notice for meetings and notice
454 for all other purposes must be mailed to each unit owner at the
455 address last furnished to the association by the unit owner, or
456 hand delivered to each unit owner. However, if a unit is owned
457 by more than one person, the association must provide notice to
458 the address that the developer identifies for that purpose and
459 thereafter as one or more of the owners of the unit advise the
460 association in writing, or if no address is given or the owners

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461 of the unit do not agree, to the address provided on the deed of
462 record. An officer of the association, or the manager or other
463 person providing notice of the association meeting, must provide
464 an affidavit or United States Postal Service certificate of
465 mailing, to be included in the official records of the
466 association affirming that the notice was mailed or hand
467 delivered in accordance with this provision.

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

475 a. At least 60 days before a scheduled election, the
476 association shall mail, deliver, or electronically transmit, by
477 separate association mailing or included in another association
478 mailing, delivery, or transmission, including regularly
479 published newsletters, to each unit owner entitled to a vote, a
480 first notice of the date of the election. A unit owner or other
481 eligible person desiring to be a candidate for the board must
482 give written notice of his or her intent to be a candidate to
483 the association at least 40 days before a scheduled election.
484 Together with the written notice and agenda as set forth in
485 subparagraph 3., the association shall mail, deliver, or

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486 | electronically transmit a second notice of the election to all
487 | unit owners entitled to vote, together with a ballot that lists
488 | all candidates not less than 14 days or more than 34 days prior
489 | to the date of the annual meeting. Upon request of a candidate,
490 | an information sheet, no larger than 8 1/2 inches by 11 inches,
491 | which must be furnished by the candidate at least 35 days before
492 | the election, must be included with the mailing, delivery, or
493 | transmission of the ballot, with the costs of mailing, delivery,
494 | or electronic transmission and copying to be borne by the
495 | association. The association is not liable for the contents of
496 | the information sheets prepared by the candidates. In order to
497 | reduce costs, the association may print or duplicate the
498 | information sheets on both sides of the paper. The division
499 | shall by rule establish voting procedures consistent with this
500 | sub-subparagraph, including rules establishing procedures for
501 | giving notice by electronic transmission and rules providing for
502 | the secrecy of ballots. Elections shall be decided by a
503 | plurality of ballots cast. There is no quorum requirement;
504 | however, at least 20 percent of the eligible voters must cast a
505 | ballot in order to have a valid election. A unit owner may not
506 | authorize any other person to vote his or her ballot, and any
507 | ballots improperly cast are invalid. A unit owner who violates
508 | this provision may be fined by the association in accordance
509 | with s. 718.303. A unit owner who needs assistance in casting
510 | the ballot for the reasons stated in s. 101.051 may obtain such

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511 assistance. The regular election must occur on the date of the
512 annual meeting. Notwithstanding this sub-subparagraph, an
513 election is not required unless more candidates file notices of
514 intent to run or are nominated than board vacancies exist.

515 b. Within 90 days after being elected or appointed to the
516 board of an association of a residential condominium, each newly
517 elected or appointed director shall certify in writing to the
518 secretary of the association that he or she has read the
519 association's declaration of condominium, articles of
520 incorporation, bylaws, and current written policies; that he or
521 she will work to uphold such documents and policies to the best
522 of his or her ability; and that he or she will faithfully
523 discharge his or her fiduciary responsibility to the
524 association's members. In lieu of this written certification,
525 within 90 days after being elected or appointed to the board,
526 the newly elected or appointed director may submit a certificate
527 of having satisfactorily completed the educational curriculum
528 administered by a division-approved condominium education
529 provider within 1 year before or 90 days after the date of
530 election or appointment. The written certification or
531 educational certificate is valid and does not have to be
532 resubmitted as long as the director serves on the board without
533 interruption. A director of an association of a residential
534 condominium who fails to timely file the written certification
535 or educational certificate is suspended from service on the

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536 board until he or she complies with this sub-subparagraph. The
537 board may temporarily fill the vacancy during the period of
538 suspension. The secretary shall cause the association to retain
539 a director's written certification or educational certificate
540 for inspection by the members for 5 years after a director's
541 election or the duration of the director's uninterrupted tenure,
542 whichever is longer. Failure to have such written certification
543 or educational certificate on file does not affect the validity
544 of any board action.

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

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

557 6. Unit owners may waive notice of specific meetings if
558 allowed by the applicable bylaws or declaration or any law.
559 Notice of meetings of the board of administration, unit owner
560 meetings, except unit owner meetings called to recall board

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561 members under paragraph (j), and committee meetings may be given
562 by electronic transmission to unit owners who consent to receive
563 notice by electronic transmission. A unit owner who consents to
564 receiving notices by electronic transmission is solely
565 responsible for removing or bypassing filters that block receipt
566 of mass emails sent to members on behalf of the association in
567 the course of giving electronic notices.

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

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

575 9. Unless otherwise provided in the bylaws, any vacancy
576 occurring on the board before the expiration of a term may be
577 filled by the affirmative vote of the majority of the remaining
578 directors, even if the remaining directors constitute less than
579 a quorum, or by the sole remaining director. In the alternative,
580 a board may hold an election to fill the vacancy, in which case
581 the election procedures must conform to sub-subparagraph 4.a.
582 unless the association governs 10 units or fewer and has opted
583 out of the statutory election process, in which case the bylaws
584 of the association control. Unless otherwise provided in the
585 bylaws, a board member appointed or elected under this section

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586 shall fill the vacancy for the unexpired term of the seat being
587 filled. Filling vacancies created by recall is governed by
588 paragraph (j) and rules adopted by the division.

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

595

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

604 (i) Transfer fees.—No charge, except the actual costs of
605 any background check or screening performed by the association,
606 shall be made by the association or any body thereof in
607 connection with the sale, mortgage, lease, sublease, or other
608 transfer of a unit unless the association is required to approve
609 such transfer and a fee for such approval is provided for in the
610 declaration, articles, or bylaws. Except for the actual costs of

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611 any background check or screening, any such fee may be preset,
612 but in no event may such fee exceed \$100 per applicant other
613 than husband/wife or parent/dependent child, which are
614 considered one applicant. However, if the lease or sublease is a
615 renewal of a lease or sublease with the same lessee or
616 sublessee, no charge shall be made. The foregoing
617 notwithstanding, an association may, if the authority to do so
618 appears in the declaration or bylaws, require that a prospective
619 lessee place a security deposit, in an amount not to exceed the
620 equivalent of 1 month's rent, into an escrow account maintained
621 by the association. The security deposit shall protect against
622 damages to the common elements or association property. Payment
623 of interest, claims against the deposit, refunds, and disputes
624 under this paragraph shall be handled in the same fashion as
625 provided in part II of chapter 83.

626 (j) Recall of board members.—Subject to s. 718.301, any
627 member of the board of administration may be recalled and
628 removed from office with or without cause by the vote or
629 agreement in writing by a majority of all the voting interests.
630 A special meeting of the unit owners to recall a member or
631 members of the board of administration may be called by 10
632 percent of the voting interests giving notice of the meeting as
633 required for a meeting of unit owners, and the notice shall
634 state the purpose of the meeting. Electronic transmission may

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635 not be used as a method of giving notice of a meeting called in
636 whole or in part for this purpose.

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

648 2. If the proposed recall is by an agreement in writing by
649 a majority of all voting interests, the agreement in writing or
650 a copy thereof shall be served on the association by certified
651 mail or by personal service in the manner authorized by chapter
652 48 and the Florida Rules of Civil Procedure. The board of
653 administration shall duly notice and hold a meeting of the board
654 within 5 full business days after receipt of the agreement in
655 writing. Such member or members shall be recalled effective
656 immediately upon the conclusion of the board meeting, provided
657 that the recall is facially valid. A recalled member must turn
658 over to the board, within 10 full business days, any and all

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659 records and property of the association in his or her ~~their~~
660 possession.

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

668 4. If the board fails to duly notice and hold the required
669 meeting or at the conclusion of the meeting determines that the
670 recall is not facially valid, the unit owner representative may
671 file an action ~~a petition~~ pursuant to s. 718.1255 challenging
672 the board's failure to act or challenging the board's
673 determination on facial validity. The action ~~petition~~ must be
674 filed within 60 days after the expiration of the applicable 5-
675 full-business-day period. The review of an action ~~a petition~~
676 under this subparagraph is limited to the sufficiency of service
677 on the board and the facial validity of the written agreement or
678 ballots filed.

679 5. If a vacancy occurs on the board as a result of a
680 recall or removal and less than a majority of the board members
681 are removed, the vacancy may be filled by the affirmative vote
682 of a majority of the remaining directors, notwithstanding any
683 provision to the contrary contained in this subsection. If

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684 vacancies occur on the board as a result of a recall and a
685 majority or more of the board members are removed, the vacancies
686 shall be filled in accordance with the bylaws ~~procedural rules~~
687 ~~to be adopted by the division, which rules need not be~~
688 ~~consistent with this subsection. The rules must provide~~
689 ~~procedures governing the conduct of the recall election as well~~
690 ~~as the operation of the association during the period after a~~
691 ~~recall but before the recall election.~~

692 6. A board member who has been recalled may file an action
693 ~~a petition~~ pursuant to s. 718.1255 challenging the validity of
694 the recall. The action ~~petition~~ must be filed within 60 days
695 after the recall. The association and the unit owner
696 representative shall be named as the defendants ~~respondents~~. The
697 action ~~petition~~ may challenge the facial validity of the written
698 agreement or ballots filed or the substantial compliance with
699 the procedural requirements for the recall. If the court
700 ~~arbitrator~~ determines the recall was invalid, the plaintiff
701 ~~petitioning board member~~ shall immediately be reinstated and the
702 recall is null and void. A board member who is successful in
703 challenging a recall is entitled to recover reasonable attorney
704 fees and costs from the defendants ~~respondents~~. The court shall
705 ~~arbitrator~~ may award reasonable attorney fees and costs to the
706 defendants ~~respondents~~ if they prevail, if the court ~~arbitrator~~
707 makes a finding that the plaintiff's ~~petitioner's~~ claim is
708 frivolous.

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709 7. An action may not be filed regarding ~~The division may~~
710 ~~not accept for filing~~ a recall action ~~petition~~, whether filed
711 pursuant to subparagraph 1., subparagraph 2., subparagraph 4.,
712 or subparagraph 6. when there are 60 or fewer days until the
713 scheduled reelection of the board member sought to be recalled
714 or when 60 or fewer days have elapsed since the election of the
715 board member sought to be recalled.

716 (k) Mediation ~~Arbitration~~.—There shall be a provision for
717 mandatory mediation ~~nonbinding arbitration~~ as provided for in s.
718 718.1255 for any residential condominium.

