

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 34.01, F.S.; providing that county courts have
4 original jurisdiction over certain associations;
5 amending 514.0115, F.S.; providing that certain
6 property association pools are exempt from Department
7 of Health regulations; amending s. 627.714, F.S.;
8 prohibiting subrogation rights against a condominium
9 association under certain circumstances; amending s.
10 718.111, F.S.; requiring certain records to be
11 maintained for a specified time; prohibiting certain
12 rules related to the inspection of records; requiring
13 certain condominium associations to make specified
14 documents available through a specified application;
15 amending s. 718.112, F.S.; providing board member term
16 limits beginning on a specified date; providing
17 requirements for certain notices; prohibiting an
18 association from charging certain fees; providing an
19 exception; revising requirements for challenging the
20 recall of board members; removing a prohibition
21 against employing or contracting with certain service
22 providers; amending s. 718.113, F.S.; revising
23 regulations for electronic vehicles; amending s.
24 718.117, F.S.; revising requirements for challenging a
25 termination of a condominium; providing liability for

26 | certain owners; amending s. 718.1255, F.S.; requiring
27 | presuit mediation for certain disputes; removing the
28 | option of nonbinding arbitration for certain disputes;
29 | revising legislative findings; providing a
30 | standardized form for the offer to participate in
31 | presuit mediation; providing requirements for presuit
32 | mediation; requiring summary procedure for certain
33 | disputes; amending s. 718.303, F.S.; revising
34 | requirements for actions at law or in equity for
35 | certain disputes; revising requirements for certain
36 | fines; amending s. 718.501, F.S.; removing the
37 | requirement for the Division of Florida Condominiums,
38 | Timeshares, and Mobile Homes to certify mediators;
39 | amending s. 718.5014, F.S.; revising the location of
40 | the principal office of the condominium ombudsman;
41 | amending s. 719.103, F.S.; revising the definition of
42 | the term "unit" to specify that an interest in a
43 | cooperative unit is an interest in real property;
44 | amending s. 719.104, F.S.; prohibiting certain rules
45 | related to the inspection of records; amending s.
46 | 719.106, F.S.; providing requirements for
47 | participating in a meeting via telecommunications;
48 | revising requirements for challenging the recall of
49 | board members; requiring mediation for certain
50 | disputes; amending s. 719.1255, F.S.; revising

51 requirements for alternative resolution of disputes;
 52 amending s. 719.501, F.S.; removing the requirement
 53 for the division to certify mediators; amending s.
 54 720.303, F.S.; authorizing an association to adopt
 55 procedures for electronic meeting notices; requiring
 56 certain records to be maintained for a specified time;
 57 revising requirements for challenging the recall of
 58 board members; amending s. 720.305, F.S.; providing
 59 requirements for certain fines; amending s. 720.306,
 60 F.S.; revising requirements for providing certain
 61 notices and challenging certain elections; amending s.
 62 720.311, F.S.; revising requirements for dispute
 63 resolution; providing a definition; revising
 64 legislative findings; revising the standardized form
 65 for the offer to participate in presuit mediation;
 66 providing an effective date.

67

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

69

70 Section 1. Paragraph (d) of subsection (1) of section
 71 34.01, Florida Statutes, is amended to read:

72 34.01 Jurisdiction of county court.—

73 (1) County courts shall have original jurisdiction:

74 (d) Of disputes occurring in condominium associations as
 75 described in s. 718.1255, cooperative associations as described

76 | in s. 719.1255, and the homeowners' associations as described in
 77 | s. 720.311(2) (a), which is ~~shall be~~ concurrent with jurisdiction
 78 | of the circuit courts.

79 | Section 2. Paragraph (a) of subsection (2) of section
 80 | 514.0115, Florida Statutes, is amended to read:

81 | 514.0115 Exemptions from supervision or regulation;
 82 | variances.—

83 | (2) (a) Pools serving condominium, cooperative, and
 84 | homeowners' associations, as well as other property
 85 | associations, which have no more than 32 ~~condominium or~~
 86 | ~~cooperative~~ units or parcels and which are not operated as a
 87 | public lodging establishments are ~~establishment shall be~~ exempt
 88 | from supervision under this chapter, except for water quality.

89 | Section 3. Subsection (4) of section 627.714, Florida
 90 | Statutes, is amended to read:

91 | 627.714 Residential condominium unit owner coverage; loss
 92 | assessment coverage required.—

93 | (4) Every individual unit owner's residential property
 94 | policy must contain a provision stating that the coverage
 95 | afforded by such policy is excess coverage over the amount
 96 | recoverable under any other policy covering the same property.
 97 | An insurance policy issued to an individual unit owner may not
 98 | provide rights of subrogation against the condominium
 99 | association operating the condominium in which such individual's
 100 | unit is located.

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

103 718.111 The association.—

104 (12) OFFICIAL RECORDS.—

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

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

110 2. A photocopy of the recorded declaration of condominium
 111 of each condominium operated by the association and each
 112 amendment to each declaration.

113 3. A photocopy of the recorded bylaws of the association
 114 and each amendment to the bylaws.

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

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

119 6. A book or books that contain the minutes of all
 120 meetings of the association, the board of administration, and
 121 the unit owners.

122 7. A current roster of all unit owners and their mailing
 123 addresses, unit identifications, voting certifications, and, if
 124 known, telephone numbers. The association shall also maintain
 125 the e-mail addresses and facsimile numbers of unit owners

126 consenting to receive notice by electronic transmission. The e-
127 mail addresses and facsimile numbers are not accessible to unit
128 owners if consent to receive notice by electronic transmission
129 is not provided in accordance with sub-subparagraph (c)3.e.
130 However, the association is not liable for an inadvertent
131 disclosure of the e-mail address or facsimile number for
132 receiving electronic transmission of notices.

133 8. All current insurance policies of the association and
134 condominiums operated by the association.

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

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

141 11. Accounting records for the association and separate
142 accounting records for each condominium that the association
143 operates. Any person who knowingly or intentionally defaces or
144 destroys such records, or who knowingly or intentionally fails
145 to create or maintain such records, with the intent of causing
146 harm to the association or one or more of its members, is
147 personally subject to a civil penalty pursuant to s.
148 718.501(1)(d). The accounting records must include, but are not
149 limited to:

150 a. Accurate, itemized, and detailed records of all

151 receipts and expenditures.

152 b. A current account and a monthly, bimonthly, or
 153 quarterly statement of the account for each unit designating the
 154 name of the unit owner, the due date and amount of each
 155 assessment, the amount paid on the account, and the balance due.

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

158 d. All contracts for work to be performed. Bids for work
 159 to be performed are also considered official records and must be
 160 maintained by the association for at least 1 year after receipt
 161 of the bid.

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

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

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

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

174 15.16. A copy of the inspection report as described in s.
 175 718.301(4)(p).

176 | ~~16.17.~~ Bids for materials, equipment, or services.

177 | 17. All other records of the association not specifically
178 | included in subparagraphs 1.-16. which are related to the
179 | operation of the association.

180 | (b) The official records specified in subparagraphs (a)1.-
181 | 6. must be permanently maintained from the inception of the
182 | association. Bids for work to be performed or for materials,
183 | equipment, or services must be maintained for 1 year after
184 | receipt of the bid. All other official records must be
185 | maintained within the state for at least 7 years, unless
186 | otherwise provided by general law. The records of the
187 | association shall be made available to a unit owner within 45
188 | miles of the condominium property or within the county in which
189 | the condominium property is located within 10 working days after
190 | receipt of a written request by the board or its designee.
191 | However, such distance requirement does not apply to an
192 | association governing a timeshare condominium. This paragraph
193 | may be complied with by having a copy of the official records of
194 | the association available for inspection or copying on the
195 | condominium property or association property, or the association
196 | may offer the option of making the records available to a unit
197 | owner electronically via the Internet or by allowing the records
198 | to be viewed in electronic format on a computer screen and
199 | printed upon request. The association is not responsible for the
200 | use or misuse of the information provided to an association

201 member or his or her authorized representative in ~~pursuant to~~
202 ~~the~~ compliance with ~~requirements of~~ this chapter unless the
203 association has an affirmative duty not to disclose such
204 information under ~~pursuant to~~ this chapter.

205 (c)1. The official records of the association are open to
206 inspection by any association member or the authorized
207 representative of such member at all reasonable times. The right
208 to inspect the records includes the right to make or obtain
209 copies, at the reasonable expense, if any, of the member or
210 authorized representative of such member. A renter of a unit has
211 a right to inspect and copy the association's bylaws and rules.
212 The association may adopt reasonable rules regarding the
213 frequency, time, location, notice, and manner of record
214 inspections and copying, but may not require a member to
215 demonstrate any purpose or state any reason for the inspection.
216 The failure of an association to provide the records within 10
217 working days after receipt of a written request creates a
218 rebuttable presumption that the association willfully failed to
219 comply with this paragraph. A unit owner who is denied access to
220 official records is entitled to the actual damages or minimum
221 damages for the association's willful failure to comply. Minimum
222 damages are \$50 per calendar day for up to 10 days, beginning on
223 the 11th working day after receipt of the written request. The
224 failure to permit inspection entitles any person prevailing in
225 an enforcement action to recover reasonable attorney fees from

226 | the person in control of the records who, directly or
227 | indirectly, knowingly denied access to the records.

228 | 2. Any person who knowingly or intentionally defaces or
229 | destroys accounting records that are required by this chapter to
230 | be maintained during the period for which such records are
231 | required to be maintained, or who knowingly or intentionally
232 | fails to create or maintain accounting records that are required
233 | to be created or maintained, with the intent of causing harm to
234 | the association or one or more of its members, is personally
235 | subject to a civil penalty pursuant to s. 718.501(1)(d).

236 | 3. The association shall maintain an adequate number of
237 | copies of the declaration, articles of incorporation, bylaws,
238 | and rules, and all amendments to each of the foregoing, as well
239 | as the question and answer sheet as described in s. 718.504 and
240 | year-end financial information required under this section, on
241 | the condominium property to ensure their availability to unit
242 | owners and prospective purchasers, and may charge its actual
243 | costs for preparing and furnishing these documents to those
244 | requesting the documents. An association shall allow a member or
245 | his or her authorized representative to use a portable device,
246 | including a smartphone, tablet, portable scanner, or any other
247 | technology capable of scanning or taking photographs, to make an
248 | electronic copy of the official records in lieu of the
249 | association's providing the member or his or her authorized
250 | representative with a copy of such records. The association may

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

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

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

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

274 d. Medical records of unit owners.

275 e. Social security numbers, driver license numbers, credit

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

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

298 g. The software and operating system used by the
299 association which allow the manipulation of data, even if the
300 owner owns a copy of the same software used by the association.

301 The data is part of the official records of the association.

302 (g)1. By January 1, 2019, an association managing a
303 condominium with 150 or more units which does not contain
304 timeshare units shall post digital copies of the documents
305 specified in subparagraph 2. on its website or make such
306 documents available through an application that can be
307 downloaded on a mobile device.

308 a. The association's website or application must be:

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

311 (II) A website, application, or web portal operated by a
312 third-party provider with whom the association owns, leases,
313 rents, or otherwise obtains the right to operate a web page,
314 subpage, web portal, ~~or~~ collection of subpages or web portals,
315 or application which is dedicated to the association's
316 activities and on which required notices, records, and documents
317 may be posted or made available by the association.

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

323 c. Upon a unit owner's written request, the association
324 must provide the unit owner with a username and password and
325 access to the protected sections of the association's website or

326 application that contain any notices, records, or documents that
327 must be electronically provided.

328 2. A current copy of the following documents must be
329 posted in digital format on the association's website or made
330 available through an application that can be downloaded on a
331 mobile device:

332 a. The recorded declaration of condominium of each
333 condominium operated by the association and each amendment to
334 each declaration.

335 b. The recorded bylaws of the association and each
336 amendment to the bylaws.

337 c. The articles of incorporation of the association, or
338 other documents creating the association, and each amendment to
339 the articles of incorporation or other documents ~~therein~~. The
340 copy posted pursuant to this sub-subparagraph must be a copy of
341 the articles of incorporation filed with the Department of
342 State.

343 d. The rules of the association.

344 e. A list of all executory contracts or documents to which
345 the association is a party or under which the association or the
346 unit owners have an obligation or responsibility and, after
347 bidding for the related materials, equipment, or services has
348 closed, a list of bids received by the association within the
349 past year. Summaries of bids for materials, equipment, or
350 services which exceed \$500 must be maintained on the website or

351 application for 1 year. In lieu of summaries, complete copies of
352 the bids may be posted.

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

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

358 h. The certification of each director required by s.
359 718.112(2)(d)4.b.

360 i. All contracts or transactions between the association
361 and any director, officer, corporation, firm, or association
362 that is not an affiliated condominium association or any other
363 entity in which an association director is also a director or
364 officer and financially interested.

365 j. Any contract or document regarding a conflict of
366 interest or possible conflict of interest as provided in ss.
367 468.436(2)(b)6. and 718.3027(3).

368 k. The notice of any unit owner meeting and the agenda for
369 the meeting, as required by s. 718.112(2)(d)3., no later than 14
370 days before the meeting. The notice must be posted in plain view
371 on the front page of the website or application, or on a
372 separate subpage of the website or application labeled "Notices"
373 which is conspicuously visible and linked from the front page.
374 The association must also post on its website or application any
375 document to be considered and voted on by the owners during the

376 meeting or any document listed on the agenda at least 7 days
377 before the meeting at which the document or the information
378 within the document will be considered.

379 1. Notice of any board meeting, the agenda, and any other
380 document required for the meeting as required by s.
381 718.112(2)(c), which must be posted no later than the date
382 required for notice pursuant to s. 718.112(2)(c).