719 ~~(p) Service providers; conflicts of interest. An~~
720 ~~association, which is not a timeshare condominium association,~~
721 ~~may not employ or contract with any service provider that is~~
722 ~~owned or operated by a board member or with any person who has a~~
723 ~~financial relationship with a board member or officer, or a~~
724 ~~relative within the third degree of consanguinity by blood or~~
725 ~~marriage of a board member or officer. This paragraph does not~~
726 ~~apply to a service provider in which a board member or officer,~~
727 ~~or a relative within the third degree of consanguinity by blood~~
728 ~~or marriage of a board member or officer, owns less than 1~~
729 ~~percent of the equity shares.~~

730 Section 6. Subsection (16) of section 718.117, Florida
731 Statutes, is amended to read:

732 718.117 Termination of condominium.—

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733 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest
734 a plan of termination by initiating a summary procedure pursuant
735 to s. 51.011 petition for mandatory nonbinding arbitration
736 pursuant to s. 718.1255 within 90 days after the date the plan
737 is recorded. A unit owner or lienor may only contest the
738 fairness and reasonableness of the apportionment of the proceeds
739 from the sale among the unit owners, that the liens of the first
740 mortgages of unit owners other than the bulk owner have not or
741 will not be satisfied to the extent required by subsection (3),
742 or that the required vote to approve the plan was not obtained.
743 A unit owner or lienor who does not contest the plan within the
744 90-day period is barred from asserting or prosecuting a claim
745 against the association, the termination trustee, any unit
746 owner, or any successor in interest to the condominium property.
747 In an action contesting a plan of termination, the person
748 contesting the plan has the burden of pleading and proving that
749 the apportionment of the proceeds from the sale among the unit
750 owners was not fair and reasonable or that the required vote was
751 not obtained. The apportionment of sale proceeds is presumed
752 fair and reasonable if it was determined pursuant to the methods
753 prescribed in subsection (12). The court ~~arbitrator~~ shall
754 determine the rights and interests of the parties in the
755 apportionment of the sale proceeds. If the court ~~arbitrator~~
756 determines that the apportionment of sales proceeds is not fair
757 and reasonable, the court ~~arbitrator~~ may void the plan or may

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758 modify the plan to apportion the proceeds in a fair and
759 reasonable manner pursuant to this section based upon the
760 proceedings and order the modified plan of termination to be
761 implemented. If the court arbitrator determines that the plan
762 was not properly approved, or that the procedures to adopt the
763 plan were not properly followed, the court arbitrator may void
764 the plan or grant other relief it deems just and proper. ~~The~~
765 ~~arbitrator shall automatically void the plan~~ Upon a finding that
766 any of the disclosures required in subparagraph (3)(c)5. are
767 omitted, misleading, incomplete, or inaccurate the bulk owner
768 shall be liable for any damages caused thereby as determined by
769 the court. Any challenge to a plan, other than a challenge that
770 the required vote was not obtained, does not affect title to the
771 condominium property or the vesting of the condominium property
772 in the trustee, but shall only be a claim against the proceeds
773 of the plan. In any such action, the prevailing party shall
774 recover reasonable attorney fees and costs.

775 Section 7. Section 718.1255, Florida Statutes, is amended
776 to read:

777 718.1255 Alternative dispute resolution; mandatory
778 ~~voluntary~~ mediation; ~~mandatory nonbinding arbitration;~~
779 legislative findings.-

780 (1) DEFINITIONS.-As used in this section, the term
781 "dispute" means any disagreement between two or more parties
782 that involves:

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783 (a) The authority of the board of directors, under this
784 chapter or association document to:

785 1. Require any owner to take any action, or not to take
786 any action, involving that owner's unit or the appurtenances
787 thereto.

788 2. Alter or add to a common area or element.

789 (b) The failure of a governing body, when required by this
790 chapter or an association document, to:

791 1. Maintain common elements, association property, or
792 portions of the unit for which the association is responsible
793 ~~Properly conduct elections.~~

794 2. Give adequate notice of meetings or other actions.

795 3. Properly conduct meetings of the board and committees
796 appointed by the board and membership meetings, but not any
797 election held at a meeting.

798 4. Allow inspection of books and records.

799 ~~(c) A plan of termination pursuant to s. 718.117.~~

800

801 "Dispute" does not include any disagreement that primarily
802 involves: title to any unit or common element; the
803 interpretation or enforcement of any warranty; the levy of a fee
804 or assessment, or the collection of an assessment levied against
805 a party; the eviction or other removal of a tenant from a unit;
806 alleged breaches of fiduciary duty by one or more directors; or
807 claims for damages to a unit based upon the alleged failure of

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808 the association to maintain the common elements or condominium
809 property.

810 ~~(2) VOLUNTARY MEDIATION. Voluntary mediation through~~
811 ~~Citizen Dispute Settlement Centers as provided for in s. 44.201~~
812 ~~is encouraged.~~

813 ~~(2)(3)~~ LEGISLATIVE FINDINGS.—

814 ~~(a)~~ The Legislature finds that alternative dispute
815 resolution has made progress in reducing court dockets and
816 trials and in offering a more efficient, cost-effective option
817 to court litigation. However, the Legislature also finds that
818 alternative dispute resolution should not be used as a mechanism
819 to encourage the filing of frivolous or nuisance suits. The
820 servicing of a demand for presuit mediation as provided for in
821 this section must toll the applicable statute of limitations
822 until 30 days after the mediator declares that the mediation is
823 concluded and no agreement has been reached, until 10 days after
824 the expiration of the time for a party to accept presuit
825 mediation, or until the conclusion of the period, under this
826 section, during which mediation must be conducted. ~~unit owners~~
827 ~~are frequently at a disadvantage when litigating against an~~
828 ~~association. Specifically, a condominium association, with its~~
829 ~~statutory assessment authority, is often more able to bear the~~
830 ~~costs and expenses of litigation than the unit owner who must~~
831 ~~rely on his or her own financial resources to satisfy the costs~~
832 ~~of litigation against the association.~~

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833 ~~(b) The Legislature finds that alternative dispute~~
834 ~~resolution has been making progress in reducing court dockets~~
835 ~~and trials and in offering a more efficient, cost-effective~~
836 ~~option to court litigation. However, the Legislature also finds~~
837 ~~that alternative dispute resolution should not be used as a~~
838 ~~mechanism to encourage the filing of frivolous or nuisance~~
839 ~~suits.~~

840 ~~(c) There exists a need to develop a flexible means of~~
841 ~~alternative dispute resolution that directs disputes to the most~~
842 ~~efficient means of resolution.~~

843 ~~(d) The high cost and significant delay of circuit court~~
844 ~~litigation faced by unit owners in the state can be alleviated~~
845 ~~by requiring nonbinding arbitration and mediation in appropriate~~
846 ~~eases, thereby reducing delay and attorney's fees while~~
847 ~~preserving the right of either party to have its case heard by a~~
848 ~~jury, if applicable, in a court of law.~~

849 (3)(4)(a) 1. As a condition precedent to a suit being filed
850 in court, disputes between an association and a unit owner must
851 be mediated pursuant to this subsection. Presuit mediation
852 proceedings must be conducted in accordance with the applicable
853 rules of the Florida Rules of Civil Procedure and with chapter
854 44. The proceedings under this section are privileged and
855 confidential to the same extent as court-ordered mediation.
856 Disputes subject to the condition precedent of mediation before
857 filing suit include all disputes between an association and a

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858 unit owner except the collection of any assessment, fine, or
859 other financial obligation, including attorney fees and costs,
860 claimed to be due; an action to enforce a prior mediation
861 settlement agreement between the parties; and suits where
862 preliminary injunctive relief is requested. Notwithstanding the
863 ability to file suit for injunctive relief without first
864 conducting mediation, the court hearing the request for
865 injunctive relief shall refer the parties to mediation once the
866 injunctive relief issues are determined, and may refer the
867 parties to a mediation program administered by the courts or may
868 require mediation under this section. Presuit mediation
869 conducted under this section is confidential to the fullest
870 extent provided by law. Except for the parties' counsel, a
871 corporate representative designated by the association, and a
872 representative from the association's insurance carrier, if
873 applicable, an individual who is not a party to the dispute may
874 not attend the presuit mediation conference without the consent
875 of all parties. When mediation is attended by a quorum of the
876 board, the mediation is not a board meeting for purposes of
877 notice and participation as set forth in s. 718.112. An
878 aggrieved party shall serve the responding party with a written
879 demand to participate in presuit mediation which is in
880 substantially the following form:

881

882 STATUTORY OFFER TO PARTICIPATE

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IN PRESUIT MEDIATION

The alleged aggrieved party,, hereby demands that, as the responding party, engage in mandatory presuit mediation in connection with the following disputes, which by statute are of a type that are subject to presuit mediation:

(List specific nature of the dispute or disputes to be mediated and the authority supporting a finding of a violation as to each dispute.)

Pursuant to section 718.1255, Florida Statutes, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in presuit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets

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908 with both parties and assists them in exploring possible
909 opportunities for resolving part or all of the dispute. By
910 agreeing to participate in presuit mediation, you are not bound
911 in any way to change your position. Furthermore, the mediator
912 has no authority to make any decisions in this matter or to
913 determine who is right or wrong; he or she merely acts as a
914 facilitator to ensure that each party understands the position
915 of the other party and that all options for reasonable
916 settlement are fully explored.

917
918 If an agreement is reached, it must be reduced to writing and
919 signed, at which time the agreement becomes a binding and
920 enforceable contract between the parties. A resolution of one or
921 more disputes in this fashion avoids the need to litigate those
922 issues in court. The failure of a party to participate in the
923 process or the failure of the parties to reach an agreement
924 during the mediation process results in the aggrieved party
925 being able to proceed to court on all outstanding and unsettled
926 disputes. If you fail or refuse to participate in the entire
927 mediation process, you will not be entitled to recover your
928 attorney fees, even if you prevail during the court process.

929
930 The aggrieved party has selected and hereby lists five Florida
931 Supreme Court certified circuit court civil mediators who the
932 aggrieved party believes to be qualified to mediate the dispute.

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933 You have the right to select any one of these mediators. The
934 fact that one party may be familiar with one or more of the
935 listed mediators does not mean that the mediator cannot act as a
936 neutral and impartial facilitator. Any mediator who cannot act
937 in this capacity is required ethically to decline to accept the
938 engagement. The mediators that we suggest, and their current
939 hourly rates, are as follows:

940

941 (List the names, physical addresses, e-mail addresses, telephone
942 numbers, and hourly rates of the mediators. Other pertinent
943 information about the backgrounds of the mediators may be
944 included as an attachment, including whether the mediator is
945 board certified by The Florida Bar in any practice area.)

946

947 By mutual agreement, and before accepting presuit mediation, we
948 can also select a mediator other than one of the certified
949 circuit court civil mediators named above as an alternate
950 mediator. The alternate mediator is not required to be certified
951 as a mediator by the Florida Supreme Court. The alternate
952 mediators that we suggest, and their hourly rates, are as
953 follows:

954

955 (List the names, physical addresses, e-mail addresses, telephone
956 numbers, and hourly rates of the alternate mediators. Other

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957 pertinent information about the backgrounds of the alternate
958 mediators may be included as an attachment.)

959
960 You may contact the offices of these mediators to confirm that
961 the listed mediators will be neutral and will not show any
962 favoritism toward either party. The Florida Supreme Court can
963 provide you a list of mediators who are certified in the area of
964 circuit civil law.

965
966 Unless otherwise agreed by the parties, section 718.1255(3)(d),
967 Florida Statutes, requires that the parties share equally the
968 costs of presuit mediation, including the fee charged by the
969 mediator. A typical mediation may require 3 to 4 hours of the
970 mediator's time, including preparation time. Parties who choose
971 to hire an attorney will pay their own attorney fees without a
972 guarantee that the court will issue an award for reimbursement
973 of the fees. However, the use of an attorney is not required.
974 The mediator may require an advance payment for some or all of
975 the anticipated fees. The aggrieved party hereby agrees to pay,
976 or prepay if requested by the mediator, one-half of the
977 mediator's estimated fees and to forward this amount or such
978 other reasonable advance deposits as the mediator requires. Any
979 funds you deposit will be returned to you if the deposited funds
980 are in excess of your share of the fees incurred.

981

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982 To begin your participation in presuit mediation to try to
983 resolve the dispute and avoid further legal action, please sign
984 below and clearly indicate which mediator is acceptable to you.
985 We will then ask the mediator to schedule a mutually convenient
986 time and place for the mediation conference to be held. The
987 mediation conference must be held within 90 days after the date
988 of acceptance of presuit mediation, unless extended by mutual
989 written agreement. In the event that you fail to respond within
990 30 days after the date of this letter, or if you fail to agree
991 to at least one of the mediators that we have suggested or fail
992 to pay or prepay to the mediator one-half of the fees involved,
993 the aggrieved party is authorized to proceed with the filing of
994 a lawsuit against you without further notice and may then seek
995 an award of attorney fees or costs incurred in attempting to
996 mediate this dispute.

997
998 Therefore, please give this matter your immediate attention. By
999 law, your response must be mailed by certified mail, return
1000 receipt requested, and by first-class mail to the address shown
1001 on this demand.

1002
1003
1004

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1006 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO
1007 THAT CHOICE.

1008
1009 AGREEMENT TO MEDIATE

1010
1011 The undersigned hereby agrees to participate in presuit
1012 mediation and agrees to attend a mediation conducted by the
1013 following mediator or mediators who are listed above as
1014 individuals who would be acceptable to mediate this dispute:

1015
1016 (List acceptable mediator or mediators.)

1017
1018 I/we further agree to pay or prepay one-half of the mediator's
1019 fees and to forward such advance deposits as the mediator may
1020 require for this purpose.

1021
1022
1023 Signature of responding party #1

1024
1025
1026 Telephone contact information

1027
1028

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1029 Signature and telephone contact information of responding party
1030 #2, if applicable. (If property is owned by more than one
1031 person, all owners must sign.)

1032
1033 2. The statutory demand must also contain the following
1034 statement in capitalized, bold letters in a font size larger
1035 than any other used in the statutory demand: A PERSON WHO FAILS
1036 OR REFUSES TO PARTICIPATE IN THE ENTIRE MEDIATION PROCESS IS
1037 PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN SUBSEQUENT
1038 LITIGATION RELATING TO THE DISPUTE.

1039 (b) Service of the statutory demand to participate in
1040 presuit mediation shall be effected by sending a letter in
1041 substantially the above form by certified mail, return receipt
1042 requested, with an additional copy being sent by regular first-
1043 class mail, to the address of the responding party as it last
1044 appears on the books and records of the association. The
1045 responding party shall serve a written response to the aggrieved
1046 party within 30 days after the date of the mailing of the
1047 statutory demand. The response must be sent by certified mail,
1048 return receipt requested, with an additional copy being sent by
1049 regular first-class mail, to the address shown on the statutory
1050 demand.

1051 (c) Once the parties have selected a mediator, the mediator
1052 shall schedule the mediation for a date and time mutually
1053 convenient to the parties. Each proposed mediator must be

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1054 available to hold the mediation in the county in which the
1055 condominium is located or within 40 miles of the condominium
1056 without charging extra for travel-related costs. If a presuit
1057 mediation session cannot be scheduled and concluded within 90
1058 days after the date of acceptance of presuit mediation and there
1059 is no agreement between the parties to extend the 90-day
1060 deadline, the condition precedent of conducting mediation before
1061 filing suit is satisfied and the aggrieved party may file suit.

1062 (d) The parties shall share equally the costs of presuit
1063 mediation, including any fee charged by the mediator, unless the
1064 parties agree otherwise. The mediator may require advance
1065 payment of his or her reasonable fees and costs, which must also
1066 be shared equally. The failure of any party to respond to a
1067 demand or response, to agree upon a mediator, to pay fees and
1068 costs within the time established by the mediator, or to fail to
1069 appear for a scheduled mediation session without the approval of
1070 the mediator constitutes the failure or refusal to participate
1071 in the mediation process and waives the condition precedent of
1072 presuit mediation, thereby entitling the other party to proceed
1073 in court and to seek an award of the costs and fees associated
1074 with the mediation. Additionally, and notwithstanding any other
1075 law, document, or contractual provision, any person who fails or
1076 refuses to participate in the entire mediation process may not
1077 recover attorney fees and costs in subsequent litigation
1078 relating to the dispute.

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1079 (e) If presuit mediation as described in paragraph (a) is
1080 not successful in resolving all issues between the parties, any
1081 party may file suit regarding the unresolved dispute in a court
1082 of competent jurisdiction. As to any issue or dispute that is
1083 not resolved at presuit mediation, and as to any issue that is
1084 settled at presuit mediation but is thereafter subject to an
1085 action seeking enforcement of the mediation settlement, the
1086 prevailing party in any subsequent litigation or proceeding
1087 shall be entitled to an award of all costs and attorney fees
1088 incurred in the presuit mediation process.

1089 (f) The parties may agree to a mediator who is not
1090 certified by the Florida Supreme Court. Unless such mediator is
1091 agreed upon, a mediator may not conduct mediation under this
1092 section unless he or she has been certified as a circuit court
1093 civil mediator pursuant to the requirements established by the
1094 Florida Supreme Court. Settlement agreements resulting from
1095 mediation do not have precedential value in proceedings
1096 involving parties other than those participating in the
1097 mediation to support either a claim or defense in other
1098 disputes. ~~MANDATORY NONBINDING ARBITRATION AND MEDIATION OF~~
1099 ~~DISPUTES. The Division of Florida Condominiums, Timeshares, and~~
1100 ~~Mobile Homes of the Department of Business and Professional~~
1101 ~~Regulation may employ full-time attorneys to act as arbitrators~~
1102 ~~to conduct the arbitration hearings provided by this chapter.~~
1103 ~~The division may also certify attorneys who are not employed by~~

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1104 ~~the division to act as arbitrators to conduct the arbitration~~
1105 ~~hearings provided by this chapter. No person may be employed by~~
1106 ~~the department as a full-time arbitrator unless he or she is a~~
1107 ~~member in good standing of The Florida Bar. A person may only be~~
1108 ~~certified by the division to act as an arbitrator if he or she~~
1109 ~~has been a member in good standing of The Florida Bar for at~~
1110 ~~least 5 years and has mediated or arbitrated at least 10~~
1111 ~~disputes involving condominiums in this state during the 3 years~~
1112 ~~immediately preceding the date of application, mediated or~~
1113 ~~arbitrated at least 30 disputes in any subject area in this~~
1114 ~~state during the 3 years immediately preceding the date of~~
1115 ~~application, or attained board certification in real estate law~~
1116 ~~or condominium and planned development law from The Florida Bar.~~
1117 ~~Arbitrator certification is valid for 1 year. An arbitrator who~~
1118 ~~does not maintain the minimum qualifications for initial~~
1119 ~~certification may not have his or her certification renewed. The~~
1120 ~~department may not enter into a legal services contract for an~~
1121 ~~arbitration hearing under this chapter with an attorney who is~~
1122 ~~not a certified arbitrator unless a certified arbitrator is not~~
1123 ~~available within 50 miles of the dispute. The department shall~~
1124 ~~adopt rules of procedure to govern such arbitration hearings~~
1125 ~~including mediation incident thereto. The decision of an~~
1126 ~~arbitrator shall be final; however, a decision shall not be~~
1127 ~~deemed final agency action. Nothing in this provision shall be~~
1128 ~~construed to foreclose parties from proceeding in a trial de~~

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1129 ~~no~~ unless the parties have agreed that the arbitration is
1130 binding. If judicial proceedings are initiated, the final
1131 decision of the arbitrator shall be admissible in evidence in
1132 the trial de novo.

1133 ~~(a) Prior to the institution of court litigation, a party~~
1134 ~~to a dispute shall petition the division for nonbinding~~
1135 ~~arbitration. The petition must be accompanied by a filing fee in~~
1136 ~~the amount of \$50. Filing fees collected under this section must~~
1137 ~~be used to defray the expenses of the alternative dispute~~
1138 ~~resolution program.~~

1139 ~~(b) The petition must recite, and have attached thereto,~~
1140 ~~supporting proof that the petitioner gave the respondents:~~

1141 ~~1. Advance written notice of the specific nature of the~~
1142 ~~dispute;~~

1143 ~~2. A demand for relief, and a reasonable opportunity to~~
1144 ~~comply or to provide the relief; and~~

1145 ~~3. Notice of the intention to file an arbitration petition~~
1146 ~~or other legal action in the absence of a resolution of the~~
1147 ~~dispute.~~

1148
1149 ~~Failure to include the allegations or proof of compliance with~~
1150 ~~these prerequisites requires dismissal of the petition without~~
1151 ~~prejudice.~~

1152 ~~(c) Upon receipt, the petition shall be promptly reviewed~~
1153 ~~by the division to determine the existence of a dispute and~~

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1154 ~~compliance with the requirements of paragraphs (a) and (b). If~~
1155 ~~emergency relief is required and is not available through~~
1156 ~~arbitration, a motion to stay the arbitration may be filed. The~~
1157 ~~motion must be accompanied by a verified petition alleging facts~~
1158 ~~that, if proven, would support entry of a temporary injunction,~~
1159 ~~and if an appropriate motion and supporting papers are filed,~~
1160 ~~the division may abate the arbitration pending a court hearing~~
1161 ~~and disposition of a motion for temporary injunction.~~

1162 ~~(d) Upon determination by the division that a dispute~~
1163 ~~exists and that the petition substantially meets the~~
1164 ~~requirements of paragraphs (a) and (b) and any other applicable~~
1165 ~~rules, the division shall assign or enter into a contract with~~
1166 ~~an arbitrator and serve a copy of the petition upon all~~
1167 ~~respondents. The arbitrator shall conduct a hearing within 30~~
1168 ~~days after being assigned or entering into a contract unless the~~
1169 ~~petition is withdrawn or a continuance is granted for good cause~~
1170 ~~shown.~~

1171 ~~(e) Before or after the filing of the respondents' answer~~
1172 ~~to the petition, any party may request that the arbitrator refer~~
1173 ~~the case to mediation under this section and any rules adopted~~
1174 ~~by the division. Upon receipt of a request for mediation, the~~
1175 ~~division shall promptly contact the parties to determine if~~
1176 ~~there is agreement that mediation would be appropriate. If all~~
1177 ~~parties agree, the dispute must be referred to mediation.~~

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1178 ~~Notwithstanding a lack of an agreement by all parties, the~~
1179 ~~arbitrator may refer a dispute to mediation at any time.~~

1180 ~~(f) Upon referral of a case to mediation, the parties must~~
1181 ~~select a mutually acceptable mediator. To assist in the~~
1182 ~~selection, the arbitrator shall provide the parties with a list~~
1183 ~~of both volunteer and paid mediators that have been certified by~~
1184 ~~the division under s. 718.501. If the parties are unable to~~
1185 ~~agree on a mediator within the time allowed by the arbitrator,~~
1186 ~~the arbitrator shall appoint a mediator from the list of~~
1187 ~~certified mediators. If a case is referred to mediation, the~~
1188 ~~parties shall attend a mediation conference, as scheduled by the~~
1189 ~~parties and the mediator. If any party fails to attend a duly~~
1190 ~~noticed mediation conference, without the permission or approval~~
1191 ~~of the arbitrator or mediator, the arbitrator must impose~~
1192 ~~sanctions against the party, including the striking of any~~
1193 ~~pleadings filed, the entry of an order of dismissal or default~~
1194 ~~if appropriate, and the award of costs and attorney fees~~
1195 ~~incurred by the other parties. Unless otherwise agreed to by the~~
1196 ~~parties or as provided by order of the arbitrator, a party is~~
1197 ~~deemed to have appeared at a mediation conference by the~~
1198 ~~physical presence of the party or its representative having full~~
1199 ~~authority to settle without further consultation, provided that~~
1200 ~~an association may comply by having one or more representatives~~
1201 ~~present with full authority to negotiate a settlement and~~
1202 ~~recommend that the board of administration ratify and approve~~

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1203 ~~such a settlement within 5 days from the date of the mediation~~
1204 ~~conference. The parties shall share equally the expense of~~
1205 ~~mediation, unless they agree otherwise.~~

1206 ~~(g) The purpose of mediation as provided for by this~~
1207 ~~section is to present the parties with an opportunity to resolve~~
1208 ~~the underlying dispute in good faith, and with a minimum~~
1209 ~~expenditure of time and resources.~~

1210 ~~(h) Mediation proceedings must generally be conducted in~~
1211 ~~accordance with the Florida Rules of Civil Procedure, and these~~
1212 ~~proceedings are privileged and confidential to the same extent~~
1213 ~~as court-ordered mediation. Persons who are not parties to the~~
1214 ~~dispute are not allowed to attend the mediation conference~~
1215 ~~without the consent of all parties, with the exception of~~
1216 ~~counsel for the parties and corporate representatives designated~~
1217 ~~to appear for a party. If the mediator declares an impasse after~~
1218 ~~a mediation conference has been held, the arbitration proceeding~~
1219 ~~terminates, unless all parties agree in writing to continue the~~
1220 ~~arbitration proceeding, in which case the arbitrator's decision~~
1221 ~~shall be binding or nonbinding, as agreed upon by the parties;~~
1222 ~~in the arbitration proceeding, the arbitrator shall not consider~~
1223 ~~any evidence relating to the unsuccessful mediation except in a~~
1224 ~~proceeding to impose sanctions for failure to appear at the~~
1225 ~~mediation conference. If the parties do not agree to continue~~
1226 ~~arbitration, the arbitrator shall enter an order of dismissal,~~
1227 ~~and either party may institute a suit in a court of competent~~