383 3. The association shall ensure that the information and
384 records described in paragraph (c), which are not allowed to be
385 accessible to unit owners, are not posted on the association's
386 website or the association's application that can be downloaded
387 on a mobile device. If protected information or information
388 restricted from being accessible to unit owners is included in
389 documents that are required to be posted on the association's
390 website or application, the association shall ensure the
391 information is redacted before posting the documents ~~online~~.
392 Notwithstanding the foregoing, the association or its agent is
393 not liable for disclosing information that is protected or
394 restricted pursuant to this paragraph unless such disclosure was
395 made with a knowing or intentional disregard of the protected or
396 restricted nature of such information.

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

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

404 718.112 Bylaws.—

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

408 (d) Unit owner meetings.—

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

415 2. Unless the bylaws provide otherwise, a vacancy on the
 416 board caused by the expiration of a director's term must be
 417 filled by electing a new board member, and the election must be
 418 by secret ballot. An election is not required if the number of
 419 vacancies equals or exceeds the number of candidates. For
 420 purposes of this paragraph, the term "candidate" means an
 421 eligible person who has timely submitted the written notice, as
 422 described in sub-subparagraph 4.a., of his or her intention to
 423 become a candidate. Except in a timeshare or nonresidential
 424 condominium, or if the staggered term of a board member does not
 425 expire until a later annual meeting, or if all members' terms

426 | would otherwise expire but there are no candidates, the terms of
427 | all board members expire at the annual meeting, and such members
428 | may stand for reelection unless prohibited by the bylaws. Board
429 | members may serve terms longer than 1 year if permitted by the
430 | bylaws or articles of incorporation. A board member may not
431 | serve more than 8 consecutive years unless approved by an
432 | affirmative vote of unit owners representing two-thirds of all
433 | votes cast in the election or unless there are not enough
434 | eligible candidates to fill the vacancies on the board at the
435 | time of the vacancy. Only board service that occurs on or after
436 | July 1, 2018, may be used when calculating a board member's term
437 | limit. If the number of board members whose terms expire at the
438 | annual meeting equals or exceeds the number of candidates, the
439 | candidates become members of the board effective upon the
440 | adjournment of the annual meeting. Unless the bylaws provide
441 | otherwise, any remaining vacancies shall be filled by the
442 | affirmative vote of the majority of the directors making up the
443 | newly constituted board even if the directors constitute less
444 | than a quorum or there is only one director. In a residential
445 | condominium association of more than 10 units or in a
446 | residential condominium association that does not include
447 | timeshare units or timeshare interests, coowners of a unit may
448 | not serve as members of the board of directors at the same time
449 | unless they own more than one unit or unless there are not
450 | enough eligible candidates to fill the vacancies on the board at

451 the time of the vacancy. A unit owner in a residential
452 condominium desiring to be a candidate for board membership must
453 comply with sub-subparagraph 4.a. and must be eligible to be a
454 candidate to serve on the board of directors at the time of the
455 deadline for submitting a notice of intent to run in order to
456 have his or her name listed as a proper candidate on the ballot
457 or to serve on the board. A person who has been suspended or
458 removed by the division under this chapter, or who is delinquent
459 in the payment of any monetary obligation due to the
460 association, is not eligible to be a candidate for board
461 membership and may not be listed on the ballot. A person who has
462 been convicted of any felony in this state or in a United States
463 District or Territorial Court, or who has been convicted of any
464 offense in another jurisdiction which would be considered a
465 felony if committed in this state, is not eligible for board
466 membership unless such felon's civil rights have been restored
467 for at least 5 years as of the date such person seeks election
468 to the board. The validity of an action by the board is not
469 affected if it is later determined that a board member is
470 ineligible for board membership due to having been convicted of
471 a felony. This subparagraph does not limit the term of a member
472 of the board of a nonresidential or timeshare condominium.

473 3. The bylaws must provide the method of calling meetings
474 of unit owners, including annual meetings. Written notice must
475 include an agenda, must be mailed, hand delivered, or

476 | electronically transmitted to each unit owner at least 14 days
477 | before the ~~annual~~ meeting, and must be posted in a conspicuous
478 | place on the condominium property at least 14 continuous days
479 | before the ~~annual~~ meeting. Upon notice to the unit owners, the
480 | board shall, by duly adopted rule, designate a specific location
481 | on the condominium property where all notices of unit owner
482 | meetings must be posted. This requirement does not apply if
483 | there is no condominium property for posting notices. In lieu
484 | of, or in addition to, the physical posting of meeting notices,
485 | the association may, by reasonable rule, adopt a procedure for
486 | conspicuously posting and repeatedly broadcasting the notice and
487 | the agenda on a closed-circuit cable television system serving
488 | the condominium association. However, if broadcast notice is
489 | used in lieu of a notice posted physically on the condominium
490 | property, the notice and agenda must be broadcast at least four
491 | times every broadcast hour of each day that a posted notice is
492 | otherwise required under this section. If broadcast notice is
493 | provided, the notice and agenda must be broadcast in a manner
494 | and for a sufficient continuous length of time so as to allow an
495 | average reader to observe the notice and read and comprehend the
496 | entire content of the notice and the agenda. In addition to any
497 | of the authorized means of providing notice of a meeting of the
498 | board, the association may, by rule, adopt a procedure for
499 | conspicuously posting the meeting notice and the agenda on a
500 | website serving the condominium association for at least the

501 minimum period of time for which a notice of a meeting is also
502 required to be physically posted on the condominium property.
503 Any rule adopted shall, in addition to other matters, include a
504 requirement that the association send an electronic notice in
505 the same manner as a notice for a meeting of the members, which
506 must include a hyperlink to the website where the notice is
507 posted, to unit owners whose e-mail addresses are included in
508 the association's official records. Unless a unit owner waives
509 in writing the right to receive notice of the annual meeting,
510 such notice must be hand delivered, mailed, or electronically
511 transmitted to each unit owner. Notice for meetings and notice
512 for all other purposes must be mailed to each unit owner at the
513 address last furnished to the association by the unit owner, or
514 hand delivered to each unit owner. However, if a unit is owned
515 by more than one person, the association must provide notice to
516 the address that the developer identifies for that purpose and
517 thereafter as one or more of the owners of the unit advise the
518 association in writing, or if no address is given or the owners
519 of the unit do not agree, to the address provided on the deed of
520 record. An officer of the association, or the manager or other
521 person providing notice of the association meeting, must provide
522 an affidavit or United States Postal Service certificate of
523 mailing, to be included in the official records of the
524 association affirming that the notice was mailed or hand
525 delivered in accordance with this provision.

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

533 a. At least 60 days before a scheduled election, the
534 association shall mail, deliver, or electronically transmit, by
535 separate association mailing or included in another association
536 mailing, delivery, or transmission, including regularly
537 published newsletters, to each unit owner entitled to a vote, a
538 first notice of the date of the election. A unit owner or other
539 eligible person desiring to be a candidate for the board must
540 give written notice of his or her intent to be a candidate to
541 the association at least 40 days before a scheduled election.
542 Together with the written notice and agenda as set forth in
543 subparagraph 3., the association shall mail, deliver, or
544 electronically transmit a second notice of the election to all
545 unit owners entitled to vote, together with a ballot that lists
546 all candidates not less than 14 days or more than 34 days before
547 the date of the election. Upon request of a candidate, an
548 information sheet, no larger than 8 1/2 inches by 11 inches,
549 which must be furnished by the candidate at least 35 days before
550 the election, must be included with the mailing, delivery, or

551 transmission of the ballot, with the costs of mailing, delivery,
552 or electronic transmission and copying to be borne by the
553 association. The association is not liable for the contents of
554 the information sheets prepared by the candidates. In order to
555 reduce costs, the association may print or duplicate the
556 information sheets on both sides of the paper. The division
557 shall by rule establish voting procedures consistent with this
558 sub-subparagraph, including rules establishing procedures for
559 giving notice by electronic transmission and rules providing for
560 the secrecy of ballots. Elections shall be decided by a
561 plurality of ballots cast. There is no quorum requirement;
562 however, at least 20 percent of the eligible voters must cast a
563 ballot in order to have a valid election. A unit owner may not
564 authorize any other person to vote his or her ballot, and any
565 ballots improperly cast are invalid. A unit owner who violates
566 this provision may be fined by the association in accordance
567 with s. 718.303. A unit owner who needs assistance in casting
568 the ballot for the reasons stated in s. 101.051 may obtain such
569 assistance. The regular election must occur on the date of the
570 annual meeting. Notwithstanding this sub-subparagraph, an
571 election is not required unless more candidates file notices of
572 intent to run or are nominated than board vacancies exist.

573 b. Within 90 days after being elected or appointed to the
574 board of an association of a residential condominium, each newly
575 elected or appointed director shall certify in writing to the

576 secretary of the association that he or she has read the
577 association's declaration of condominium, articles of
578 incorporation, bylaws, and current written policies; that he or
579 she will work to uphold such documents and policies to the best
580 of his or her ability; and that he or she will faithfully
581 discharge his or her fiduciary responsibility to the
582 association's members. In lieu of this written certification,
583 within 90 days after being elected or appointed to the board,
584 the newly elected or appointed director may submit a certificate
585 of having satisfactorily completed the educational curriculum
586 administered by a division-approved condominium education
587 provider within 1 year before or 90 days after the date of
588 election or appointment. The written certification or
589 educational certificate is valid and does not have to be
590 resubmitted as long as the director serves on the board without
591 interruption. A director of an association of a residential
592 condominium who fails to timely file the written certification
593 or educational certificate is suspended from service on the
594 board until he or she complies with this sub-subparagraph. The
595 board may temporarily fill the vacancy during the period of
596 suspension. The secretary shall cause the association to retain
597 a director's written certification or educational certificate
598 for inspection by the members for 5 years after a director's
599 election or the duration of the director's uninterrupted tenure,
600 whichever is longer. Failure to have such written certification

601 or educational certificate on file does not affect the validity
 602 of any board action.

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

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

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

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

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

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

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

651 condominium association or nonresidential condominium
652 association.

653
654 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
655 association of 10 or fewer units may, by affirmative vote of a
656 majority of the total voting interests, provide for different
657 voting and election procedures in its bylaws, which may be by a
658 proxy specifically delineating the different voting and election
659 procedures. The different voting and election procedures may
660 provide for elections to be conducted by limited or general
661 proxy.

662 (i) Transfer fees.—An association may not ~~ne~~ charge an
663 applicant any fees, except the actual costs of any background
664 check or screening performed ~~shall be made~~ by the association,
665 ~~or any body thereof~~ in connection with the sale, mortgage,
666 lease, sublease, or other transfer of a unit unless the
667 association is required to approve such transfer and a fee for
668 such approval is provided for in the declaration, articles, or
669 bylaws. Except for the actual costs of any background check or
670 screening performed by the association, any such fee may be
671 preset, but may not ~~in no event may such fee~~ exceed \$100 per
672 applicant other than a husband and wife or parent and dependent
673 child ~~husband/wife or parent/dependent child~~, which are
674 considered one applicant. However, if the lease or sublease is a
675 renewal of a lease or sublease with the same lessee or

676 sublessee, a charge may not ~~no charge shall~~ be made. The
677 foregoing notwithstanding, an association may, if the authority
678 to do so appears in the declaration, articles, or bylaws,
679 require that a prospective lessee place a security deposit, in
680 an amount not to exceed the equivalent of 1 month's rent, into
681 an escrow account maintained by the association. The security
682 deposit shall protect against damages to the common elements or
683 association property. Payment of interest, claims against the
684 deposit, refunds, and disputes under this paragraph shall be
685 handled in the same fashion as provided in part II of chapter
686 83.

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

698 1. If the recall is approved by a majority of all voting
699 interests by a vote at a meeting, the recall will be effective
700 as provided in this paragraph. The board shall duly notice and

701 hold a board meeting within 5 full business days after the
702 adjournment of the unit owner meeting to recall one or more
703 board members. Such member or members shall be recalled
704 effective immediately upon conclusion of the board meeting,
705 provided that the recall is facially valid. A recalled member
706 must turn over to the board, within 10 full business days after
707 the vote, any and all records and property of the association in
708 his or her ~~their~~ possession.

709 2. If the proposed recall is by an agreement in writing by
710 a majority of all voting interests, the agreement in writing or
711 a copy thereof shall be served on the association by certified
712 mail or by personal service in the manner authorized by chapter
713 48 and the Florida Rules of Civil Procedure. The board of
714 administration shall duly notice and hold a meeting of the board
715 within 5 full business days after receipt of the agreement in
716 writing. Such member or members shall be recalled effective
717 immediately upon the conclusion of the board meeting, provided
718 that the recall is facially valid. A recalled member must turn
719 over to the board, within 10 full business days, any and all
720 records and property of the association in his or her ~~their~~
721 possession.

722 3. If the board fails to duly notice and hold a board
723 meeting within 5 full business days after service of an
724 agreement in writing or within 5 full business days after the
725 adjournment of the unit owner recall meeting, the recall is

726 ~~shall be deemed~~ effective and the board members so recalled
727 shall turn over to the board within 10 full business days after
728 the vote any and all records and property of the association.

729 4. If the board fails to duly notice and hold the required
730 meeting or at the conclusion of the meeting determines that the
731 recall is not facially valid, the unit owner representative may
732 file an action ~~a petition~~ pursuant to s. 718.1255 challenging
733 the board's failure to act or challenging the board's
734 determination on facial validity. The action ~~petition~~ must be
735 filed within 60 days after the expiration of the applicable 5-
736 full-business-day period. The review of an action ~~a petition~~
737 under this subparagraph is limited to the sufficiency of service
738 on the board and the facial validity of the written agreement or
739 ballots filed.