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1228 ~~jurisdiction. The parties may seek to recover any costs and~~
1229 ~~attorney fees incurred in connection with arbitration and~~
1230 ~~mediation proceedings under this section as part of the costs~~
1231 ~~and fees that may be recovered by the prevailing party in any~~
1232 ~~subsequent litigation.~~

1233 ~~(i) Arbitration shall be conducted according to rules~~
1234 ~~adopted by the division. The filing of a petition for~~
1235 ~~arbitration shall toll the applicable statute of limitations.~~

1236 ~~(j) At the request of any party to the arbitration, the~~
1237 ~~arbitrator shall issue subpoenas for the attendance of witnesses~~
1238 ~~and the production of books, records, documents, and other~~
1239 ~~evidence and any party on whose behalf a subpoena is issued may~~
1240 ~~apply to the court for orders compelling such attendance and~~
1241 ~~production. Subpoenas shall be served and shall be enforceable~~
1242 ~~in the manner provided by the Florida Rules of Civil Procedure.~~
1243 ~~Discovery may, in the discretion of the arbitrator, be permitted~~
1244 ~~in the manner provided by the Florida Rules of Civil Procedure.~~
1245 ~~Rules adopted by the division may authorize any reasonable~~
1246 ~~sanctions except contempt for a violation of the arbitration~~
1247 ~~procedural rules of the division or for the failure of a party~~
1248 ~~to comply with a reasonable nonfinal order issued by an~~
1249 ~~arbitrator which is not under judicial review.~~

1250 ~~(k) The arbitration decision shall be rendered within 30~~
1251 ~~days after the hearing and presented to the parties in writing.~~
1252 ~~An arbitration decision is final in those disputes in which the~~

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1253 ~~parties have agreed to be bound. An arbitration decision is also~~
1254 ~~final if a complaint for a trial de novo is not filed in a court~~
1255 ~~of competent jurisdiction in which the condominium is located~~
1256 ~~within 30 days. The right to file for a trial de novo entitles~~
1257 ~~the parties to file a complaint in the appropriate trial court~~
1258 ~~for a judicial resolution of the dispute. The prevailing party~~
1259 ~~in an arbitration proceeding shall be awarded the costs of the~~
1260 ~~arbitration and reasonable attorney fees in an amount determined~~
1261 ~~by the arbitrator. Such an award shall include the costs and~~
1262 ~~reasonable attorney fees incurred in the arbitration proceeding~~
1263 ~~as well as the costs and reasonable attorney fees incurred in~~
1264 ~~preparing for and attending any scheduled mediation. An~~
1265 ~~arbitrator's failure to render a written decision within 30 days~~
1266 ~~after the hearing may result in the cancellation of his or her~~
1267 ~~arbitration certification.~~

1268 ~~(1) The party who files a complaint for a trial de novo~~
1269 ~~shall be assessed the other party's arbitration costs, court~~
1270 ~~costs, and other reasonable costs, including attorney fees,~~
1271 ~~investigation expenses, and expenses for expert or other~~
1272 ~~testimony or evidence incurred after the arbitration hearing if~~
1273 ~~the judgment upon the trial de novo is not more favorable than~~
1274 ~~the arbitration decision. If the judgment is more favorable, the~~
1275 ~~party who filed a complaint for trial de novo shall be awarded~~
1276 ~~reasonable court costs and attorney fees.~~

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1277 ~~(m) Any party to an arbitration proceeding may enforce an~~
1278 ~~arbitration award by filing a petition in a court of competent~~
1279 ~~jurisdiction in which the condominium is located. A petition may~~
1280 ~~not be granted unless the time for appeal by the filing of a~~
1281 ~~complaint for trial de novo has expired. If a complaint for a~~
1282 ~~trial de novo has been filed, a petition may not be granted with~~
1283 ~~respect to an arbitration award that has been stayed. If the~~
1284 ~~petition for enforcement is granted, the petitioner shall~~
1285 ~~recover reasonable attorney fees and costs incurred in enforcing~~
1286 ~~the arbitration award. A mediation settlement may also be~~
1287 ~~enforced through the county or circuit court, as applicable, and~~
1288 ~~any costs and fees incurred in the enforcement of a settlement~~
1289 ~~agreement reached at mediation must be awarded to the prevailing~~
1290 ~~party in any enforcement action.~~

1291 ~~(5) DISPUTES INVOLVING ELECTION IRREGULARITIES. Every~~
1292 ~~arbitration petition received by the division and required to be~~
1293 ~~filed under this section challenging the legality of the~~
1294 ~~election of any director of the board of administration must be~~
1295 ~~handled on an expedited basis in the manner provided by the~~
1296 ~~division's rules for recall arbitration disputes.~~

1297 ~~(4)(6)~~ APPLICABILITY.—This section does not apply to a
1298 nonresidential condominium unless otherwise specifically
1299 provided for in the declaration of the nonresidential
1300 condominium.

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1301 Section 8. Paragraph (b) of subsection (3) of section
1302 718.303, Florida Statutes, is amended to read:

1303 718.303 Obligations of owners and occupants; remedies.—

1304 (3) The association may levy reasonable fines for the
1305 failure of the owner of the unit or its occupant, licensee, or
1306 invitee to comply with any provision of the declaration, the
1307 association bylaws, or reasonable rules of the association. A
1308 fine may not become a lien against a unit. A fine may be levied
1309 by the board on the basis of each day of a continuing violation,
1310 with a single notice and opportunity for hearing before a
1311 committee as provided in paragraph (b). However, the fine may
1312 not exceed \$100 per violation, or \$1,000 in the aggregate.

1313 (b) A fine or suspension levied by the board of
1314 administration may not be imposed unless the board first
1315 provides at least 14 days' written notice to the unit owner and,
1316 if applicable, any occupant, licensee, or invitee of the unit
1317 owner sought to be fined or suspended, and an opportunity for a
1318 hearing before a committee of at least three members appointed
1319 by the board who are not officers, directors, or employees of
1320 the association, or the spouse, parent, child, brother, or
1321 sister of an officer, director, or employee. The role of the
1322 committee is limited to determining whether to confirm or reject
1323 the fine or suspension levied by the board. If the committee
1324 does not approve the proposed fine or suspension by majority
1325 vote, the fine or suspension may not be imposed. If the proposed

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1326 fine or suspension is approved by the committee, the fine
1327 payment is due 5 days after notice of the approved fine is
1328 provided to the unit owner and, if applicable, to any tenant,
1329 licensee, or invitee of the unit owner ~~the date of the committee~~
1330 ~~meeting at which the fine is approved.~~ The association must
1331 provide written notice of such fine or suspension by mail or
1332 hand delivery to the unit owner and, if applicable, to any
1333 tenant, licensee, or invitee of the unit owner.

1334 Section 9. Paragraphs (m) through (s) are relettered as
1335 paragraphs (l) through (r), and paragraph (l) of subsection (1)
1336 of section 718.501, Florida Statutes, is amended to read:

1337 718.501 Authority, responsibility, and duties of Division
1338 of Florida Condominiums, Timeshares, and Mobile Homes.—

1339 (1) The division may enforce and ensure compliance with
1340 ~~the provisions of this~~ chapter and rules relating to the
1341 development, construction, sale, lease, ownership, operation,
1342 and management of residential condominium units. In performing
1343 its duties, the division has complete jurisdiction to
1344 investigate complaints and enforce compliance with respect to
1345 associations that are still under developer control or the
1346 control of a bulk assignee or bulk buyer pursuant to part VII of
1347 this chapter and complaints against developers, bulk assignees,
1348 or bulk buyers involving improper turnover or failure to
1349 turnover, pursuant to s. 718.301. However, after turnover has
1350 occurred, the division has jurisdiction to investigate

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1351 complaints related only to financial issues, elections, and unit
1352 owner access to association records pursuant to s. 718.111(12).

1353 ~~(1) The division shall develop a program to certify both~~
1354 ~~volunteer and paid mediators to provide mediation of condominium~~
1355 ~~disputes. The division shall provide, upon request, a list of~~
1356 ~~such mediators to any association, unit owner, or other~~
1357 ~~participant in arbitration proceedings under s. 718.1255~~
1358 ~~requesting a copy of the list. The division shall include on the~~
1359 ~~list of volunteer mediators only the names of persons who have~~
1360 ~~received at least 20 hours of training in mediation techniques~~
1361 ~~or who have mediated at least 20 disputes. In order to become~~
1362 ~~initially certified by the division, paid mediators must be~~
1363 ~~certified by the Supreme Court to mediate court cases in county~~
1364 ~~or circuit courts. However, the division may adopt, by rule,~~
1365 ~~additional factors for the certification of paid mediators,~~
1366 ~~which must be related to experience, education, or background.~~
1367 ~~Any person initially certified as a paid mediator by the~~
1368 ~~division must, in order to continue to be certified, comply with~~
1369 ~~the factors or requirements adopted by rule.~~

1370 Section 10. Section 718.5014, Florida Statutes, is amended
1371 to read:

1372 718.5014 Ombudsman location.—The ombudsman shall maintain
1373 his or her principal office in ~~Leon County on the premises of~~
1374 ~~the division or, if suitable space cannot be provided there, at~~
1375 any another place convenient to the offices of the division

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1376 which will enable the ombudsman to expeditiously carry out the
1377 duties and functions of his or her office. The ombudsman may
1378 establish branch offices elsewhere in the state upon the
1379 concurrence of the Governor.

1380 Section 11. Subsection (25) of section 719.103, Florida
1381 Statutes, is amended to read:

1382 719.103 Definitions.—As used in this chapter:

1383 (25) "Unit" means a part of the cooperative property which
1384 is subject to exclusive use and possession. A unit may be
1385 improvements, land, or land and improvements together, as
1386 specified in the cooperative documents. An interest in a unit is
1387 an interest in real property.

1388 Section 12. Paragraph (c) of subsection (2) of section
1389 719.104, Florida Statutes, is amended to read:

1390 719.104 Cooperatives; access to units; records; financial
1391 reports; assessments; purchase of leases.—

1392 (2) OFFICIAL RECORDS.—

1393 (c) The official records of the association are open to
1394 inspection by any association member or the authorized
1395 representative of such member at all reasonable times. The right
1396 to inspect the records includes the right to make or obtain
1397 copies, at the reasonable expense, if any, of the association
1398 member. The association may adopt reasonable rules regarding the
1399 frequency, time, location, notice, and manner of record
1400 inspections and copying, but may not require a member to

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1401 demonstrate any purpose for the inspection or state any reason
1402 for the inspection. The failure of an association to provide the
1403 records within 10 working days after receipt of a written
1404 request creates a rebuttable presumption that the association
1405 willfully failed to comply with this paragraph. A unit owner who
1406 is denied access to official records is entitled to the actual
1407 damages or minimum damages for the association's willful failure
1408 to comply. The minimum damages are \$50 per calendar day for up
1409 to 10 days, beginning on the 11th working day after receipt of
1410 the written request. The failure to permit inspection entitles
1411 any person prevailing in an enforcement action to recover
1412 reasonable attorney fees from the person in control of the
1413 records who, directly or indirectly, knowingly denied access to
1414 the records. Any person who knowingly or intentionally defaces
1415 or destroys accounting records that are required by this chapter
1416 to be maintained during the period for which such records are
1417 required to be maintained, or who knowingly or intentionally
1418 fails to create or maintain accounting records that are required
1419 to be created or maintained, with the intent of causing harm to
1420 the association or one or more of its members, is personally
1421 subject to a civil penalty pursuant to s. 719.501(1)(d). The
1422 association shall maintain an adequate number of copies of the
1423 declaration, articles of incorporation, bylaws, and rules, and
1424 all amendments to each of the foregoing, as well as the question
1425 and answer sheet as described in s. 719.504 and year-end

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1426 financial information required by the department, on the
1427 cooperative property to ensure their availability to unit owners
1428 and prospective purchasers, and may charge its actual costs for
1429 preparing and furnishing these documents to those requesting the
1430 same. An association shall allow a member or his or her
1431 authorized representative to use a portable device, including a
1432 smartphone, tablet, portable scanner, or any other technology
1433 capable of scanning or taking photographs, to make an electronic
1434 copy of the official records in lieu of the association
1435 providing the member or his or her authorized representative
1436 with a copy of such records. The association may not charge a
1437 member or his or her authorized representative for the use of a
1438 portable device. Notwithstanding this paragraph, the following
1439 records shall not be accessible to unit owners:

1440 1. Any record protected by the lawyer-client privilege as
1441 described in s. 90.502 and any record protected by the work-
1442 product privilege, including any record prepared by an
1443 association attorney or prepared at the attorney's express
1444 direction which reflects a mental impression, conclusion,
1445 litigation strategy, or legal theory of the attorney or the
1446 association, and which was prepared exclusively for civil or
1447 criminal litigation or for adversarial administrative
1448 proceedings, or which was prepared in anticipation of such
1449 litigation or proceedings until the conclusion of the litigation
1450 or proceedings.

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1451 2. Information obtained by an association in connection
1452 with the approval of the lease, sale, or other transfer of a
1453 unit.

1454 3. Personnel records of association or management company
1455 employees, including, but not limited to, disciplinary, payroll,
1456 health, and insurance records. For purposes of this
1457 subparagraph, the term "personnel records" does not include
1458 written employment agreements with an association employee or
1459 management company, or budgetary or financial records that
1460 indicate the compensation paid to an association employee.

1461 4. Medical records of unit owners.

1462 5. Social security numbers, driver license numbers, credit
1463 card numbers, e-mail addresses, telephone numbers, facsimile
1464 numbers, emergency contact information, addresses of a unit
1465 owner other than as provided to fulfill the association's notice
1466 requirements, and other personal identifying information of any
1467 person, excluding the person's name, unit designation, mailing
1468 address, property address, and any address, e-mail address, or
1469 facsimile number provided to the association to fulfill the
1470 association's notice requirements. Notwithstanding the
1471 restrictions in this subparagraph, an association may print and
1472 distribute to parcel owners a directory containing the name,
1473 parcel address, and all telephone numbers of each parcel owner.
1474 However, an owner may exclude his or her telephone numbers from
1475 the directory by so requesting in writing to the association. An

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1476 owner may consent in writing to the disclosure of other contact
1477 information described in this subparagraph. The association is
1478 not liable for the inadvertent disclosure of information that is
1479 protected under this subparagraph if the information is included
1480 in an official record of the association and is voluntarily
1481 provided by an owner and not requested by the association.

1482 6. Electronic security measures that are used by the
1483 association to safeguard data, including passwords.

1484 7. The software and operating system used by the
1485 association which allow the manipulation of data, even if the
1486 owner owns a copy of the same software used by the association.
1487 The data is part of the official records of the association.

1488 Section 13. Paragraphs (b), (f), and (l) of subsection (1)
1489 of section 719.106, Florida Statutes, are amended to read:

1490 719.106 Bylaws; cooperative ownership.—

1491 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1492 documents shall provide for the following, and if they do not,
1493 they shall be deemed to include the following:

1494 (b) Quorum; voting requirements; proxies.—

1495 1. Unless otherwise provided in the bylaws, the percentage
1496 of voting interests required to constitute a quorum at a meeting
1497 of the members shall be a majority of voting interests, and
1498 decisions shall be made by owners of a majority of the voting
1499 interests. Unless otherwise provided in this chapter, or in the
1500 articles of incorporation, bylaws, or other cooperative

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1501 documents, and except as provided in subparagraph (d)1.,
1502 decisions shall be made by owners of a majority of the voting
1503 interests represented at a meeting at which a quorum is present.
1504 2. Except as specifically otherwise provided herein, after
1505 January 1, 1992, unit owners may not vote by general proxy, but
1506 may vote by limited proxies substantially conforming to a
1507 limited proxy form adopted by the division. Limited proxies and
1508 general proxies may be used to establish a quorum. Limited
1509 proxies shall be used for votes taken to waive or reduce
1510 reserves in accordance with subparagraph (j)2., for votes taken
1511 to waive the financial reporting requirements of s.
1512 719.104(4)(b), for votes taken to amend the articles of
1513 incorporation or bylaws pursuant to this section, and for any
1514 other matter for which this chapter requires or permits a vote
1515 of the unit owners. Except as provided in paragraph (d), after
1516 January 1, 1992, no proxy, limited or general, shall be used in
1517 the election of board members. General proxies may be used for
1518 other matters for which limited proxies are not required, and
1519 may also be used in voting for nonsubstantive changes to items
1520 for which a limited proxy is required and given. Notwithstanding
1521 the provisions of this section, unit owners may vote in person
1522 at unit owner meetings. Nothing contained herein shall limit the
1523 use of general proxies or require the use of limited proxies or
1524 require the use of limited proxies for any agenda item or
1525 election at any meeting of a timeshare cooperative.

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1526 3. Any proxy given shall be effective only for the
1527 specific meeting for which originally given and any lawfully
1528 adjourned meetings thereof. In no event shall any proxy be valid
1529 for a period longer than 90 days after the date of the first
1530 meeting for which it was given. Every proxy shall be revocable
1531 at any time at the pleasure of the unit owner executing it.

1532 4. A member of the board of administration or a committee
1533 may submit in writing his or her agreement or disagreement with
1534 any action taken at a meeting that the member did not attend.
1535 This agreement or disagreement may not be used as a vote for or
1536 against the action taken and may not be used for the purposes of
1537 creating a quorum.

1538 5. A board or committee member's participation in a
1539 meeting via telephone, real-time video conferencing, or similar
1540 real-time electronic or video communication counts toward a
1541 quorum, and such member may vote as if physically present. A
1542 speaker must be used so that the conversation of such members
1543 may be heard by the board or committee members attending in
1544 person as well as by any unit owners present at a meeting ~~When~~
1545 ~~some or all of the board or committee members meet by telephone~~
1546 ~~conference, those board or committee members attending by~~
1547 ~~telephone conference may be counted toward obtaining a quorum~~
1548 ~~and may vote by telephone. A telephone speaker shall be utilized~~
1549 ~~so that the conversation of those board or committee members~~
1550 ~~attending by telephone may be heard by the board or committee~~

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1551 ~~members attending in person, as well as by unit owners present~~
1552 ~~at a meeting.~~

1553 (f) Recall of board members.—Subject to s. 719.301, any
1554 member of the board of administration may be recalled and
1555 removed from office with or without cause by the vote or
1556 agreement in writing by a majority of all the voting interests.
1557 A special meeting of the voting interests to recall any member
1558 of the board of administration may be called by 10 percent of
1559 the unit owners giving notice of the meeting as required for a
1560 meeting of unit owners, and the notice shall state the purpose
1561 of the meeting. Electronic transmission may not be used as a
1562 method of giving notice of a meeting called in whole or in part
1563 for this purpose.

1564 1. If the recall is approved by a majority of all voting
1565 interests by a vote at a meeting, the recall shall be effective
1566 as provided in this paragraph. The board shall duly notice and
1567 hold a board meeting within 5 full business days after the
1568 adjournment of the unit owner meeting to recall one or more
1569 board members. At the meeting, the board shall either certify
1570 the recall, in which case such member or members shall be
1571 recalled effective immediately and shall turn over to the board
1572 within 5 full business days any and all records and property of
1573 the association in their possession, or shall proceed as set
1574 forth in subparagraph 3.

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1575 2. If the proposed recall is by an agreement in writing by
1576 a majority of all voting interests, the agreement in writing or
1577 a copy thereof shall be served on the association by certified
1578 mail or by personal service in the manner authorized by chapter
1579 48 and the Florida Rules of Civil Procedure. The board of
1580 administration shall duly notice and hold a meeting of the board
1581 within 5 full business days after receipt of the agreement in
1582 writing. Such member or members must be recalled effective
1583 immediately upon the conclusion of the board meeting, provided
1584 that the recall is facially valid. A recalled member shall turn
1585 over to the board, within 10 full business days after the date
1586 of the recall, any and all records and property of the
1587 association in his or her possession ~~At the meeting, the board~~
1588 ~~shall either certify the written agreement to recall members of~~
1589 ~~the board, in which case such members shall be recalled~~
1590 ~~effective immediately and shall turn over to the board, within 5~~
1591 ~~full business days, any and all records and property of the~~
1592 ~~association in their possession, or proceed as described in~~
1593 ~~subparagraph 3.~~

1594 ~~3. If the board determines not to certify the written~~
1595 ~~agreement to recall members of the board, or does not certify~~
1596 ~~the recall by a vote at a meeting, the board shall, within 5~~
1597 ~~full business days after the board meeting, file with the~~
1598 ~~division a petition for binding arbitration pursuant to the~~
1599 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~

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1600 ~~unit owners who voted at the meeting or who executed the~~
1601 ~~agreement in writing shall constitute one party under the~~
1602 ~~petition for arbitration. If the arbitrator certifies the recall~~
1603 ~~as to any member of the board, the recall shall be effective~~
1604 ~~upon mailing of the final order of arbitration to the~~
1605 ~~association. If the association fails to comply with the order~~
1606 ~~of the arbitrator, the division may take action pursuant to s.~~
1607 ~~719.501. Any member so recalled shall deliver to the board any~~
1608 ~~and all records and property of the association in the member's~~
1609 ~~possession within 5 full business days after the effective date~~
1610 ~~of the recall.~~

1611 ~~3.4.~~ If the board fails to duly notice and hold a board
1612 meeting within 5 full business days after service of an
1613 agreement in writing or within 5 full business days after the
1614 adjournment of the unit owner recall meeting, the recall shall
1615 be deemed effective and the board members so recalled shall
1616 immediately turn over to the board any and all records and
1617 property of the association.

1618 ~~4.5.~~ If the board fails to duly notice and hold the
1619 required meeting or at the conclusion of the meeting determines
1620 that the recall is not facially valid, the unit owner
1621 representative may file an action pursuant to s. 718.1255
1622 challenging the board's failure to act or challenging the
1623 board's determination on facial validity. The action must be
1624 filed within 60 days after the expiration of the applicable 5-

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1625 full-business-day period. The review of an action under this
1626 subparagraph is limited to the sufficiency of service on the
1627 board and the facial validity of the written agreement or
1628 ballots filed ~~fails to file the required petition, the unit~~
1629 ~~owner representative may file a petition pursuant to s. 719.1255~~
1630 ~~challenging the board's failure to act. The petition must be~~
1631 ~~filed within 60 days after the expiration of the applicable 5-~~
1632 ~~full-business-day period. The review of a petition under this~~
1633 ~~subparagraph is limited to the sufficiency of service on the~~
1634 ~~board and the facial validity of the written agreement or~~
1635 ~~ballots filed.~~

1636 ~~5.6.~~ If a vacancy occurs on the board as a result of a
1637 recall or removal and less than a majority of the board members
1638 are removed, the vacancy may be filled by the affirmative vote
1639 of a majority of the remaining directors, notwithstanding any
1640 provision to the contrary contained in this subsection ~~chapter~~.
1641 If vacancies occur on the board as a result of a recall and a
1642 majority or more of the board members are removed, the vacancies
1643 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~
1644 ~~rules to be adopted by the division, which rules need not be~~
1645 ~~consistent with this chapter. The rules must provide procedures~~
1646 ~~governing the conduct of the recall election as well as the~~
1647 ~~operation of the association during the period after a recall~~
1648 ~~but before the recall election.~~

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1649 ~~6.7.~~ A board member who has been recalled may file an
1650 action ~~a petition~~ pursuant to s. 719.1255 challenging the
1651 validity of the recall. The action ~~petition~~ must be filed within
1652 60 days after the recall is deemed certified. The association
1653 and the unit owner representative shall be named as the
1654 defendants ~~respondents~~.