740 5. If a vacancy occurs on the board as a result of a
741 recall or removal and less than a majority of the board members
742 are removed, the vacancy may be filled by the affirmative vote
743 of a majority of the remaining directors, notwithstanding any
744 provision to the contrary contained in this subsection. If
745 vacancies occur on the board as a result of a recall and a
746 majority or more of the board members are removed, the vacancies
747 shall be filled in accordance with the bylaws ~~procedural rules~~
748 ~~to be adopted by the division, which rules need not be~~
749 ~~consistent with this subsection. The rules must provide~~
750 ~~procedures governing the conduct of the recall election as well~~

751 ~~as the operation of the association during the period after a~~
752 ~~recall but before the recall election.~~

753 6. A board member who has been recalled may file an action
754 ~~a petition~~ pursuant to s. 718.1255 challenging the validity of
755 the recall. The action ~~petition~~ must be filed within 60 days
756 after the recall. The association and the unit owner
757 representative shall be named as the defendants ~~respondents~~. The
758 action ~~petition~~ may challenge the facial validity of the written
759 agreement or ballots filed or the substantial compliance with
760 the procedural requirements for the recall. If the court
761 ~~arbitrator~~ determines the recall was invalid, the plaintiff
762 ~~petitioning board member~~ shall immediately be reinstated and the
763 recall is null and void. A board member who is successful in
764 challenging a recall is entitled to recover reasonable attorney
765 fees and costs from the defendants ~~respondents~~. The court shall
766 ~~arbitrator may~~ award reasonable attorney fees and costs to the
767 defendants ~~respondents~~ if they prevail, if the court ~~arbitrator~~
768 makes a finding that the plaintiff's ~~petitioner's~~ claim is
769 frivolous.

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

776 board member sought to be recalled.

777 (k) Mediation Arbitration.—There shall be a provision for
778 mandatory mediation ~~nonbinding arbitration~~ as provided for in s.
779 718.1255 for any residential condominium.

780 ~~(p) Service providers; conflicts of interest. An~~
781 ~~association, which is not a timeshare condominium association,~~
782 ~~may not employ or contract with any service provider that is~~
783 ~~owned or operated by a board member or with any person who has a~~
784 ~~financial relationship with a board member or officer, or a~~
785 ~~relative within the third degree of consanguinity by blood or~~
786 ~~marriage of a board member or officer. This paragraph does not~~
787 ~~apply to a service provider in which a board member or officer,~~
788 ~~or a relative within the third degree of consanguinity by blood~~
789 ~~or marriage of a board member or officer, owns less than 1~~
790 ~~percent of the equity shares.~~

791 Section 6. Paragraphs (a) and (c) of subsection (8) of
792 section 718.113, Florida Statutes, are amended to read:

793 718.113 Maintenance; limitation upon improvement; display
794 of flag; hurricane shutters and protection; display of religious
795 decorations.—

796 (8) The Legislature finds that the use of electric
797 vehicles conserves and protects the state's environmental
798 resources, provides significant economic savings to drivers, and
799 serves an important public interest. The participation of
800 condominium associations is essential to the state's efforts to

801 conserve and protect the state's environmental resources and
802 provide economic savings to drivers. Therefore, the installation
803 of an electric vehicle charging station shall be governed as
804 follows:

805 (a) A declaration of condominium or restrictive covenant
806 may not prohibit or be enforced so as to prohibit any unit owner
807 from installing an electric vehicle charging station within the
808 boundaries of the unit owner's limited common element or
809 exclusively designated parking area. The board of administration
810 of a condominium association may not prohibit a unit owner from
811 installing an electric vehicle charging station for an electric
812 vehicle, as defined in s. 320.01, within the boundaries of his
813 or her limited common element or exclusively designated parking
814 area. The installation of such charging stations are subject to
815 the provisions of this subsection.

816 (c) The electricity for the electric vehicle charging
817 station must be separately metered or must use an embedded meter
818 and be payable by the unit owner installing such charging
819 station.

820 Section 7. Subsection (16) of section 718.117, Florida
821 Statutes, is amended to read:

822 718.117 Termination of condominium.—

823 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest
824 a plan of termination by initiating a summary procedure pursuant
825 to s. 51.011 ~~petition for mandatory nonbinding arbitration~~

826 ~~pursuant to s. 718.1255~~ within 90 days after the date the plan
827 is recorded. A unit owner or lienor may only contest the
828 fairness and reasonableness of the apportionment of the proceeds
829 from the sale among the unit owners, that the liens of the first
830 mortgages of unit owners other than the bulk owner have not or
831 will not be satisfied to the extent required by subsection (3),
832 or that the required vote to approve the plan was not obtained.
833 A unit owner or lienor who does not contest the plan within the
834 90-day period is barred from asserting or prosecuting a claim
835 against the association, the termination trustee, any unit
836 owner, or any successor in interest to the condominium property.
837 In an action contesting a plan of termination, the person
838 contesting the plan has the burden of pleading and proving that
839 the apportionment of the proceeds from the sale among the unit
840 owners was not fair and reasonable or that the required vote was
841 not obtained. The apportionment of sale proceeds is presumed
842 fair and reasonable if it was determined pursuant to the methods
843 prescribed in subsection (12). The court ~~arbitrator~~ shall
844 determine the rights and interests of the parties in the
845 apportionment of the sale proceeds. If the court ~~arbitrator~~
846 determines that the apportionment of sales proceeds is not fair
847 and reasonable, the court ~~arbitrator~~ may void the plan or may
848 modify the plan to apportion the proceeds in a fair and
849 reasonable manner pursuant to this section based upon the
850 proceedings and order the modified plan of termination to be

851 implemented. If the court ~~arbitrator~~ determines that the plan
852 was not properly approved, or that the procedures to adopt the
853 plan were not properly followed, the court ~~arbitrator~~ may void
854 the plan or grant other relief it deems just and proper. The
855 bulk owner is liable for any damages, as determined by the
856 court, ~~The arbitrator shall automatically void the plan~~ upon a
857 finding that any of the disclosures required in subparagraph
858 (3)(c)5. are omitted, misleading, incomplete, or inaccurate. Any
859 challenge to a plan, other than a challenge that the required
860 vote was not obtained, does not affect title to the condominium
861 property or the vesting of the condominium property in the
862 trustee, but shall only be a claim against the proceeds of the
863 plan. In any such action, the prevailing party shall recover
864 reasonable attorney fees and costs.

865 Section 8. Section 718.1255, Florida Statutes, is amended
866 to read:

867 718.1255 Alternative dispute resolution; mandatory
868 ~~voluntary~~ mediation; ~~mandatory nonbinding arbitration;~~
869 legislative findings.—

870 (1) DEFINITIONS.—As used in this section, the term
871 "dispute" means any disagreement between two or more parties
872 that involves:

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

875 1. Require any owner to take any action, or not to take

876 any action, involving that owner's unit or the appurtenances
877 thereto.

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

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

881 1. Maintain common elements, association property, or
882 portions of the unit for which the association is responsible
883 ~~Properly conduct elections.~~

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

885 3. Properly conduct meetings of the board and committees
886 appointed by the board and membership meetings. This
887 subparagraph does not apply to elections held at a meeting.

888 4. Allow inspection of books and records.

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

890

891 "Dispute" does not include any disagreement that primarily
892 involves: title to any unit or common element; the
893 interpretation or enforcement of any warranty; the levy of a fee
894 or assessment, or the collection of an assessment levied against
895 a party; the eviction or other removal of a tenant from a unit;
896 alleged breaches of fiduciary duty by one or more directors; or
897 claims for damages to a unit based upon the alleged failure of
898 the association to maintain the common elements or condominium
899 property.

900 ~~(2) VOLUNTARY MEDIATION. Voluntary mediation through~~

901 ~~Citizen Dispute Settlement Centers as provided for in s. 44.201~~
 902 ~~is encouraged.~~

903 ~~(2)(3)~~ LEGISLATIVE FINDINGS.—

904 ~~(a)~~ The Legislature finds that alternative dispute
 905 resolution reduces court dockets and trials and offers a more
 906 efficient, cost-effective option to litigation. However, the
 907 Legislature also finds that alternative dispute resolution
 908 should not be used as a mechanism to encourage the filing of
 909 frivolous or nuisance actions. Upon serving a demand for presuit
 910 mediation as provided for in this section, the applicable
 911 statute of limitations is tolled until 30 days after mediation
 912 is completed and no agreement has been made, 10 days after the
 913 date by which a party must accept presuit mediation, or until
 914 the conclusion of the period of time during which a mediation
 915 must be conducted under this section ~~unit owners are frequently~~
 916 ~~at a disadvantage when litigating against an association.~~
 917 ~~Specifically, a condominium association, with its statutory~~
 918 ~~assessment authority, is often more able to bear the costs and~~
 919 ~~expenses of litigation than the unit owner who must rely on his~~
 920 ~~or her own financial resources to satisfy the costs of~~
 921 ~~litigation against the association.~~

922 ~~(b)~~ The Legislature finds that ~~alternative dispute~~
 923 ~~resolution has been making progress in reducing court dockets~~
 924 ~~and trials and in offering a more efficient, cost-effective~~
 925 ~~option to court litigation. However, the Legislature also finds~~

926 ~~that alternative dispute resolution should not be used as a~~
 927 ~~mechanism to encourage the filing of frivolous or nuisance~~
 928 ~~suits.~~

929 ~~(c) There exists a need to develop a flexible means of~~
 930 ~~alternative dispute resolution that directs disputes to the most~~
 931 ~~efficient means of resolution.~~

932 ~~(d) The high cost and significant delay of circuit court~~
 933 ~~litigation faced by unit owners in the state can be alleviated~~
 934 ~~by requiring nonbinding arbitration and mediation in appropriate~~
 935 ~~cases, thereby reducing delay and attorney's fees while~~
 936 ~~preserving the right of either party to have its case heard by a~~
 937 ~~jury, if applicable, in a court of law.~~

938 ~~(3)(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF~~
 939 ~~DISPUTES.—~~

940 (a)1. Before an action may be filed in court, all
 941 disputes, except for disputes relating to the collection of any
 942 assessment, fine, or other financial obligation, including
 943 attorney fees and costs, between an association and a unit owner
 944 must be mediated pursuant to this subsection. An association or
 945 unit owner may file an action in court without presuit mediation
 946 to enforce a prior mediation settlement agreement between the
 947 parties or request injunctive relief. However, the court hearing
 948 the action for injunctive relief must refer the parties to a
 949 mediation program administered by the courts or mediation under
 950 this subsection after the injunctive relief issues are

951 determined. Presuit mediation proceedings must be conducted in
 952 accordance with the applicable rules of the Florida Rules of
 953 Civil Procedure and chapter 44. The proceedings under this
 954 subsection are privileged and confidential to the same extent as
 955 court-ordered mediation. Except for each party's counsel, a
 956 corporate representative designated by the association, and a
 957 representative from the association's insurance carrier, if
 958 applicable, a person who is not a party to the dispute may not
 959 attend the presuit mediation without the consent of all the
 960 parties. If the presuit mediation is attended by a quorum of the
 961 board, the mediation is not considered a board meeting for
 962 purposes of notice and participation as required in s. 718.112.
 963 An aggrieved party shall serve a written demand to participate
 964 in presuit mediation on the responding party in substantially
 965 the following form:

966
 967 STATUTORY OFFER TO PARTICIPATE
 968 IN PRESUIT MEDIATION
 969

970 The alleged aggrieved party,, hereby demands
 971 that, as the responding party, engage in
 972 mandatory presuit mediation in connection with the following
 973 disputes, which are statutorily subject to presuit mediation:

974
 975 (List each dispute to be mediated and the basis for the

976 violation.)

977

978 Under section 718.1255, Florida Statutes, this demand to resolve
979 the dispute through presuit mediation is required before a
980 lawsuit can be filed concerning the dispute. The parties are
981 required to engage in presuit mediation with a neutral third-
982 party mediator in order to attempt to resolve this dispute
983 without court action, and the aggrieved party demands that you
984 likewise agree to this process. If you fail to participate in
985 the presuit mediation process, an action may be brought against
986 you without further warning.

987

988 Presuit mediation involves a supervised negotiation process in
989 which a trained, neutral third-party mediator meets with both
990 parties and assists them in exploring possible opportunities for
991 resolving part or all of the dispute. By agreeing to participate
992 in presuit mediation, you are not bound in any way to change
993 your position. Furthermore, the mediator has no authority to
994 make any decisions in this matter or to determine who is right
995 or wrong; he or she merely acts as a facilitator to ensure that
996 each party understands the position of the other party and that
997 all options for reasonable settlement are fully explored.

998

999 If an agreement is reached, it must be reduced to writing and
1000 signed, at which time the agreement becomes a binding and

1001 enforceable contract between the parties. A resolution of one or
 1002 more disputes in this fashion avoids the need to litigate those
 1003 issues in court. The failure of a party to participate in the
 1004 process or the failure of the parties to reach an agreement
 1005 during the mediation process results in the aggrieved party
 1006 being able to proceed to court on all outstanding and unsettled
 1007 disputes. If you fail or refuse to participate in the presuit
 1008 mediation process, you will not be entitled to recover your
 1009 attorney fees, even if you prevail during the court process.

1010
 1011 The aggrieved party has selected and hereby lists five circuit
 1012 court civil mediators certified by the Florida Supreme Court who
 1013 the aggrieved party believes to be neutral and qualified to
 1014 mediate the dispute. You have the right to select any one of
 1015 these mediators. The fact that one party may be familiar with
 1016 one or more of the listed mediators does not mean that the
 1017 mediator cannot act as a neutral and impartial facilitator. Any
 1018 mediator who cannot act in this capacity is required ethically
 1019 to decline to accept the engagement. The mediators that we
 1020 suggest, and their current hourly rates, are as follows:

1021
 1022 (List the names, physical addresses, e-mail addresses, telephone
 1023 numbers, and hourly rates of the mediators. Other pertinent
 1024 information about the backgrounds of the mediators may be
 1025 included as an attachment, including whether the mediator is

1026 board certified by The Florida Bar in any practice area.)
 1027
 1028 By mutual agreement, and before accepting presuit mediation, we
 1029 can also select mediators other than the Supreme Court-certified
 1030 circuit court civil mediators named above as alternates to the
 1031 above-named mediators. The alternate mediators are not required
 1032 to be Supreme Court-certified circuit court civil mediators. The
 1033 alternate mediators that we suggest, and their hourly rates, are
 1034 as follows:
 1035
 1036 (List the names, physical addresses, e-mail addresses, telephone
 1037 numbers, and hourly rates of the alternate mediators. Other
 1038 pertinent information about the backgrounds of the alternate
 1039 mediators may be included as an attachment.)
 1040
 1041 You may contact the offices of these mediators to confirm that
 1042 the listed mediators will be neutral and will not show any
 1043 favoritism toward either party. The Florida Supreme Court can
 1044 provide you a list of mediators who are certified in the area of
 1045 circuit civil law.
 1046
 1047 Unless otherwise agreed to by the parties, section
 1048 718.1255(3)(d), Florida Statutes, requires that the parties
 1049 share equally the costs of presuit mediation, including the fee
 1050 charged by the mediator. A typical presuit mediation may require

1051 3 to 4 hours of the mediator's time, including preparation time.
1052 Parties who choose to hire an attorney will pay their own
1053 attorney fees without a guarantee that the court will issue an
1054 award for reimbursement of the fees. However, the use of an
1055 attorney is not required. The mediator may require an advance
1056 payment for some or all of the anticipated fees. The aggrieved
1057 party hereby agrees to pay, or prepay if requested by the
1058 mediator, one-half of the mediator's estimated fees and to
1059 forward this amount or such other reasonable advance deposits as
1060 the mediator requires. Any funds you deposit will be returned to
1061 you if the deposited funds are in excess of your share of the
1062 fees incurred.

1063
1064 To begin your participation in presuit mediation to try to
1065 resolve the dispute and avoid further legal action, please sign
1066 below and clearly indicate which mediator is acceptable to you.
1067 We will then ask the mediator to schedule a mutually convenient
1068 time and place for the presuit mediation conference to be held.
1069 The presuit mediation conference must be held within 90 days
1070 after the date of acceptance of presuit mediation, unless
1071 extended by mutual written agreement. In the event that you fail
1072 to respond within 30 days after the date of this letter, or if
1073 you fail to agree to at least one of the mediators that we have
1074 suggested or fail to pay or prepay to the mediator one-half of
1075 the fees involved, the aggrieved party is authorized to proceed

1076 with the filing of a lawsuit against you without further notice
1077 and may then seek an award of attorney fees or costs incurred in
1078 attempting to mediate this dispute.

1079
1080 Therefore, please give this matter your immediate attention. By
1081 law, your response must be mailed by certified mail, return
1082 receipt requested, and by first-class mail to the address shown
1083 on this demand.

1084
1085
1086

1087
1088 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO
1089 THAT CHOICE.

1090
1091 AGREEMENT TO MEDIATE

1092
1093 The undersigned agrees to participate in presuit mediation and
1094 agrees to attend a mediation conducted by the following mediator
1095 or mediators who are listed above as individuals who would be
1096 acceptable to mediate this dispute:

1097
1098 (List acceptable mediator or mediators.)

1099
1100 I/we further agree to pay or prepay one-half of the mediator's

1101 fees and to forward such advance deposits as the mediator may
1102 require for this purpose.

1103
1104

1105 Signature of responding party #1

1106
1107

1108 Telephone number

1109
1110

1111 Signature and telephone number of responding party #2, if
1112 applicable. (If property is owned by more than one person, all
1113 owners must sign.)

1114
1115 2. The statutory demand must also contain the following
1116 statement in capitalized, bold letters in a font size larger
1117 than any other used in the statutory demand: A PERSON WHO FAILS
1118 OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION
1119 PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN
1120 SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

1121 (b) Service of the statutory demand to participate in
1122 presuit mediation shall be effected by sending a letter in
1123 substantially the above form by certified mail, return receipt
1124 requested, with an additional copy being sent by first-class
1125 mail, to the address of the responding party as it last appears

1126 on the books and records of the association. The responding
1127 party shall serve a written response to the aggrieved party
1128 within 30 days after the date of the mailing of the statutory
1129 demand. The response must be sent by certified mail, return
1130 receipt requested, with an additional copy being sent by first-
1131 class mail, to the address shown on the statutory demand.

1132 (c) Once the parties have selected a mediator, the
1133 mediator shall schedule the presuit mediation for a date and
1134 time mutually convenient to the parties. Each proposed mediator
1135 must be available to hold the presuit mediation in the county in
1136 which the condominium is located or within 40 miles of the
1137 condominium without charging extra for travel-related costs. If
1138 a presuit mediation session cannot be scheduled and concluded
1139 within 90 days after the date of acceptance of presuit mediation
1140 and there is no agreement between the parties to extend the 90-
1141 day deadline, the aggrieved party may file an action in court.

1142 (d) The parties shall share equally the costs of presuit
1143 mediation, including any fee charged by the mediator, unless the
1144 parties agree otherwise. The mediator may require advance
1145 payment of his or her reasonable fees and costs, which must also
1146 be shared equally. The failure of any party to respond to a
1147 demand or response, to agree upon a mediator, to pay fees and
1148 costs within the time established by the mediator, or to fail to
1149 appear for a scheduled presuit mediation session without the
1150 approval of the mediator constitutes the failure or refusal to

1151 participate in the presuit mediation process, entitling the
1152 other party to proceed in court and to seek an award of the
1153 costs and fees associated with the presuit mediation.

1154 Additionally, and notwithstanding any other law, document, or
1155 contractual provision, any person who fails or refuses to
1156 participate in the entire presuit mediation process may not
1157 recover attorney fees and costs in subsequent litigation
1158 relating to the dispute.

1159 (e) If presuit mediation as described in paragraph (a) is
1160 not successful in resolving all issues between the parties, any
1161 party may file suit regarding the unresolved dispute in a court
1162 of competent jurisdiction. As to any issue or dispute that is
1163 not resolved at presuit mediation, and as to any issue or
1164 dispute that is settled at presuit mediation but is later
1165 subject to an action seeking enforcement of the mediation
1166 settlement, the prevailing party in any subsequent litigation or
1167 proceeding is entitled to an award of all costs and attorney
1168 fees incurred in the presuit mediation process.

1169 (f) The parties may agree to a mediator who is not
1170 certified by the Florida Supreme Court. Unless such mediator is
1171 agreed upon, a mediator may not conduct presuit mediation under
1172 this section unless he or she has been certified as a circuit
1173 court civil mediator pursuant to the requirements established by
1174 the Florida Supreme Court. Settlement agreements resulting from
1175 presuit mediation do not have precedential value in proceedings

1176 involving parties other than those participating in the presuit
1177 mediation to support a claim or defense in other disputes.

1178 (4) DISPUTES INVOLVING ELECTIONS FOR THE BOARD OF
1179 ADMINISTRATION OR RECALL OF BOARD MEMBERS.—Any dispute
1180 challenging the legality of the election of any director of the
1181 board of administration or the recall of any member of the board
1182 of administration must be filed as a summary procedure under s.
1183 51.011, and in any such action the prevailing party is entitled
1184 to recover reasonable attorney fees and costs. Any action filed
1185 pursuant to this subsection must be tried without a jury. The
1186 Division of Florida Condominiums, Timeshares, and Mobile Homes
1187 of the Department of Business and Professional Regulation may
1188 employ full-time attorneys to act as arbitrators to conduct the
1189 arbitration hearings provided by this chapter. The division may
1190 also certify attorneys who are not employed by the division to
1191 act as arbitrators to conduct the arbitration hearings provided
1192 by this chapter. No person may be employed by the department as
1193 a full-time arbitrator unless he or she is a member in good
1194 standing of The Florida Bar. A person may only be certified by
1195 the division to act as an arbitrator if he or she has been a
1196 member in good standing of The Florida Bar for at least 5 years
1197 and has mediated or arbitrated at least 10 disputes involving
1198 condominiums in this state during the 3 years immediately
1199 preceding the date of application, mediated or arbitrated at
1200 least 30 disputes in any subject area in this state during the 3

1201 ~~years immediately preceding the date of application, or attained~~
1202 ~~board certification in real estate law or condominium and~~
1203 ~~planned development law from The Florida Bar. Arbitrator~~
1204 ~~certification is valid for 1 year. An arbitrator who does not~~
1205 ~~maintain the minimum qualifications for initial certification~~
1206 ~~may not have his or her certification renewed. The department~~
1207 ~~may not enter into a legal services contract for an arbitration~~
1208 ~~hearing under this chapter with an attorney who is not a~~
1209 ~~certified arbitrator unless a certified arbitrator is not~~
1210 ~~available within 50 miles of the dispute. The department shall~~
1211 ~~adopt rules of procedure to govern such arbitration hearings~~
1212 ~~including mediation incident thereto. The decision of an~~
1213 ~~arbitrator shall be final; however, a decision shall not be~~
1214 ~~deemed final agency action. Nothing in this provision shall be~~
1215 ~~construed to foreclose parties from proceeding in a trial de~~
1216 ~~novo unless the parties have agreed that the arbitration is~~
1217 ~~binding. If judicial proceedings are initiated, the final~~
1218 ~~decision of the arbitrator shall be admissible in evidence in~~
1219 ~~the trial de novo.~~

1220 ~~(a) Prior to the institution of court litigation, a party~~
1221 ~~to a dispute shall petition the division for nonbinding~~
1222 ~~arbitration. The petition must be accompanied by a filing fee in~~
1223 ~~the amount of \$50. Filing fees collected under this section must~~
1224 ~~be used to defray the expenses of the alternative dispute~~
1225 ~~resolution program.~~

1226 ~~(b) The petition must recite, and have attached thereto,~~
1227 ~~supporting proof that the petitioner gave the respondents:~~

1228 ~~1. Advance written notice of the specific nature of the~~
1229 ~~dispute;~~

1230 ~~2. A demand for relief, and a reasonable opportunity to~~
1231 ~~comply or to provide the relief; and~~

1232 ~~3. Notice of the intention to file an arbitration petition~~
1233 ~~or other legal action in the absence of a resolution of the~~
1234 ~~dispute.~~

1235
1236 ~~Failure to include the allegations or proof of compliance with~~
1237 ~~these prerequisites requires dismissal of the petition without~~
1238 ~~prejudice.~~

1239 ~~(c) Upon receipt, the petition shall be promptly reviewed~~
1240 ~~by the division to determine the existence of a dispute and~~
1241 ~~compliance with the requirements of paragraphs (a) and (b). If~~
1242 ~~emergency relief is required and is not available through~~
1243 ~~arbitration, a motion to stay the arbitration may be filed. The~~
1244 ~~motion must be accompanied by a verified petition alleging facts~~
1245 ~~that, if proven, would support entry of a temporary injunction,~~
1246 ~~and if an appropriate motion and supporting papers are filed,~~
1247 ~~the division may abate the arbitration pending a court hearing~~
1248 ~~and disposition of a motion for temporary injunction.~~

1249 ~~(d) Upon determination by the division that a dispute~~
1250 ~~exists and that the petition substantially meets the~~

1251 ~~requirements of paragraphs (a) and (b) and any other applicable~~
1252 ~~rules, the division shall assign or enter into a contract with~~
1253 ~~an arbitrator and serve a copy of the petition upon all~~
1254 ~~respondents. The arbitrator shall conduct a hearing within 30~~
1255 ~~days after being assigned or entering into a contract unless the~~
1256 ~~petition is withdrawn or a continuance is granted for good cause~~
1257 ~~shown.~~

1258 ~~(e) Before or after the filing of the respondents' answer~~
1259 ~~to the petition, any party may request that the arbitrator refer~~
1260 ~~the case to mediation under this section and any rules adopted~~
1261 ~~by the division. Upon receipt of a request for mediation, the~~
1262 ~~division shall promptly contact the parties to determine if~~
1263 ~~there is agreement that mediation would be appropriate. If all~~
1264 ~~parties agree, the dispute must be referred to mediation.~~
1265 ~~Notwithstanding a lack of an agreement by all parties, the~~
1266 ~~arbitrator may refer a dispute to mediation at any time.~~

1267 ~~(f) Upon referral of a case to mediation, the parties must~~
1268 ~~select a mutually acceptable mediator. To assist in the~~
1269 ~~selection, the arbitrator shall provide the parties with a list~~
1270 ~~of both volunteer and paid mediators that have been certified by~~
1271 ~~the division under s. 718.501. If the parties are unable to~~
1272 ~~agree on a mediator within the time allowed by the arbitrator,~~
1273 ~~the arbitrator shall appoint a mediator from the list of~~
1274 ~~certified mediators. If a case is referred to mediation, the~~
1275 ~~parties shall attend a mediation conference, as scheduled by the~~