1655 ~~7.8.~~ An action may not be filed regarding ~~The division may~~
1656 ~~not accept for filing~~ a recall petition, whether filed pursuant
1657 to subparagraph 1., subparagraph 2., subparagraph 5., or
1658 subparagraph 7. and regardless of whether the recall was
1659 certified, when there are 60 or fewer days until the scheduled
1660 reelection of the board member sought to be recalled or when 60
1661 or fewer days have not elapsed since the election of the board
1662 member sought to be recalled.

1663 (1) Mediation ~~Arbitration~~.—There shall be a provision for
1664 mandatory nonbinding mediation ~~arbitration~~ of internal disputes
1665 arising from the operation of the cooperative in accordance with
1666 s. 719.1255.

1667 Section 14. Section 719.1255, Florida Statutes, is amended
1668 to read:

1669 719.1255 Alternative resolution of disputes. ~~The Division~~
1670 ~~of Florida Condominiums, Timeshares, and Mobile Homes of the~~
1671 ~~Department of Business and Professional Regulation shall provide~~
1672 ~~for~~ Alternative dispute resolution in accordance with s.
1673 718.1255.

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1674 Section 15. Paragraph (n) of subsection (1) of section
1675 719.501, Florida Statutes, is amended to read:

1676 719.501 Powers and duties of Division of Florida
1677 Condominiums, Timeshares, and Mobile Homes.—

1678 (1) The Division of Florida Condominiums, Timeshares, and
1679 Mobile Homes of the Department of Business and Professional
1680 Regulation, referred to as the "division" in this part, in
1681 addition to other powers and duties prescribed by chapter 718,
1682 has the power to enforce and ensure compliance with this chapter
1683 and adopted rules relating to the development, construction,
1684 sale, lease, ownership, operation, and management of residential
1685 cooperative units. In performing its duties, the division shall
1686 have the following powers and duties:

1687 ~~(n) The division shall develop a program to certify both~~
1688 ~~volunteer and paid mediators to provide mediation of cooperative~~
1689 ~~disputes. The division shall provide, upon request, a list of~~
1690 ~~such mediators to any association, unit owner, or other~~
1691 ~~participant in arbitration proceedings under s. 718.1255~~
1692 ~~requesting a copy of the list. The division shall include on the~~
1693 ~~list of voluntary mediators only persons who have received at~~
1694 ~~least 20 hours of training in mediation techniques or have~~
1695 ~~mediated at least 20 disputes. In order to become initially~~
1696 ~~certified by the division, paid mediators must be certified by~~
1697 ~~the Supreme Court to mediate court cases in county or circuit~~
1698 ~~courts. However, the division may adopt, by rule, additional~~

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1699 ~~factors for the certification of paid mediators, which factors~~
1700 ~~must be related to experience, education, or background. Any~~
1701 ~~person initially certified as a paid mediator by the division~~
1702 ~~must, in order to continue to be certified, comply with the~~
1703 ~~factors or requirements imposed by rules adopted by the~~
1704 ~~division.~~

1705 Section 16. Paragraph (c) of subsection (2), paragraph (l)
1706 of subsection (4), and paragraphs (d), (g), (h), (k), and (l) of
1707 subsection (10) of section 720.303, Florida Statutes, are
1708 amended, and paragraph (m) is added to subsection (4), to read:

1709 720.303 Association powers and duties; meetings of board;
1710 official records; budgets; financial reporting; association
1711 funds; recalls.—

1712 (2) BOARD MEETINGS.—

1713 (c) The bylaws shall provide the following for giving
1714 notice to parcel owners and members of all board meetings and,
1715 if they do not do so, shall be deemed to include the following:

1716 1. Notices of all board meetings must be posted in a
1717 conspicuous place in the community at least 48 hours in advance
1718 of a meeting, except in an emergency. In the alternative, if
1719 notice is not posted in a conspicuous place in the community,
1720 notice of each board meeting must be mailed or delivered to each
1721 member at least 7 days before the meeting, except in an
1722 emergency. Notwithstanding this general notice requirement, for
1723 communities with more than 100 members, the association bylaws

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1724 may provide for a reasonable alternative to posting or mailing
1725 of notice for each board meeting, including publication of
1726 notice, provision of a schedule of board meetings, or the
1727 conspicuous posting and repeated broadcasting of the notice on a
1728 closed-circuit cable television system serving the homeowners'
1729 association. However, if broadcast notice is used in lieu of a
1730 notice posted physically in the community, the notice must be
1731 broadcast at least four times every broadcast hour of each day
1732 that a posted notice is otherwise required. When broadcast
1733 notice is provided, the notice and agenda must be broadcast in a
1734 manner and for a sufficient continuous length of time so as to
1735 allow an average reader to observe the notice and read and
1736 comprehend the entire content of the notice and the agenda. In
1737 addition to any of the authorized means of providing notice of a
1738 meeting of the board, the association may, by rule, adopt a
1739 procedure for conspicuously posting the meeting notice and the
1740 agenda on a website serving the association for at least the
1741 minimum period of time for which a notice of a meeting is also
1742 required to be physically posted on the association property.
1743 Any rule adopted shall, in addition to other matters, include a
1744 requirement that the association send an electronic notice in
1745 the same manner as a notice for a meeting of the members, which
1746 must include a hyperlink to the website where the notice is
1747 posted, to members whose e-mail addresses are included in the
1748 association's official records. The association may provide

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1749 notice by electronic transmission in a manner authorized by law
1750 for meetings of the board of directors, committee meetings
1751 requiring notice under this section, and annual and special
1752 meetings of the members to any member who has provided a
1753 facsimile number or e-mail address to the association to be used
1754 for such purposes; however, a member must consent in writing to
1755 receiving notice by electronic transmission.

1756 2. An assessment may not be levied at a board meeting
1757 unless the notice of the meeting includes a statement that
1758 assessments will be considered and the nature of the
1759 assessments. Written notice of any meeting at which special
1760 assessments will be considered or at which amendments to rules
1761 regarding parcel use will be considered must be mailed,
1762 delivered, or electronically transmitted to the members and
1763 parcel owners and posted conspicuously on the property or
1764 broadcast on closed-circuit cable television not less than 14
1765 days before the meeting.

1766 3. Directors may not vote by proxy or by secret ballot at
1767 board meetings, except that secret ballots may be used in the
1768 election of officers. This subsection also applies to the
1769 meetings of any committee or other similar body, when a final
1770 decision will be made regarding the expenditure of association
1771 funds, and to any body vested with the power to approve or
1772 disapprove architectural decisions with respect to a specific

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1773 parcel of residential property owned by a member of the
1774 community.

1775 (4) OFFICIAL RECORDS.—The association shall maintain each
1776 of the following items, when applicable, which constitute the
1777 official records of the association:

1778 (1) Ballots, sign-in sheets, voting proxies, and all other
1779 papers and electronic records relating to voting by parcel
1780 owners, which shall be maintained for at least 1 year after the
1781 date of the election, vote, or meeting to which the document
1782 relates ~~All other written records of the association not~~
1783 ~~specifically included in the foregoing which are related to the~~
1784 ~~operation of the association.~~

1785 (m) All other records of the association not specifically
1786 included in the foregoing which are related to the operation of
1787 the association.

1788 (10) RECALL OF DIRECTORS.—

1789 (d) If the board determines not to certify the written
1790 agreement or written ballots to recall a director or directors
1791 of the board or does not certify the recall by a vote at a
1792 meeting, the board shall, within 5 full business days after the
1793 meeting, file suit ~~with the department a petition for binding~~
1794 ~~arbitration~~ pursuant to the applicable procedures in ss.
1795 718.112(2)(j) and 718.1255 ~~and the rules adopted thereunder.~~ For
1796 the purposes of this section, the members who voted at the
1797 meeting or who executed the agreement in writing shall

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1798 constitute one party under the action ~~petition for arbitration~~.
1799 If the court ~~arbitrator~~ certifies the recall as to any director
1800 or directors of the board, the recall will be effective upon
1801 entry ~~mailing~~ of the final order ~~of arbitration to the~~
1802 ~~association~~. The director or directors so recalled shall deliver
1803 to the board any and all records of the association in their
1804 possession within 5 full business days after the effective date
1805 of the recall.

1806 (g) If the board fails to duly notice and hold the
1807 required meeting or fails to file the required action ~~petition~~,
1808 the unit owner representative may file an action ~~a petition~~
1809 pursuant to s. 718.1255 challenging the board's failure to act.
1810 The action ~~petition~~ must be filed within 60 days after the
1811 expiration of the applicable 5-full-business-day period. The
1812 review of an action ~~a petition~~ under this paragraph is limited
1813 to the sufficiency of service on the board and the facial
1814 validity of the written agreement or ballots filed.

1815 (h) If a director who is removed fails to relinquish his
1816 or her office or turn over records as required under this
1817 section, the county ~~circuit~~ court in the county where the
1818 association maintains its principal office may, upon the
1819 petition of the association, summarily order the director to
1820 relinquish his or her office and turn over all association
1821 records upon application of the association.

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1822 (k) A board member who has been recalled may file an
1823 action ~~a petition~~ pursuant to ss. 718.112(2)(j) and 718.1255 ~~and~~
1824 ~~the rules adopted challenging the validity of the recall~~. The
1825 action ~~petition~~ must be filed within 60 days after the recall is
1826 deemed certified. The association and the unit owner
1827 representative shall be named as defendants ~~respondents~~.

1828 (l) An action may not be filed regarding ~~The division may~~
1829 ~~not accept for filing~~ a recall action ~~petition~~, whether filed
1830 pursuant to paragraph (b), paragraph (c), paragraph (g), or
1831 paragraph (k) and regardless of whether the recall was
1832 certified, when there are 60 or fewer days until the scheduled
1833 reelection of the board member sought to be recalled or when 60
1834 or fewer days have not elapsed since the election of the board
1835 member sought to be recalled.

1836 Section 17. Subsections (1) and (2) of section 720.305,
1837 Florida Statutes, are amended to read:

1838 720.305 Obligations of members; remedies at law or in
1839 equity; levy of fines and suspension of use rights.-

1840 (1) Each member and the member's tenants, guests, and
1841 invitees, and each association, are governed by, and must comply
1842 with, this chapter and, ~~the governing documents of the~~
1843 ~~community, and the rules of the association~~. Actions at law or
1844 in equity, or both, to redress alleged failure or refusal to
1845 comply with these provisions may be brought by the association
1846 or by any member against:

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- 1847 (a) The association;
- 1848 (b) A member;
- 1849 (c) Any director or officer of an association who
- 1850 willfully and knowingly fails to comply with these provisions;
- 1851 and
- 1852 (d) Any tenants, guests, or invitees occupying a parcel or
- 1853 using the common areas.

1854

1855 The prevailing party in any such litigation is entitled to

1856 recover reasonable attorney fees and costs. A member prevailing

1857 in an action between the association and the member under this

1858 section, in addition to recovering his or her reasonable

1859 attorney fees, may recover additional amounts as determined by

1860 the court to be necessary to reimburse the member for his or her

1861 share of assessments levied by the association to fund its

1862 expenses of the litigation. This relief does not exclude other

1863 remedies provided by law. This section does not deprive any

1864 person of any other available right or remedy.

1865 (2) An ~~The~~ association may levy reasonable fines. A fine

1866 may not exceed \$100 per violation against any member or any

1867 member's tenant, guest, or invitee for the failure of the owner

1868 of the parcel or its occupant, licensee, or invitee to comply

1869 with any provision of the governing documents ~~declaration, the~~

1870 ~~association bylaws, or reasonable rules of the association~~

1871 unless otherwise provided in the governing documents. A fine may

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1872 be levied by the board for each day of a continuing violation,
1873 with a single notice and opportunity for hearing, except that
1874 the fine may not exceed \$1,000 in the aggregate unless otherwise
1875 provided in the governing documents. A fine of less than \$1,000
1876 may not become a lien against a parcel. In any action to recover
1877 a fine, the prevailing party is entitled to reasonable attorney
1878 fees and costs from the nonprevailing party as determined by the
1879 court.