1276 ~~parties and the mediator. If any party fails to attend a duly~~
1277 ~~noticed mediation conference, without the permission or approval~~
1278 ~~of the arbitrator or mediator, the arbitrator must impose~~
1279 ~~sanctions against the party, including the striking of any~~
1280 ~~pleadings filed, the entry of an order of dismissal or default~~
1281 ~~if appropriate, and the award of costs and attorney fees~~
1282 ~~incurred by the other parties. Unless otherwise agreed to by the~~
1283 ~~parties or as provided by order of the arbitrator, a party is~~
1284 ~~deemed to have appeared at a mediation conference by the~~
1285 ~~physical presence of the party or its representative having full~~
1286 ~~authority to settle without further consultation, provided that~~
1287 ~~an association may comply by having one or more representatives~~
1288 ~~present with full authority to negotiate a settlement and~~
1289 ~~recommend that the board of administration ratify and approve~~
1290 ~~such a settlement within 5 days from the date of the mediation~~
1291 ~~conference. The parties shall share equally the expense of~~
1292 ~~mediation, unless they agree otherwise.~~

1293 ~~(g) The purpose of mediation as provided for by this~~
1294 ~~section is to present the parties with an opportunity to resolve~~
1295 ~~the underlying dispute in good faith, and with a minimum~~
1296 ~~expenditure of time and resources.~~

1297 ~~(h) Mediation proceedings must generally be conducted in~~
1298 ~~accordance with the Florida Rules of Civil Procedure, and these~~
1299 ~~proceedings are privileged and confidential to the same extent~~
1300 ~~as court-ordered mediation. Persons who are not parties to the~~

1301 ~~dispute are not allowed to attend the mediation conference~~
1302 ~~without the consent of all parties, with the exception of~~
1303 ~~counsel for the parties and corporate representatives designated~~
1304 ~~to appear for a party. If the mediator declares an impasse after~~
1305 ~~a mediation conference has been held, the arbitration proceeding~~
1306 ~~terminates, unless all parties agree in writing to continue the~~
1307 ~~arbitration proceeding, in which case the arbitrator's decision~~
1308 ~~shall be binding or nonbinding, as agreed upon by the parties;~~
1309 ~~in the arbitration proceeding, the arbitrator shall not consider~~
1310 ~~any evidence relating to the unsuccessful mediation except in a~~
1311 ~~proceeding to impose sanctions for failure to appear at the~~
1312 ~~mediation conference. If the parties do not agree to continue~~
1313 ~~arbitration, the arbitrator shall enter an order of dismissal,~~
1314 ~~and either party may institute a suit in a court of competent~~
1315 ~~jurisdiction. The parties may seek to recover any costs and~~
1316 ~~attorney fees incurred in connection with arbitration and~~
1317 ~~mediation proceedings under this section as part of the costs~~
1318 ~~and fees that may be recovered by the prevailing party in any~~
1319 ~~subsequent litigation.~~

1320 ~~(i) Arbitration shall be conducted according to rules~~
1321 ~~adopted by the division. The filing of a petition for~~
1322 ~~arbitration shall toll the applicable statute of limitations.~~

1323 ~~(j) At the request of any party to the arbitration, the~~
1324 ~~arbitrator shall issue subpoenas for the attendance of witnesses~~
1325 ~~and the production of books, records, documents, and other~~

1326 ~~evidence and any party on whose behalf a subpoena is issued may~~
1327 ~~apply to the court for orders compelling such attendance and~~
1328 ~~production. Subpoenas shall be served and shall be enforceable~~
1329 ~~in the manner provided by the Florida Rules of Civil Procedure.~~
1330 ~~Discovery may, in the discretion of the arbitrator, be permitted~~
1331 ~~in the manner provided by the Florida Rules of Civil Procedure.~~
1332 ~~Rules adopted by the division may authorize any reasonable~~
1333 ~~sanctions except contempt for a violation of the arbitration~~
1334 ~~procedural rules of the division or for the failure of a party~~
1335 ~~to comply with a reasonable nonfinal order issued by an~~
1336 ~~arbitrator which is not under judicial review.~~

1337 ~~(k) The arbitration decision shall be rendered within 30~~
1338 ~~days after the hearing and presented to the parties in writing.~~
1339 ~~An arbitration decision is final in those disputes in which the~~
1340 ~~parties have agreed to be bound. An arbitration decision is also~~
1341 ~~final if a complaint for a trial de novo is not filed in a court~~
1342 ~~of competent jurisdiction in which the condominium is located~~
1343 ~~within 30 days. The right to file for a trial de novo entitles~~
1344 ~~the parties to file a complaint in the appropriate trial court~~
1345 ~~for a judicial resolution of the dispute. The prevailing party~~
1346 ~~in an arbitration proceeding shall be awarded the costs of the~~
1347 ~~arbitration and reasonable attorney fees in an amount determined~~
1348 ~~by the arbitrator. Such an award shall include the costs and~~
1349 ~~reasonable attorney fees incurred in the arbitration proceeding~~
1350 ~~as well as the costs and reasonable attorney fees incurred in~~

1351 ~~preparing for and attending any scheduled mediation. An~~
1352 ~~arbitrator's failure to render a written decision within 30 days~~
1353 ~~after the hearing may result in the cancellation of his or her~~
1354 ~~arbitration certification.~~

1355 ~~(l) The party who files a complaint for a trial de novo~~
1356 ~~shall be assessed the other party's arbitration costs, court~~
1357 ~~costs, and other reasonable costs, including attorney fees,~~
1358 ~~investigation expenses, and expenses for expert or other~~
1359 ~~testimony or evidence incurred after the arbitration hearing if~~
1360 ~~the judgment upon the trial de novo is not more favorable than~~
1361 ~~the arbitration decision. If the judgment is more favorable, the~~
1362 ~~party who filed a complaint for trial de novo shall be awarded~~
1363 ~~reasonable court costs and attorney fees.~~

1364 ~~(m) Any party to an arbitration proceeding may enforce an~~
1365 ~~arbitration award by filing a petition in a court of competent~~
1366 ~~jurisdiction in which the condominium is located. A petition may~~
1367 ~~not be granted unless the time for appeal by the filing of a~~
1368 ~~complaint for trial de novo has expired. If a complaint for a~~
1369 ~~trial de novo has been filed, a petition may not be granted with~~
1370 ~~respect to an arbitration award that has been stayed. If the~~
1371 ~~petition for enforcement is granted, the petitioner shall~~
1372 ~~recover reasonable attorney fees and costs incurred in enforcing~~
1373 ~~the arbitration award. A mediation settlement may also be~~
1374 ~~enforced through the county or circuit court, as applicable, and~~
1375 ~~any costs and fees incurred in the enforcement of a settlement~~

1376 | ~~agreement reached at mediation must be awarded to the prevailing~~
 1377 | ~~party in any enforcement action.~~

1378 | ~~(5) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every~~
 1379 | ~~arbitration petition received by the division and required to be~~
 1380 | ~~filed under this section challenging the legality of the~~
 1381 | ~~election of any director of the board of administration must be~~
 1382 | ~~handled on an expedited basis in the manner provided by the~~
 1383 | ~~division's rules for recall arbitration disputes.~~

1384 | ~~(5)-(6)~~ APPLICABILITY.—This section does not apply to a
 1385 | nonresidential condominium unless otherwise specifically
 1386 | provided for in the declaration of the nonresidential
 1387 | condominium.

1388 | Section 9. Subsection (1) and paragraph (b) of subsection
 1389 | (3) of section 718.303, Florida Statutes, are amended to read:

1390 | 718.303 Obligations of owners and occupants; remedies.—

1391 | (1) Each unit owner, ~~each~~ tenant and other invitee, and
 1392 | ~~each~~ association is governed by, and must comply with the
 1393 | provisions of, this chapter, the declaration, the documents
 1394 | creating the association, and the association bylaws which are
 1395 | ~~shall be deemed~~ expressly incorporated into any lease of a unit.
 1396 | Actions at law or in equity ~~for damages or for injunctive~~
 1397 | ~~relief~~, or both, for failure to comply with these provisions may
 1398 | be brought by the association or by a unit owner against:

- 1399 | (a) The association.
- 1400 | (b) A unit owner.

1401 (c) Directors designated by the developer, for actions
1402 taken by them before control of the association is assumed by
1403 unit owners other than the developer.

1404 (d) Any director who willfully and knowingly fails to
1405 comply with these provisions.

1406 (e) Any tenant leasing a unit, and any other invitee
1407 occupying a unit.

1408
1409 The prevailing party in any such action or in any action in
1410 which the purchaser claims a right of voidability based upon
1411 contractual provisions as required in s. 718.503(1)(a) is
1412 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1413 owner prevailing in an action between the association and the
1414 unit owner under this subsection ~~section~~, in addition to
1415 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1416 recover additional amounts as determined by the court to be
1417 necessary to reimburse the unit owner for his or her share of
1418 assessments levied by the association to fund its expenses of
1419 the litigation. This relief does not exclude other remedies
1420 provided by law. Actions arising under this subsection are not
1421 considered ~~may not be deemed to be~~ actions for specific
1422 performance.

1423 (3) The association may levy reasonable fines for the
1424 failure of the owner of the unit or its occupant, licensee, or
1425 invitee to comply with any provision of the declaration, the

1426 association bylaws, or reasonable rules of the association. A
1427 fine may not become a lien against a unit. A fine may be levied
1428 by the board on the basis of each day of a continuing violation,
1429 with a single notice and opportunity for hearing before a
1430 committee as provided in paragraph (b). However, the fine may
1431 not exceed \$100 per violation, or \$1,000 in the aggregate.

1432 (b) A fine or suspension levied by the board of
1433 administration may not be imposed unless the board first
1434 provides at least 14 days' written notice to the unit owner and,
1435 if applicable, any occupant, licensee, or invitee of the unit
1436 owner sought to be fined or suspended, and an opportunity for a
1437 hearing before a committee of at least three members appointed
1438 by the board who are not officers, directors, or employees of
1439 the association, or the spouse, parent, child, brother, or
1440 sister of an officer, director, or employee. The role of the
1441 committee is limited to determining whether to confirm or reject
1442 the fine or suspension levied by the board. If the committee
1443 does not approve the proposed fine or suspension by majority
1444 vote, the fine or suspension may not be imposed. If the proposed
1445 fine or suspension is approved by the committee, the fine
1446 payment is due 5 days after notice of the approved fine is
1447 provided to the unit owner and, if applicable, to any tenant,
1448 licensee, or invitee of the unit owner ~~the date of the committee~~
1449 ~~meeting at which the fine is approved.~~ The association must
1450 provide written notice of such fine or suspension by mail or

1451 hand delivery to the unit owner and, if applicable, to any
1452 tenant, licensee, or invitee of the unit owner.

1453 Section 10. Paragraphs (m) through (s) of subsection (1)
1454 of section 718.501, Florida Statutes, are redesignated as
1455 paragraphs (l) through (r), respectively, and present paragraphs
1456 (d), (l), and (s) of that subsection are amended to read:

1457 718.501 Authority, responsibility, and duties of Division
1458 of Florida Condominiums, Timeshares, and Mobile Homes.—

1459 (1) The division may enforce and ensure compliance with
1460 the provisions of this chapter and rules relating to the
1461 development, construction, sale, lease, ownership, operation,
1462 and management of residential condominium units. In performing
1463 its duties, the division has complete jurisdiction to
1464 investigate complaints and enforce compliance with respect to
1465 associations that are still under developer control or the
1466 control of a bulk assignee or bulk buyer pursuant to part VII of
1467 this chapter and complaints against developers, bulk assignees,
1468 or bulk buyers involving improper turnover or failure to
1469 turnover, pursuant to s. 718.301. However, after turnover has
1470 occurred, the division has jurisdiction to investigate
1471 complaints related only to financial issues, elections, and unit
1472 owner access to association records pursuant to s. 718.111(12).

1473 (d) Notwithstanding any remedies available to unit owners
1474 and associations, if the division has reasonable cause to
1475 believe that a violation of any provision of this chapter or

1476 related rule has occurred, the division may institute
1477 enforcement proceedings in its own name against any developer,
1478 bulk assignee, bulk buyer, association, officer, or member of
1479 the board of administration, or its assignees or agents, as
1480 follows:

1481 1. The division may permit a person whose conduct or
1482 actions may be under investigation to waive formal proceedings
1483 and enter into a consent proceeding whereby orders, rules, or
1484 letters of censure or warning, whether formal or informal, may
1485 be entered against the person.

1486 2. The division may issue an order requiring the
1487 developer, bulk assignee, bulk buyer, association, developer-
1488 designated officer, or developer-designated member of the board
1489 of administration, developer-designated assignees or agents,
1490 bulk assignee-designated assignees or agents, bulk buyer-
1491 designated assignees or agents, community association manager,
1492 or community association management firm to cease and desist
1493 from the unlawful practice and take such affirmative action as
1494 in the judgment of the division carry out the purposes of this
1495 chapter. If the division finds that a developer, bulk assignee,
1496 bulk buyer, association, officer, or member of the board of
1497 administration, or its assignees or agents, is violating or is
1498 about to violate any provision of this chapter, any rule adopted
1499 or order issued by the division, or any written agreement
1500 entered into with the division, and presents an immediate danger

1501 to the public requiring an immediate final order, it may issue
1502 an emergency cease and desist order reciting with particularity
1503 the facts underlying such findings. The emergency cease and
1504 desist order is effective for 90 days. If the division begins
1505 nonemergency cease and desist proceedings, the emergency cease
1506 and desist order remains effective until the conclusion of the
1507 proceedings under ss. 120.569 and 120.57.

1508 3. If a developer, bulk assignee, or bulk buyer, fails to
1509 pay any restitution determined by the division to be owed, plus
1510 any accrued interest at the highest rate permitted by law,
1511 within 30 days after expiration of any appellate time period of
1512 a final order requiring payment of restitution or the conclusion
1513 of any appeal thereof, whichever is later, the division must
1514 bring an action in circuit or county court on behalf of any
1515 association, class of unit owners, lessees, or purchasers for
1516 restitution, declaratory relief, injunctive relief, or any other
1517 available remedy. The division may also temporarily revoke its
1518 acceptance of the filing for the developer to which the
1519 restitution relates until payment of restitution is made.

1520 4. The division may petition the court for appointment of
1521 a receiver or conservator. If appointed, the receiver or
1522 conservator may take action to implement the court order to
1523 ensure the performance of the order and to remedy any breach
1524 thereof. In addition to all other means provided by law for the
1525 enforcement of an injunction or temporary restraining order, the

1526 circuit court may impound or sequester the property of a party
1527 defendant, including books, papers, documents, and related
1528 records, and allow the examination and use of the property by
1529 the division and a court-appointed receiver or conservator.

1530 5. The division may apply to the circuit court for an
1531 order of restitution whereby the defendant in an action brought
1532 pursuant to subparagraph 4. is ordered to make restitution of
1533 those sums shown by the division to have been obtained by the
1534 defendant in violation of this chapter. At the option of the
1535 court, such restitution is payable to the conservator or
1536 receiver appointed pursuant to subparagraph 4. or directly to
1537 the persons whose funds or assets were obtained in violation of
1538 this chapter.

1539 6. The division may impose a civil penalty against a
1540 developer, bulk assignee, or bulk buyer, or association, or its
1541 assignee or agent, for any violation of this chapter or related
1542 rule. The division may impose a civil penalty individually
1543 against an officer or board member who willfully and knowingly
1544 violates a provision of this chapter, adopted rule, or a final
1545 order of the division; may order the removal of such individual
1546 as an officer or from the board of administration or as an
1547 officer of the association; and may prohibit such individual
1548 from serving as an officer or on the board of a community
1549 association for a period of time. The term "willfully and
1550 knowingly" means that the division informed the officer or board

1551 member that his or her action or intended action violates this
1552 chapter, a rule adopted under this chapter, or a final order of
1553 the division and that the officer or board member refused to
1554 comply with the requirements of this chapter, a rule adopted
1555 under this chapter, or a final order of the division. The
1556 division, before initiating formal agency action under chapter
1557 120, must afford the officer or board member an opportunity to
1558 voluntarily comply, and an officer or board member who complies
1559 within 10 days is not subject to a civil penalty. A penalty may
1560 be imposed on the basis of each day of continuing violation, but
1561 the penalty for any offense may not exceed \$5,000. By January 1,
1562 1998, the division shall adopt, by rule, penalty guidelines
1563 applicable to possible violations or to categories of violations
1564 of this chapter or rules adopted by the division. The guidelines
1565 must specify a meaningful range of civil penalties for each such
1566 violation of the statute and rules and must be based upon the
1567 harm caused by the violation, the repetition of the violation,
1568 and upon such other factors deemed relevant by the division. For
1569 example, the division may consider whether the violations were
1570 committed by a developer, bulk assignee, or bulk buyer, or
1571 owner-controlled association, the size of the association, and
1572 other factors. The guidelines must designate the possible
1573 mitigating or aggravating circumstances that justify a departure
1574 from the range of penalties provided by the rules. It is the
1575 legislative intent that minor violations be distinguished from

1576 those which endanger the health, safety, or welfare of the
1577 condominium residents or other persons and that such guidelines
1578 provide reasonable and meaningful notice to the public of likely
1579 penalties that may be imposed for proscribed conduct. This
1580 subsection does not limit the ability of the division to
1581 informally dispose of administrative actions or complaints by
1582 stipulation, agreed settlement, or consent order. All amounts
1583 collected shall be deposited with the Chief Financial Officer to
1584 the credit of the Division of Florida Condominiums, Timeshares,
1585 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1586 bulk buyer fails to pay the civil penalty and the amount deemed
1587 to be owed to the association, the division shall issue an order
1588 directing that such developer, bulk assignee, or bulk buyer
1589 cease and desist from further operation until such time as the
1590 civil penalty is paid or may pursue enforcement of the penalty
1591 in a court of competent jurisdiction. If an association fails to
1592 pay the civil penalty, the division shall pursue enforcement in
1593 a court of competent jurisdiction, and the order imposing the
1594 civil penalty or the cease and desist order is not effective
1595 until 20 days after the date of such order. Any action commenced
1596 by the division shall be brought in the county in which the
1597 division has its executive offices or in the county where the
1598 violation occurred.

1599 7. If a unit owner presents the division with proof that
1600 the unit owner has requested access to official records in

1601 writing by certified mail, and that after 10 days the unit owner
1602 again made the same request for access to official records in
1603 writing by certified mail, and that more than 10 days has
1604 elapsed since the second request and the association has still
1605 failed or refused to provide access to official records as
1606 required by this chapter, the division shall issue a subpoena
1607 requiring production of the requested records where the records
1608 are kept pursuant to s. 718.112.

1609 8. In addition to subparagraph 6., the division may seek
1610 the imposition of a civil penalty through the circuit court for
1611 any violation for which the division may issue a notice to show
1612 cause under paragraph (q) ~~paragraph (r)~~. The civil penalty shall
1613 be at least \$500 but no more than \$5,000 for each violation. The
1614 court may also award to the prevailing party court costs and
1615 reasonable attorney ~~attorney's~~ fees and, if the division
1616 prevails, may also award reasonable costs of investigation.

1617 ~~(1) The division shall develop a program to certify both~~
1618 ~~volunteer and paid mediators to provide mediation of condominium~~
1619 ~~disputes. The division shall provide, upon request, a list of~~
1620 ~~such mediators to any association, unit owner, or other~~
1621 ~~participant in arbitration proceedings under s. 718.1255~~
1622 ~~requesting a copy of the list. The division shall include on the~~
1623 ~~list of volunteer mediators only the names of persons who have~~
1624 ~~received at least 20 hours of training in mediation techniques~~
1625 ~~or who have mediated at least 20 disputes. In order to become~~

1626 ~~initially certified by the division, paid mediators must be~~
1627 ~~certified by the Supreme Court to mediate court cases in county~~
1628 ~~or circuit courts. However, the division may adopt, by rule,~~
1629 ~~additional factors for the certification of paid mediators,~~
1630 ~~which must be related to experience, education, or background.~~
1631 ~~Any person initially certified as a paid mediator by the~~
1632 ~~division must, in order to continue to be certified, comply with~~
1633 ~~the factors or requirements adopted by rule.~~

1634 (s) The division shall submit to the Governor, the
1635 President of the Senate, the Speaker of the House of
1636 Representatives, and the chairs of the legislative
1637 appropriations committees an annual report that includes, but
1638 need not be limited to, the number of training programs provided
1639 for condominium association board members and unit owners, the
1640 number of complaints received by type, the number and percent of
1641 complaints acknowledged in writing within 30 days and the number
1642 and percent of investigations acted upon within 90 days in
1643 accordance with paragraph (l) ~~paragraph (m)~~, and the number of
1644 investigations exceeding the 90-day requirement. The annual
1645 report must also include an evaluation of the division's core
1646 business processes and make recommendations for improvements,
1647 including statutory changes. The report shall be submitted by
1648 September 30 following the end of the fiscal year.

1649 Section 11. Section 718.5014, Florida Statutes, is amended
1650 to read:

1651 718.5014 Ombudsman location.—The ombudsman shall maintain
 1652 his or her principal office in any ~~Leon County on the premises~~
 1653 ~~of the division or, if suitable space cannot be provided there,~~
 1654 ~~at another~~ place convenient to the offices of the division which
 1655 will enable the ombudsman to expeditiously carry out the duties
 1656 and functions of his or her office. The ombudsman may establish
 1657 branch offices elsewhere in the state upon the concurrence of
 1658 the Governor.

1659 Section 12. Subsection (25) of section 719.103, Florida
 1660 Statutes, is amended to read:

1661 719.103 Definitions.—As used in this chapter:

1662 (25) "Unit" means a part of the cooperative property which
 1663 is subject to exclusive use and possession. A unit may be
 1664 improvements, land, or land and improvements together, as
 1665 specified in the cooperative documents. An interest in a unit is
 1666 an interest in real property.

1667 Section 13. Paragraph (c) of subsection (2) of section
 1668 719.104, Florida Statutes, is amended to read:

1669 719.104 Cooperatives; access to units; records; financial
 1670 reports; assessments; purchase of leases.—

1671 (2) OFFICIAL RECORDS.—

1672 (c) The official records of the association are open to
 1673 inspection by any association member or the authorized
 1674 representative of such member at all reasonable times. The right
 1675 to inspect the records includes the right to make or obtain

1676 | copies, at the reasonable expense, if any, of the association
1677 | member. The association may adopt reasonable rules regarding the
1678 | frequency, time, location, notice, and manner of record
1679 | inspections and copying, but may not require a member to
1680 | demonstrate any purpose or state any reason for the inspection.
1681 | The failure of an association to provide the records within 10
1682 | working days after receipt of a written request creates a
1683 | rebuttable presumption that the association willfully failed to
1684 | comply with this paragraph. A member ~~unit-owner~~ who is denied
1685 | access to official records is entitled to the actual damages or
1686 | minimum damages for the association's willful failure to comply.
1687 | The minimum damages are \$50 per calendar day for up to 10 days,
1688 | beginning on the 11th working day after receipt of the written
1689 | request. The failure to permit inspection entitles any person
1690 | prevailing in an enforcement action to recover reasonable
1691 | attorney fees from the person in control of the records who,
1692 | directly or indirectly, knowingly denied access to the records.
1693 | Any person who knowingly or intentionally defaces or destroys
1694 | accounting records that are required by this chapter to be
1695 | maintained during the period for which such records are required
1696 | to be maintained, or who knowingly or intentionally fails to
1697 | create or maintain accounting records that are required to be
1698 | created or maintained, with the intent of causing harm to the
1699 | association or one or more of its members, is personally subject
1700 | to a civil penalty pursuant to s. 719.501(1)(d). The association

1701 shall maintain an adequate number of copies of the declaration,
1702 articles of incorporation, bylaws, and rules, and all amendments
1703 to each of the foregoing, as well as the question and answer
1704 sheet as described in s. 719.504 and year-end financial
1705 information required by the department, on the cooperative
1706 property to ensure their availability to members ~~unit-owners~~ and
1707 prospective purchasers, and may charge its actual costs for
1708 preparing and furnishing these documents to those requesting the
1709 same. An association shall allow a member or his or her
1710 authorized representative to use a portable device, including a
1711 smartphone, tablet, portable scanner, or any other technology
1712 capable of scanning or taking photographs, to make an electronic
1713 copy of the official records in lieu of the association
1714 providing the member or his or her authorized representative
1715 with a copy of such records. The association may not charge a
1716 member or his or her authorized representative for the use of a
1717 portable device. Notwithstanding this paragraph, the following
1718 records shall not be accessible to members ~~unit-owners~~:

1719 1. Any record protected by the lawyer-client privilege as
1720 described in s. 90.502 and any record protected by the work-
1721 product privilege, including any record prepared by an
1722 association attorney or prepared at the attorney's express
1723 direction which reflects a mental impression, conclusion,
1724 litigation strategy, or legal theory of the attorney or the
1725 association, and which was prepared exclusively for civil or

1726 criminal litigation or for adversarial administrative
1727 proceedings, or which was prepared in anticipation of such
1728 litigation or proceedings until the conclusion of the litigation
1729 or proceedings.

1730 2. Information obtained by an association in connection
1731 with the approval of the lease, sale, or other transfer of a
1732 unit.

1733 3. Personnel records of association or management company
1734 employees, including, but not limited to, disciplinary, payroll,
1735 health, and insurance records. For purposes of this
1736 subparagraph, the term "personnel records" does not include
1737 written employment agreements with an association employee or
1738 management company, or budgetary or financial records that
1739 indicate the compensation paid to an association employee.

1740 4. Medical records of unit owners.

1741 5. Social security numbers, driver license numbers, credit
1742 card numbers, e-mail addresses, telephone numbers, facsimile
1743 numbers, emergency contact information, addresses of a unit
1744 owner other than as provided to fulfill the association's notice
1745 requirements, and other personal identifying information of any
1746 person, excluding the person's name, unit designation, mailing
1747 address, property address, and any address, e-mail address, or
1748 facsimile number provided to the association to fulfill the
1749 association's notice requirements. Notwithstanding the
1750 restrictions in this subparagraph, an association may print and

1751 distribute to unit ~~parcel~~ owners a directory containing the
1752 name, unit ~~parcel~~ address, and all telephone numbers of each
1753 unit ~~parcel~~ owner. However, an owner may exclude his or her
1754 telephone numbers from the directory by so requesting in writing
1755 to the association. An owner may consent in writing to the
1756 disclosure of other contact information described in this
1757 subparagraph. The association is not liable for the inadvertent
1758 disclosure of information that is protected under this
1759 subparagraph if the information is included in an official
1760 record of the association and is voluntarily provided by an
1761 owner and not requested by the association.

1762 6. Electronic security measures that are used by the
1763 association to safeguard data, including passwords.

1764 7. The software and operating system used by the
1765 association which allow the manipulation of data, even if the
1766 owner owns a copy of the same software used by the association.
1767 The data is part of the official records of the association.