1880 (a) An association may suspend, for a reasonable period of
1881 time, the right of a member, or a member's tenant, guest, or
1882 invitee, to use common areas and facilities for the failure of
1883 the owner of the parcel or its occupant, licensee, or invitee to
1884 comply with any provision of the declaration, or the association
1885 bylaws, ~~or reasonable rules of the association~~. This paragraph
1886 does not apply to that portion of common areas used to provide
1887 access or utility services to the parcel. A suspension may not
1888 prohibit an owner or tenant of a parcel from having vehicular
1889 and pedestrian ingress to and egress from the parcel, including,
1890 but not limited to, the right to park.

1891 (b) A fine or suspension levied by the board of
1892 administration may not be imposed unless the board first
1893 provides at least 14 days' notice to the parcel owner and, if
1894 applicable, any occupant, licensee, or invitee of the parcel
1895 owner, sought to be fined or suspended and an opportunity for a
1896 hearing before a committee of at least three members appointed

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1897 by the board who are not officers, directors, or employees of
1898 the association, or the spouse, parent, child, brother, or
1899 sister of an officer, director, or employee. If the committee,
1900 by majority vote, does not approve a proposed fine or
1901 suspension, the proposed fine or suspension may not be imposed.
1902 The role of the committee is limited to determining whether to
1903 confirm or reject the fine or suspension levied by the board. If
1904 the proposed fine or suspension levied by the board is approved
1905 by the committee, the fine payment is due 5 days after notice of
1906 the approved fine is provided to the parcel owner and, if
1907 applicable, to any occupant, licensee, or invitee of the parcel
1908 owner ~~the date of the committee meeting at which the fine is~~
1909 ~~approved~~. The association must provide written notice of such
1910 fine or suspension by mail or hand delivery to the parcel owner
1911 and, if applicable, to any tenant, licensee, or invitee of the
1912 parcel owner.

1913 Section 18. Paragraph (g) of subsection (1) and paragraph
1914 (c) of subsection (9) of section 720.306, Florida Statutes, are
1915 amended to read:

1916 720.306 Meetings of members; voting and election
1917 procedures; amendments.—

1918 (1) QUORUM; AMENDMENTS.—

1919 (g) A notice required under this section must be mailed or
1920 delivered to the address identified as the parcel owner's
1921 mailing address in the official records of the association as

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1922 ~~required under s. 720.303(4) on the property appraiser's website~~
1923 ~~for the county in which the parcel is located,~~ or electronically
1924 transmitted in a manner authorized by the association if the
1925 parcel owner has consented, in writing, to receive notice by
1926 electronic transmission.

1927 (9) ELECTIONS AND BOARD VACANCIES.—

1928 (c) Any election dispute between a member and an
1929 association must be filed with the county court in the county
1930 where the association maintains its principal office ~~submitted~~
1931 ~~to mandatory binding arbitration with the division.~~ Such
1932 proceedings must be conducted in the manner provided by s.
1933 718.1255 ~~and the procedural rules adopted by the division.~~
1934 Unless otherwise provided in the bylaws, any vacancy occurring
1935 on the board before the expiration of a term may be filled by an
1936 affirmative vote of the majority of the remaining directors,
1937 even if the remaining directors constitute less than a quorum,
1938 or by the sole remaining director. In the alternative, a board
1939 may hold an election to fill the vacancy, in which case the
1940 election procedures must conform to the requirements of the
1941 governing documents. Unless otherwise provided in the bylaws, a
1942 board member appointed or elected under this section is
1943 appointed for the unexpired term of the seat being filled.
1944 Filling vacancies created by recall is governed by s.
1945 720.303(10) ~~and rules adopted by the division.~~

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1946 Section 19. Section 720.311, Florida Statutes, is amended
1947 to read:

1948 720.311 Dispute resolution.—

1949 (1)(a) As used in this section, the term "dispute" means
1950 any disagreement between two or more parties which involves:

1951 1. The authority of the board of directors, under this
1952 chapter or an association document, to:

1953 a. Require any owner to take any action, or not to take any
1954 action, involving that owner's parcel.

1955 b. Alter or add to a common area.

1956 2. The failure of a governing body, when required by this
1957 chapter or an association document, to:

1958 a. Properly enforce the governing documents.

1959 b. Give adequate notice of meetings or other actions.

1960 c. Properly conduct meetings of the board and committees
1961 appointed by the board and membership meetings, not including
1962 election meetings.

1963 d. To maintain a common area.

1964 (b) "Dispute" does not include any disagreement that
1965 primarily involves title to any unit or common area; the
1966 interpretation or enforcement of any warranty; the levy of a fee
1967 or assessment, or the collection of an assessment levied against
1968 a party; the eviction or removal of a tenant or occupier from a
1969 parcel; an alleged breach of fiduciary duty by one or more
1970 directors; or claims for damages to a parcel based upon the

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1971 alleged failure of the association to maintain the common area
1972 or association property.

1973 (2) The Legislature finds that alternative dispute
1974 resolution has made progress in reducing court dockets and
1975 trials and in offering a more efficient, cost-effective option
1976 to litigation. The filing of any petition for arbitration or the
1977 -serving of a demand for presuit mediation as provided for in
1978 this section shall toll the applicable statute of limitations
1979 until 30 days after the mediator declares that the mediation is
1980 concluded and no agreement has been reached, until 10 days after
1981 the expiration of the time for a party to accept presuit
1982 mediation, or until the conclusion of the period, under this
1983 section, during which mediation must be conducted. Any recall
1984 action must be in accordance with ss. 718.112(2)(j) and
1985 718.1255. Election disputes and recall disputes are not eligible
1986 for presuit mediation dispute filed with the department pursuant
1987 to s. 720.303(10) shall be conducted by the department in
1988 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
1989 and the rules adopted by the division. In addition, the
1990 department shall conduct mandatory binding arbitration of
1991 election disputes between a member and an association pursuant
1992 to s. 718.1255 and rules adopted by the division. Neither
1993 election disputes nor recall disputes are eligible for presuit
1994 mediation; these disputes shall be arbitrated by the department.
1995 At the conclusion of the proceeding, the department shall charge

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1996 ~~the parties a fee in an amount adequate to cover all costs and~~
1997 ~~expenses incurred by the department in conducting the~~
1998 ~~proceeding. Initially, the petitioner shall remit a filing fee~~
1999 ~~of at least \$200 to the department. The fees paid to the~~
2000 ~~department shall become a recoverable cost in the arbitration~~
2001 ~~proceeding, and the prevailing party in an arbitration~~
2002 ~~proceeding shall recover its reasonable costs and attorney's~~
2003 ~~fees in an amount found reasonable by the arbitrator. The~~
2004 ~~department shall adopt rules to effectuate the purposes of this~~
2005 ~~section.~~

2006 (3)(2)(a)1. Disputes between an association and a parcel
2007 owner regarding use of or changes to the parcel or the common
2008 areas and other covenant enforcement disputes, disputes
2009 regarding amendments to the association documents, disputes
2010 regarding meetings of the board and committees appointed by the
2011 board, membership meetings not including election meetings, and
2012 access to the official records of the association shall be the
2013 subject of a demand for presuit mediation served by an aggrieved
2014 party before the dispute is filed in court. Presuit mediation
2015 proceedings must be conducted in accordance with the applicable
2016 rules of the Florida Rules of Civil Procedure and with chapter
2017 44, and these proceedings are privileged and confidential to the
2018 same extent as court-ordered mediation. Disputes subject to
2019 presuit mediation under this section may ~~shall~~ not include the
2020 collection of any assessment, fine, or other financial

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2021 obligation, including attorney ~~attorney's~~ fees and costs,
2022 claimed to be due or any action to enforce a prior mediation
2023 settlement agreement between the parties. ~~Also,~~ In any dispute
2024 subject to presuit mediation under this section when preliminary
2025 injunctive ~~where emergency~~ relief is required, a motion for
2026 temporary injunctive relief may be filed with the court without
2027 first complying with the presuit mediation requirements of this
2028 section. After any issues regarding preliminary injunctive
2029 ~~emergency or temporary~~ relief are resolved, the court may either
2030 refer the parties to a mediation program administered by the
2031 courts or require mediation under this section. An arbitrator or
2032 judge may not consider any information or evidence arising from
2033 the presuit mediation proceeding except in a proceeding to
2034 impose sanctions for failure to attend a presuit mediation
2035 session or to enforce a mediated settlement agreement. Persons
2036 who are not parties to the dispute may not attend the presuit
2037 mediation conference without the consent of all parties, except
2038 for counsel for the parties, ~~and~~ a corporate representative
2039 designated by the association, and a representative from the
2040 association's insurance carrier, if applicable. When mediation
2041 is attended by a quorum of the board, such mediation is not a
2042 board meeting for purposes of notice and participation set forth
2043 in s. 720.303. An aggrieved party shall serve on the responding
2044 party a written demand to participate in presuit mediation in
2045 substantially the following form:

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2046 STATUTORY OFFER TO PARTICIPATE

2047

2048 IN PRESUIT MEDIATION

2049 The alleged aggrieved party,, hereby demands
2050 that, as the responding party, engage in
2051 mandatory presuit mediation in connection with the following
2052 disputes, which by statute are of a type that are subject to
2053 presuit mediation:

2054 (List specific nature of the dispute or disputes to be mediated
2055 and the authority supporting a finding of a violation as to each
2056 dispute.)

2057 Pursuant to section 720.311, Florida Statutes, this demand to
2058 resolve the dispute through presuit mediation is required before
2059 a lawsuit can be filed concerning the dispute. Pursuant to the
2060 statute, the parties are required to engage in presuit mediation
2061 with a neutral third-party mediator in order to attempt to
2062 resolve this dispute without court action, and the aggrieved
2063 party demands that you likewise agree to this process. If you
2064 fail to participate in the mediation process, suit may be
2065 brought against you without further warning.

2066 The process of mediation involves a supervised negotiation
2067 process in which a trained, neutral third-party mediator meets
2068 with both parties and assists them in exploring possible

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2069 opportunities for resolving part or all of the dispute. By
2070 agreeing to participate in presuit mediation, you are not bound
2071 in any way to change your position. Furthermore, the mediator
2072 has no authority to make any decisions in this matter or to
2073 determine who is right or wrong and merely acts as a facilitator
2074 to ensure that each party understands the position of the other
2075 party and that all options for reasonable settlement are fully
2076 explored.

2077 If an agreement is reached, it must ~~shall~~ be reduced to writing
2078 and signed, at which time the agreement becomes a binding and
2079 enforceable contract between ~~commitment of~~ the parties. A
2080 resolution of one or more disputes in this fashion avoids the
2081 need to litigate those ~~these~~ issues in court. The failure ~~to~~
2082 ~~reach an agreement, or the failure~~ of a party to participate in
2083 the process or the failure of the parties to reach an agreement
2084 during the mediation process, results in the aggrieved party
2085 being able to ~~mediator declaring an impasse in the mediation,~~
2086 ~~after which the aggrieved party may~~ proceed to court on all
2087 outstanding, and unsettled disputes. If you fail or refuse ~~have~~
2088 ~~failed or refused~~ to participate in the entire mediation
2089 process, you will not be entitled to recover attorney ~~attorney's~~
2090 fees, even if you prevail.

2091 The aggrieved party has selected and hereby lists five Florida
2092 Supreme Court certified circuit court civil ~~certified~~ mediators

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2093 | who the aggrieved party believes ~~we believe~~ to be neutral and
2094 | qualified to mediate the dispute. You have the right to select
2095 | any one of these mediators. The fact that one party may be
2096 | familiar with one or more of the listed mediators does not mean
2097 | that the mediator cannot act as a neutral and impartial
2098 | facilitator. Any mediator who cannot act in this capacity is
2099 | required ethically to decline to accept engagement. The
2100 | mediators that we suggest, and their current hourly rates, are
2101 | as follows:

2102 | (List the names, physical addresses, email addresses, telephone
2103 | numbers, and hourly rates of the mediators. Other pertinent
2104 | information about the backgrounds ~~background~~ of the mediators
2105 | may be included as an attachment, including whether the mediator
2106 | is board certified by The Florida Bar in any practice area.)