1768 Section 14. Paragraphs (b), (f), and (l) of subsection (1)
1769 of section 719.106, Florida Statutes, are amended to read:

1770 719.106 Bylaws; cooperative ownership.—

1771 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1772 documents shall provide for the following, and if they do not,
1773 they shall be deemed to include the following:

1774 (b) Quorum; voting requirements; proxies.—

1775 1. Unless otherwise provided in the bylaws, the percentage

1776 of voting interests required to constitute a quorum at a meeting
1777 of the members shall be a majority of voting interests, and
1778 decisions shall be made by owners of a majority of the voting
1779 interests. Unless otherwise provided in this chapter, or in the
1780 articles of incorporation, bylaws, or other cooperative
1781 documents, and except as provided in subparagraph (d)1.,
1782 decisions shall be made by owners of a majority of the voting
1783 interests represented at a meeting at which a quorum is present.

1784 2. Except as specifically otherwise provided herein, after
1785 January 1, 1992, unit owners may not vote by general proxy, but
1786 may vote by limited proxies substantially conforming to a
1787 limited proxy form adopted by the division. Limited proxies and
1788 general proxies may be used to establish a quorum. Limited
1789 proxies shall be used for votes taken to waive or reduce
1790 reserves in accordance with subparagraph (j)2., for votes taken
1791 to waive the financial reporting requirements of s.
1792 719.104(4)(b), for votes taken to amend the articles of
1793 incorporation or bylaws pursuant to this section, and for any
1794 other matter for which this chapter requires or permits a vote
1795 of the unit owners. Except as provided in paragraph (d), after
1796 January 1, 1992, no proxy, limited or general, shall be used in
1797 the election of board members. General proxies may be used for
1798 other matters for which limited proxies are not required, and
1799 may also be used in voting for nonsubstantive changes to items
1800 for which a limited proxy is required and given. Notwithstanding

1801 the provisions of this section, unit owners may vote in person
 1802 at unit owner meetings. Nothing contained herein shall limit the
 1803 use of general proxies or require the use of limited proxies or
 1804 require the use of limited proxies for any agenda item or
 1805 election at any meeting of a timeshare cooperative.

1806 3. Any proxy given shall be effective only for the
 1807 specific meeting for which originally given and any lawfully
 1808 adjourned meetings thereof. In no event shall any proxy be valid
 1809 for a period longer than 90 days after the date of the first
 1810 meeting for which it was given. Every proxy shall be revocable
 1811 at any time at the pleasure of the unit owner executing it.

1812 4. A member of the board of administration or a committee
 1813 may submit in writing his or her agreement or disagreement with
 1814 any action taken at a meeting that the member did not attend.
 1815 This agreement or disagreement may not be used as a vote for or
 1816 against the action taken and may not be used for the purposes of
 1817 creating a quorum.

1818 5. A board or committee member's participation in a
 1819 meeting via telephone, real-time video conferencing, or similar
 1820 real-time electronic or video communication counts toward a
 1821 quorum, and such member may vote as if physically present ~~When~~
 1822 ~~some or all of the board or committee members meet by telephone~~
 1823 ~~conference, those board or committee members attending by~~
 1824 ~~telephone conference may be counted toward obtaining a quorum~~
 1825 ~~and may vote by telephone. A telephone speaker must shall be~~

1826 | used ~~utilized~~ so that the conversation of such ~~those board or~~
1827 | ~~committee~~ members ~~attending by telephone~~ may be heard by the
1828 | board or committee members attending in person, as well as by
1829 | any unit owners present at a meeting.

1830 | (f) Recall of board members.—Subject to s. 719.301, any
1831 | member of the board of administration may be recalled and
1832 | removed from office with or without cause by the vote or
1833 | agreement in writing by a majority of all the voting interests.
1834 | A special meeting of the voting interests to recall any member
1835 | of the board of administration may be called by 10 percent of
1836 | the unit owners giving notice of the meeting as required for a
1837 | meeting of unit owners, and the notice shall state the purpose
1838 | of the meeting. Electronic transmission may not be used as a
1839 | method of giving notice of a meeting called in whole or in part
1840 | for this purpose.

1841 | 1. If the recall is approved by a majority of all voting
1842 | interests by a vote at a meeting, the recall shall be effective
1843 | as provided in this paragraph. The board shall duly notice and
1844 | hold a board meeting within 5 full business days after the
1845 | adjournment of the unit owner meeting to recall one or more
1846 | board members. At the meeting, the board shall either certify
1847 | the recall, in which case such member or members shall be
1848 | recalled effective immediately and shall turn over to the board
1849 | within 5 full business days any and all records and property of
1850 | the association in their possession, or shall proceed as set

1851 | forth in subparagraph 3.

1852 | 2. If the proposed recall is by an agreement in writing by
1853 | a majority of all voting interests, the agreement in writing or
1854 | a copy thereof shall be served on the association by certified
1855 | mail or by personal service in the manner authorized by chapter
1856 | 48 and the Florida Rules of Civil Procedure. The board of
1857 | administration shall duly notice and hold a meeting of the board
1858 | within 5 full business days after receipt of the agreement in
1859 | writing. Such member or members shall be recalled effective
1860 | immediately upon the conclusion of the board meeting, provided
1861 | that the recall is facially valid. A recalled member shall turn
1862 | over to the board within 10 full business days after the date of
1863 | the recall any and all records and property of the association
1864 | in his or her possession ~~At the meeting, the board shall either~~
1865 | ~~certify the written agreement to recall members of the board, in~~
1866 | ~~which case such members shall be recalled effective immediately~~
1867 | ~~and shall turn over to the board, within 5 full business days,~~
1868 | ~~any and all records and property of the association in their~~
1869 | ~~possession, or proceed as described in subparagraph 3.~~

1870 | ~~3. If the board determines not to certify the written~~
1871 | ~~agreement to recall members of the board, or does not certify~~
1872 | ~~the recall by a vote at a meeting, the board shall, within 5~~
1873 | ~~full business days after the board meeting, file with the~~
1874 | ~~division a petition for binding arbitration pursuant to the~~
1875 | ~~procedures of s. 719.1255. For purposes of this paragraph, the~~

1876 ~~unit owners who voted at the meeting or who executed the~~
1877 ~~agreement in writing shall constitute one party under the~~
1878 ~~petition for arbitration. If the arbitrator certifies the recall~~
1879 ~~as to any member of the board, the recall shall be effective~~
1880 ~~upon mailing of the final order of arbitration to the~~
1881 ~~association. If the association fails to comply with the order~~
1882 ~~of the arbitrator, the division may take action pursuant to s.~~
1883 ~~719.501. Any member so recalled shall deliver to the board any~~
1884 ~~and all records and property of the association in the member's~~
1885 ~~possession within 5 full business days after the effective date~~
1886 ~~of the recall.~~

1887 3.4. If the board fails to duly notice and hold a board
1888 meeting within 5 full business days after service of an
1889 agreement in writing or within 5 full business days after the
1890 adjournment of the unit owner recall meeting, the recall is
1891 ~~shall be deemed~~ effective and the board members so recalled
1892 shall immediately turn over to the board any and all records and
1893 property of the association.

1894 4.5. If the board fails to duly notice and hold the
1895 required meeting or at the conclusion of the meeting determines
1896 that the recall is not facially valid, the unit owner
1897 representative may file an action under s. 719.1255 challenging
1898 the board's failure to act or challenging the board's
1899 determination on facial validity. The action must be filed
1900 within 60 days after the expiration of the applicable 5-full-

1901 business-day period. The review of an action under this
 1902 subparagraph is limited to the sufficiency of service on the
 1903 board and the facial validity of the written agreement or
 1904 ballots filed ~~fails to file the required petition, the unit~~
 1905 ~~owner representative may file a petition pursuant to s. 719.1255~~
 1906 ~~challenging the board's failure to act. The petition must be~~
 1907 ~~filed within 60 days after the expiration of the applicable 5-~~
 1908 ~~full-business-day period. The review of a petition under this~~
 1909 ~~subparagraph is limited to the sufficiency of service on the~~
 1910 ~~board and the facial validity of the written agreement or~~
 1911 ~~ballots filed.~~

1912 5.6. If a vacancy occurs on the board as a result of a
 1913 recall and less than a majority of the board members are
 1914 removed, the vacancy may be filled by the affirmative vote of a
 1915 majority of the remaining directors, notwithstanding any
 1916 provision to the contrary contained in this subsection ~~chapter~~.
 1917 If vacancies occur on the board as a result of a recall and a
 1918 majority or more of the board members are removed, the vacancies
 1919 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~
 1920 ~~rules to be adopted by the division, which rules need not be~~
 1921 ~~consistent with this chapter. The rules must provide procedures~~
 1922 ~~governing the conduct of the recall election as well as the~~
 1923 ~~operation of the association during the period after a recall~~
 1924 ~~but before the recall election.~~

1925 6.7. A board member who has been recalled may file an

1926 action under a petition pursuant to s. 719.1255 challenging the
1927 validity of the recall. The action ~~petition~~ must be filed within
1928 60 days after the recall is deemed certified. The association
1929 and the unit owner representative shall be named as the
1930 defendants ~~respondents~~.

1931 7.8. An action may not be filed to challenge the validity
1932 of the division may not accept for filing a recall petition,
1933 whether filed pursuant to subparagraph 1., subparagraph 2.,
1934 subparagraph 4.5., or subparagraph 6.7. and regardless of
1935 whether the recall was certified, when there are 60 or fewer
1936 days until the scheduled reelection of the board member sought
1937 to be recalled or when 60 or fewer days have not elapsed since
1938 the election of the board member sought to be recalled.

1939 (1) Mediation Arbitration.—There shall be a provision for
1940 mandatory mediation ~~nonbinding arbitration~~ of internal disputes
1941 arising from the operation of the cooperative in accordance with
1942 s. 719.1255.

1943 Section 15. Section 719.1255, Florida Statutes, is amended
1944 to read:

1945 719.1255 Alternative resolution of disputes. ~~The Division~~
1946 ~~of Florida Condominiums, Timeshares, and Mobile Homes of the~~
1947 ~~Department of Business and Professional Regulation shall provide~~
1948 ~~for~~ Alternative dispute resolution shall be conducted in
1949 accordance with s. 718.1255.

1950 Section 16. Paragraph (n) of subsection (1) of section

1951 719.501, Florida Statutes, is amended to read:

1952 719.501 Powers and duties of Division of Florida
 1953 Condominiums, Timeshares, and Mobile Homes.—

1954 (1) The Division of Florida Condominiums, Timeshares, and
 1955 Mobile Homes of the Department of Business and Professional
 1956 Regulation, referred to as the "division" in this part, in
 1957 addition to other powers and duties prescribed by chapter 718,
 1958 has the power to enforce and ensure compliance with this chapter
 1959 and adopted rules relating to the development, construction,
 1960 sale, lease, ownership, operation, and management of residential
 1961 cooperative units. In performing its duties, the division shall
 1962 have the following powers and duties:

1963 ~~(n) The division shall develop a program to certify both~~
 1964 ~~volunteer and paid mediators to provide mediation of cooperative~~
 1965 ~~disputes. The division shall provide, upon request, a list of~~
 1966 ~~such mediators to any association, unit owner, or other~~
 1967 ~~participant in arbitration proceedings under s. 718.1255~~
 1968 ~~requesting a copy of the list. The division shall include on the~~
 1969 ~~list of voluntary mediators only persons who have received at~~
 1970 ~~least 20 hours of training in mediation techniques or have~~
 1971 ~~mediated at least 20 disputes. In order to become initially~~
 1972 ~~certified by the division, paid mediators must be certified by~~
 1973 ~~the Supreme Court to mediate court cases in county or circuit~~
 1974 ~~courts. However, the division may adopt, by rule, additional~~
 1975 ~~factors for the certification of paid mediators, which factors~~

1976 ~~must be related to experience, education, or background. Any~~
 1977 ~~person initially certified as a paid mediator by the division~~
 1978 ~~must, in order to continue to be certified, comply with the~~
 1979 ~~factors or requirements imposed by rules adopted by the~~
 1980 ~~division.~~

1981 Section 17. Paragraph (c) of subsection (2), paragraph (l)
 1982 of subsection (4), and paragraphs (d), (g), (h), (k), and (l) of
 1983 subsection (10) of section 720.303, Florida Statutes, are
 1984 amended, and paragraph (m) is added to subsection (4) of that
 1985 section, to read:

1986 720.303 Association powers and duties; meetings of board;
 1987 official records; budgets; financial reporting; association
 1988 funds; recalls.—

1989 (2) BOARD MEETINGS.—

1990 (c) The bylaws shall provide the following for giving
 1991 notice to parcel owners and members of all board meetings and,
 1992 if they do not do so, shall be deemed to include the following:

1993 1. Notices of all board meetings must be posted in a
 1994 conspicuous place in the community at least 48 hours in advance
 1995 of a meeting, except in an emergency. In the alternative, if
 1996 notice is not posted in a conspicuous place in the community,
 1997 notice of each board meeting must be mailed or delivered to each
 1998 member at least 7 days before the meeting, except in an
 1999 emergency. Notwithstanding this general notice requirement, for
 2000 communities with more than 100 members, the association bylaws

2001 | may provide for a reasonable alternative to posting or mailing
2002 | of notice for each board meeting, including publication of
2003 | notice, provision of a schedule of board meetings, or the
2004 | conspicuous posting and repeated broadcasting of the notice on a
2005 | closed-circuit cable television system serving the homeowners'
2006 | association. However, if broadcast notice is used in lieu of a
2007 | notice posted physically in the community, the notice must be
2008 | broadcast at least four times every broadcast hour of each day
2009 | that a posted notice is otherwise required. When broadcast
2010 | notice is provided, the notice and agenda must be broadcast in a
2011 | manner and for a sufficient continuous length of time so as to
2012 | allow an average reader to observe the notice and read and
2013 | comprehend the entire content of the notice and the agenda. In
2014 | addition to any of the authorized means of providing notice of a
2015 | meeting of the board, the association may, by rule, adopt a
2016 | procedure for conspicuously posting the meeting notice and the
2017 | agenda on a website serving the association for at least the
2018 | minimum period of time for which a notice of a meeting is also
2019 | required to be physically posted on the association property.
2020 | Any rule adopted shall, in addition to other matters, include a
2021 | requirement that the association send an electronic notice in
2022 | the same manner as is required for a notice for a meeting of the
2023 | members, which must include a hyperlink to the website where the
2024 | notice is posted, to members whose e-mail addresses are included
2025 | in the association's official records. The association may

2026 provide notice by electronic transmission in a manner authorized
2027 by law for meetings of the board of directors, committee
2028 meetings requiring notice under this section, and annual and
2029 special meetings of the members to any member who has provided a
2030 facsimile number or e-mail address to the association to be used
2031 for such purposes; however, a member must consent in writing to
2032 receiving notice by electronic transmission.