2107 | By mutual agreement, and before accepting presuit mediation, we
2108 | can also select a mediator other than one of the Supreme Court
2109 | certified circuit court civil mediators named above as an
2110 | alternative to the above-named mediators. The alternate mediator
2111 | is not required to be a Florida Supreme Court certified circuit
2112 | court civil mediator. The alternate mediators that we suggest,
2113 | and their hourly rates, are as follows:

2114 | (List the names, physical addresses, e-mail addresses, telephone
2115 | numbers and hourly rates of the alternate mediators. Other

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2116 pertinent information about the backgrounds of the alternate
2117 mediators may be included as an attachment.)

2118 You may contact the offices of these mediators to confirm that
2119 the listed mediators will be neutral and will not show any
2120 favoritism toward either party. The Florida Supreme Court can
2121 provide you a list of Florida Supreme Court certified circuit
2122 court civil ~~certified~~ mediators.

2123 Unless otherwise agreed by the parties, section 720.311(2)(b),
2124 Florida Statutes, requires that the parties share equally the
2125 costs of presuit mediation ~~equally~~, including the fee charged by
2126 the mediator. A typical ~~An average~~ mediation may require three
2127 to four hours of the mediator's time, including some preparation
2128 time, and the parties would need to share equally the mediator's
2129 fees as well as pay their own attorney ~~attorney's~~ fees if they
2130 choose to employ an attorney in connection with the mediation.
2131 However, use of an attorney is not required and is at the option
2132 of each party. The mediators may require the advance payment of
2133 some or all of the anticipated fees. The aggrieved party hereby
2134 agrees to pay or prepay one-half of the mediator's estimated
2135 fees and to forward this amount or such other reasonable advance
2136 deposits as the mediator requires for this purpose. Any funds
2137 deposited will be returned to you if these are in excess of your
2138 share of the fees incurred.

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2139 To begin your participation in presuit mediation to try to
2140 resolve the dispute and avoid further legal action, please sign
2141 below and clearly indicate which mediator is acceptable to you.
2142 We will then ask the mediator to schedule a mutually convenient
2143 time and place for the mediation conference to be held. The
2144 mediation conference must be held within ~~ninety (90)~~ days after
2145 the date of acceptance of presuit mediation ~~of this date~~, unless
2146 extended by mutual written agreement. In the event that you fail
2147 to respond within 30 days after ~~20 days from~~ the date of this
2148 letter, or if you fail to agree to at least one of the mediators
2149 that we have suggested or to pay or prepay to the mediator one-
2150 half of the costs involved, the aggrieved party will be
2151 authorized to proceed with the filing of a lawsuit against you
2152 without further notice and may seek an award of attorney
2153 ~~attorney's~~ fees or costs incurred in attempting to obtain
2154 mediation.

2155 Therefore, please give this matter your immediate attention. By
2156 law, your response must be mailed by certified mail, return
2157 receipt requested, and by first-class mail to the address shown
2158 on this demand.

2159

2160

Amendment No. 1.

2161 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO
2162 THAT CHOICE.

2163 AGREEMENT TO MEDIATE

2164 The undersigned hereby agrees to participate in presuit
2165 mediation and agrees to attend a mediation conducted by the
2166 following mediator or mediators who are listed above as
2167 individuals ~~someone~~ who would be acceptable to mediate this
2168 dispute:

2169 (List acceptable mediator or mediators.)

2170 I/we further agree to pay or prepay one-half of the mediator's
2171 fees and to forward such advance deposits as the mediator may
2172 require for this purpose.

2173

2174 Signature of responding party #1

2175

2176 Telephone contact information

2177

2178 Signature and telephone contact information of responding party
2179 #2 (if applicable) (if property is owned by more than one person,
2180 all owners must sign)

Amendment No. 1.

2181 2. The statutory demand must also contain the following
2182 statement in capitalized, bold letters in a font size larger
2183 than any other used in the statutory demand: A PERSON WHO FAILS
2184 OR REFUSES TO PARTICIPATE IN THE ENTIRE MEDIATION PROCESS IS
2185 PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN SUBSEQUENT
2186 LITIGATION RELATING TO THE DISPUTE.

2187 (b) Service of the statutory demand to participate in
2188 presuit mediation shall be effected by sending a letter in
2189 substantial conformity with the above form by certified mail,
2190 return receipt requested, with an additional copy being sent by
2191 regular first-class mail, to the address of the responding party
2192 as it last appears on the books and records of the association.
2193 The responding party has 30 ~~20~~ days from the date of the mailing
2194 of the statutory demand to serve a response to the aggrieved
2195 party in writing. The response must be sent ~~shall be served~~ by
2196 certified mail, return receipt requested, with an additional
2197 copy being sent by regular first-class mail, to the address
2198 shown on the statutory demand. Notwithstanding the foregoing,
2199 once the parties have agreed on a mediator, the mediator may
2200 schedule ~~reschedule~~ the mediation for a date and time mutually
2201 convenient to the parties. Each proposed mediator must be
2202 available to hold the mediation in the county in which the
2203 condominium is located or within 40 miles of the condominium
2204 without charging extra for travel-related costs. If a presuit
2205 mediation session cannot be scheduled and concluded within 90

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2206 days after the date of acceptance of presuit mediation and there
2207 is no agreement between the parties to extend the 90-day
2208 deadline, the condition precedent of conducting mediation before
2209 filing suit is satisfied and the aggrieved party may file suit.
2210 The parties shall share equally the costs of presuit mediation
2211 equally, including the fee charged by the mediator, if any,
2212 unless the parties agree otherwise, and the mediator may require
2213 advance payment of its reasonable fees and costs. The failure of
2214 any party to respond to a demand or response, to agree upon a
2215 mediator, to make payment of fees and costs within the time
2216 established by the mediator, or to appear for a scheduled
2217 mediation session without the approval of the mediator,
2218 constitutes ~~shall constitute~~ the failure or refusal to
2219 participate in the mediation process and operates ~~shall operate~~
2220 as an impasse in the presuit mediation by such party, entitling
2221 the other party to proceed in court and to seek an award of the
2222 costs and fees associated with the mediation. Additionally,
2223 notwithstanding ~~the provisions of~~ any other law or document,
2224 persons who fail or refuse to participate in the entire
2225 mediation process may not recover attorney ~~attorney's~~ fees and
2226 costs in subsequent litigation relating to the dispute. ~~If any~~
2227 ~~presuit mediation session cannot be scheduled and conducted~~
2228 ~~within 90 days after the offer to participate in mediation was~~
2229 ~~filed, an impasse shall be deemed to have occurred unless both~~
2230 ~~parties agree to extend this deadline.~~

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2231 (c) If presuit mediation as described in paragraph (a) is
2232 not successful in resolving all issues between the parties, any
2233 party ~~the parties~~ may file suit regarding the unresolved dispute
2234 in a court of competent jurisdiction ~~or elect to enter into~~
2235 ~~binding or nonbinding arbitration pursuant to the procedures set~~
2236 ~~forth in s. 718.1255 and rules adopted by the division, with the~~
2237 ~~arbitration proceeding to be conducted by a department~~
2238 ~~arbitrator or by a private arbitrator certified by the~~
2239 ~~department. If all parties do not agree to arbitration~~
2240 ~~proceedings following an unsuccessful presuit mediation, any~~
2241 ~~party may file the dispute in court. A final order resulting~~
2242 ~~from nonbinding arbitration is final and enforceable in the~~
2243 ~~courts if a complaint for trial de novo is not filed in a court~~
2244 ~~of competent jurisdiction within 30 days after entry of the~~
2245 ~~order. As to any issue or dispute that is not resolved at~~
2246 ~~presuit mediation, and as to any issue that is settled at~~
2247 ~~presuit mediation but is thereafter subject to an action seeking~~
2248 ~~enforcement of the mediation settlement, the prevailing party in~~
2249 ~~any subsequent arbitration or litigation proceeding shall be~~
2250 ~~entitled to seek recovery of all costs and attorney's fees~~
2251 ~~incurred in the presuit mediation process.~~

2252 (d) The parties may agree to a mediator who is not
2253 certified by the Florida Supreme Court. Unless such mediator is
2254 agreed upon, a mediator may not ~~or arbitrator shall be~~
2255 ~~authorized to conduct mediation or arbitration under this~~

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2256 section unless ~~only if~~ he or she has been certified as a circuit
2257 court civil mediator ~~or arbitrator, respectively,~~ pursuant to
2258 the requirements established by the Florida Supreme Court.

2259 Settlement agreements resulting from mediation may ~~shall~~ not
2260 have precedential value in proceedings involving parties other
2261 than those participating in the mediation to support either a
2262 claim or defense in other disputes.

2263 (e) The presuit mediation procedures provided by this
2264 subsection may be used by a Florida corporation responsible for
2265 the operation of a community in which the voting members are
2266 parcel owners or their representatives, in which membership in
2267 the corporation is not a mandatory condition of parcel
2268 ownership, or which is not authorized to impose an assessment
2269 that may become a lien on the parcel.

2270 (4) Any dispute challenging the legality of the election of
2271 any member of the board of directors or the recall of any member
2272 of a board of directors must be filed as a summary proceeding
2273 pursuant to s. 51.011, and in any such action the prevailing
2274 party is entitled to recover reasonable attorney fees and costs.
2275 Any action filed pursuant to this paragraph must be tried
2276 without a jury.

2277 Section 20. This act shall take effect July 1, 2019.
2278
2279
2280 -----

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Amendment No. 1.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to community associations; amending s.
34.01, F.S.; amending the disputes that county courts
have original jurisdiction over; amending 514.0115,
F.S.; providing that certain property association
pools are exempt from DOH regulations; amending s.
627.714, F.S.; prohibiting subrogation rights against
a condominium association under certain circumstances;
amending s. 718.111, F.S.; requiring certain records
be maintained for a specified time; prohibiting
certain rules related to inspection of records;
providing that certain documents may be placed on an
application downloadable on mobile devices; amending
s. 718.112, F.S.; providing that certain service does
not apply to term limits; providing requirements for
certain notices; authorizing an association to charge
certain costs; amending the requirements for
challenging the recall of board members; removing a
prohibition against employing or contracting with
certain service providers; amending s. 718.117, F.S.,
amending the requirements for challenging a
termination of a condominium; providing liability for
certain owners; amending s. 718.1255, F.S.; providing
that certain disputes must go to mediation; amending

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2306 s. 718.303, F.S.; providing dates for when a fine
2307 becomes due; amending s. 718.5014, F.S.; providing a
2308 location for the condominium ombudsman; amending s.
2309 719.103, F.S.; providing that an interest in a
2310 cooperative unit is an interest in real property;
2311 amending s. 719.104, F.S.; prohibiting certain rules
2312 related to inspection of records; amending s. 719.106,
2313 F.S.; providing requirements for participating in a
2314 meeting by telecommunications; amending the
2315 requirements for challenging the recall of board
2316 members; amending s. 719.1255, F.S., amending the
2317 requirements for alternative resolution of disputes;
2318 amending s. 719.501, F.S.; removing the requirement
2319 that the Division certify mediators; amending s.
2320 720.303, F.S.; authorizing an association to adopt
2321 procedures for electronic meeting notices; requiring
2322 certain records be maintained for a specified time;
2323 amending the requirements for challenging the recall
2324 of board members; amending s. 720.305, F.S.;
2325 providing requirements for collecting certain fines;
2326 amending s. 720.306, F.S.; amending the requirements
2327 for providing certain notices; amending the
2328 requirements for challenging certain elections;
2329 amending s. 720.311, F.S.; amending the requirements
2330 for dispute resolution; providing an effective date.

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