2033 2. An assessment may not be levied at a board meeting
2034 unless the notice of the meeting includes a statement that
2035 assessments will be considered and the nature of the
2036 assessments. Written notice of any meeting at which special
2037 assessments will be considered or at which amendments to rules
2038 regarding parcel use will be considered must be mailed,
2039 delivered, or electronically transmitted to the members and
2040 parcel owners and posted conspicuously on the property or
2041 broadcast on closed-circuit cable television not less than 14
2042 days before the meeting.

2043 3. Directors may not vote by proxy or by secret ballot at
2044 board meetings, except that secret ballots may be used in the
2045 election of officers. This subsection also applies to the
2046 meetings of any committee or other similar body, when a final
2047 decision will be made regarding the expenditure of association
2048 funds, and to any body vested with the power to approve or
2049 disapprove architectural decisions with respect to a specific
2050 parcel of residential property owned by a member of the

2051 community.

2052 (4) OFFICIAL RECORDS.—The association shall maintain each
 2053 of the following items, when applicable, which constitute the
 2054 official records of the association:

2055 (1) Ballots, sign-in sheets, voting proxies, and all other
 2056 papers and electronic records relating to voting by parcel
 2057 owners, which shall be maintained for at least 1 year after the
 2058 date of the election, vote, or meeting to which the document
 2059 relates.

2060 (m) All other ~~written~~ records of the association not
 2061 specifically included in paragraphs (a) through (l) the
 2062 ~~foregoing~~ which are related to the operation of the association.

2063 (10) RECALL OF DIRECTORS.—

2064 (d) If the board determines not to certify the written
 2065 agreement or written ballots to recall a director or directors
 2066 of the board or does not certify the recall by a vote at a
 2067 meeting, the board shall, within 5 full business days after the
 2068 meeting, file an action under ~~with the department a petition for~~
 2069 ~~binding arbitration pursuant to the applicable procedures in ss.~~
 2070 718.112(2) (j) and 718.1255 ~~and the rules adopted thereunder.~~ For
 2071 the purposes of this section, the members who voted at the
 2072 meeting or who executed the agreement in writing shall
 2073 constitute one party under the action ~~petition for arbitration.~~
 2074 If the court ~~arbitrator~~ certifies the recall as to any director
 2075 or directors of the board, the recall is ~~will be~~ effective upon

2076 entry mailing of the final order ~~of arbitration to the~~
2077 ~~association~~. The director or directors so recalled shall deliver
2078 to the board any and all records of the association in their
2079 possession within 5 full business days after the effective date
2080 of the recall.

2081 (g) If the board fails to duly notice and hold the
2082 required meeting or fails to file the required action petition,
2083 the parcel unit owner representative may file an action under a
2084 ~~petition pursuant to~~ s. 718.1255 challenging the board's failure
2085 to act. The action petition must be filed within 60 days after
2086 the expiration of the applicable 5-full-business-day period. The
2087 review of an action ~~a petition~~ under this paragraph is limited
2088 to the sufficiency of service on the board and the facial
2089 validity of the written agreement or ballots filed.

2090 (h) If a director who is removed fails to relinquish his
2091 or her office or turn over records as required under this
2092 section, the county circuit court in the county where the
2093 association maintains its principal office may, upon the
2094 petition of the association, summarily order the director to
2095 relinquish his or her office and turn over all association
2096 records upon application of the association.

2097 (k) A board member who has been recalled may file an
2098 action under a ~~petition pursuant to~~ ss. 718.112(2)(j) and
2099 718.1255 ~~and the rules adopted~~ challenging the validity of the
2100 recall. The action petition must be filed within 60 days after

2101 the recall is ~~deemed~~ certified. The association and the parcel
 2102 ~~unit~~ owner representative shall be named as defendants
 2103 ~~respondents~~.

2104 (1) An action may not be filed challenging the validity of
 2105 ~~the division may not accept for filing a recall petition,~~
 2106 whether filed pursuant to paragraph (b), paragraph (c),
 2107 paragraph (g), or paragraph (k) and regardless of whether the
 2108 recall was certified, when there are 60 or fewer days until the
 2109 scheduled reelection of the board member sought to be recalled
 2110 or when 60 or fewer days have not elapsed since the election of
 2111 the board member sought to be recalled.

2112 Section 18. Subsections (1) and (2) of section 720.305,
 2113 Florida Statutes, are amended to read:

2114 720.305 Obligations of members; remedies at law or in
 2115 equity; levy of fines and suspension of use rights.—

2116 (1) Each member and the member's tenants, guests, and
 2117 invitees, and each association, are governed by, and must comply
 2118 with, this chapter and ~~the~~ governing documents of the
 2119 community, ~~and the rules of the association~~. Actions at law or
 2120 in equity, or both, to redress alleged failure or refusal to
 2121 comply with these provisions may be brought by the association
 2122 or by any member against:

- 2123 (a) The association;
- 2124 (b) A member;
- 2125 (c) Any director or officer of an association who

2126 willfully and knowingly fails to comply with these provisions;
 2127 and

2128 (d) Any tenants, guests, or invitees occupying a parcel or
 2129 using the common areas.

2130
 2131 The prevailing party in any such litigation is entitled to
 2132 recover reasonable attorney fees and costs. A member prevailing
 2133 in an action between the association and the member under this
 2134 section, in addition to recovering his or her reasonable
 2135 attorney fees, may recover additional amounts as determined by
 2136 the court to be necessary to reimburse the member for his or her
 2137 share of assessments levied by the association to fund its
 2138 expenses of the litigation. This relief does not exclude other
 2139 remedies provided by law. This section does not deprive any
 2140 person of any other available right or remedy.

2141 (2) An ~~The~~ association may levy reasonable fines. A fine
 2142 may not exceed \$100 per violation against any member or any
 2143 member's tenant, guest, or invitee for the failure of the owner
 2144 of the parcel or its occupant, licensee, or invitee to comply
 2145 with any provision of the governing documents ~~declaration, the~~
 2146 ~~association bylaws, or reasonable rules of the association~~
 2147 unless otherwise provided in the governing documents. A fine may
 2148 be levied by the board for each day of a continuing violation,
 2149 with a single notice and opportunity for hearing, except that
 2150 the fine may not exceed \$1,000 in the aggregate unless otherwise

2151 provided in the governing documents. A fine of less than \$1,000
2152 may not become a lien against a parcel. In any action to recover
2153 a fine, the prevailing party is entitled to reasonable attorney
2154 fees and costs from the nonprevailing party as determined by the
2155 court.

2156 (a) An association may suspend, for a reasonable period of
2157 time, the right of a member, or a member's tenant, guest, or
2158 invitee, to use common areas and facilities for the failure of
2159 the owner of the parcel or its occupant, licensee, or invitee to
2160 comply with any provision of the declaration, the association
2161 bylaws, or reasonable rules of the association. This paragraph
2162 does not apply to that portion of common areas used to provide
2163 access or utility services to the parcel. A suspension may not
2164 prohibit an owner or tenant of a parcel from having vehicular
2165 and pedestrian ingress to and egress from the parcel, including,
2166 but not limited to, the right to park.

2167 (b) A fine or suspension levied by the board of
2168 administration may not be imposed unless the board first
2169 provides at least 14 days' notice to the parcel owner and, if
2170 applicable, any occupant, licensee, or invitee of the parcel
2171 owner, sought to be fined or suspended and an opportunity for a
2172 hearing before a committee of at least three members appointed
2173 by the board who are not officers, directors, or employees of
2174 the association, or the spouse, parent, child, brother, or
2175 sister of an officer, director, or employee. If the committee,

2176 by majority vote, does not approve a proposed fine or
 2177 suspension, the proposed fine or suspension may not be imposed.
 2178 The role of the committee is limited to determining whether to
 2179 confirm or reject the fine or suspension levied by the board. If
 2180 the proposed fine or suspension levied by the board is approved
 2181 by the committee, the fine payment is due 5 days after notice of
 2182 the approved fine is provided to the parcel owner and, if
 2183 applicable, to any occupant, licensee, or invitee of the parcel
 2184 owner ~~the date of the committee meeting at which the fine is~~
 2185 ~~approved~~. The association must provide written notice of such
 2186 fine or suspension by mail or hand delivery to the parcel owner
 2187 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
 2188 of the parcel owner.

2189 Section 19. Paragraph (g) of subsection (1) and paragraph
 2190 (c) of subsection (9) of section 720.306, Florida Statutes, are
 2191 amended to read:

2192 720.306 Meetings of members; voting and election
 2193 procedures; amendments.—

2194 (1) QUORUM; AMENDMENTS.—

2195 (g) A notice required under this section must be mailed or
 2196 delivered to the address identified as the parcel owner's
 2197 mailing address in the official records of the association as
 2198 required under s. 720.303(4) ~~on the property appraiser's website~~
 2199 ~~for the county in which the parcel is located~~, or electronically
 2200 transmitted in a manner authorized by the association if the

2201 parcel owner has consented, in writing, to receive notice by
 2202 electronic transmission.

2203 (9) ELECTIONS AND BOARD VACANCIES.—

2204 (c) Any election dispute between a member and an
 2205 association must be filed with the county court in the county
 2206 where the association maintains its principal office ~~submitted~~
 2207 ~~to mandatory binding arbitration with the division.~~ Such
 2208 proceedings must be conducted in the manner provided by s.
 2209 718.1255 ~~and the procedural rules adopted by the division.~~
 2210 Unless otherwise provided in the bylaws, any vacancy occurring
 2211 on the board before the expiration of a term may be filled by an
 2212 affirmative vote of the majority of the remaining directors,
 2213 even if the remaining directors constitute less than a quorum,
 2214 or by the sole remaining director. In the alternative, a board
 2215 may hold an election to fill the vacancy, in which case the
 2216 election procedures must conform to the requirements of the
 2217 governing documents. Unless otherwise provided in the bylaws, a
 2218 board member appointed or elected under this section is
 2219 appointed for the unexpired term of the seat being filled.
 2220 Filling vacancies created by recall is governed by s.
 2221 720.303(10) ~~and rules adopted by the division.~~

2222 Section 20. Section 720.311, Florida Statutes, is amended
 2223 to read:

2224 720.311 Dispute resolution.—

2225 (1) (a) As used in this section, the term "dispute" means

2226 any disagreement between two or more parties which involves:
 2227 1. The authority of the board of directors, under this
 2228 chapter or an association document, to:
 2229 a. Require any owner to take any action, or not to take
 2230 any action, involving that owner's parcel.
 2231 b. Alter or add to a common area.
 2232 2. The failure of a governing body, when required by this
 2233 chapter or an association document, to:
 2234 a. Properly enforce the governing documents.
 2235 b. Provide adequate notice of meetings or other actions.
 2236 c. Properly conduct meetings of the board and committees
 2237 appointed by the board and membership meetings. This sub-
 2238 subparagraph does not apply to elections held at a meeting.
 2239 d. To maintain a common area.
 2240 (b) The term "dispute" does not include any disagreement
 2241 that primarily involves:
 2242 1. Title to any parcel or common area;
 2243 2. The interpretation or enforcement of any warranty;
 2244 3. The levy of a fee or assessment or the collection of an
 2245 assessment levied against a party;
 2246 4. The eviction or removal of an occupant, licensee, or
 2247 invitee from a parcel;
 2248 5. An alleged breach of fiduciary duty by one or more
 2249 directors; or
 2250 6. Claims for damages to a parcel based upon the alleged

2251 failure of the association to maintain the common areas or
 2252 association property.

2253 (2) The Legislature finds that alternative dispute
 2254 resolution reduces ~~has made progress in reducing~~ court dockets
 2255 and trials and offers ~~in offering~~ a more efficient, cost-
 2256 effective option to litigation. The ~~filing of any petition for~~
 2257 ~~arbitration or the serving of a demand for presuit mediation as~~
 2258 provided for in this section tolls ~~shall toll~~ the applicable
 2259 statute of limitations until 30 days after mediation is
 2260 completed and no agreement has been made, 10 days after the date
 2261 by which a party must accept presuit mediation, or until the
 2262 conclusion of the period of time during which a mediation must
 2263 be conducted under this section. Any recall action must be in
 2264 accordance with ss. 718.112(2)(j) and 718.1255. Election
 2265 disputes and recall disputes are not eligible for presuit
 2266 mediation ~~dispute filed with the department pursuant to s.~~
 2267 ~~720.303(10) shall be conducted by the department in accordance~~
 2268 ~~with the provisions of ss. 718.112(2)(j) and 718.1255 and the~~
 2269 ~~rules adopted by the division. In addition, the department shall~~
 2270 ~~conduct mandatory binding arbitration of election disputes~~
 2271 ~~between a member and an association pursuant to s. 718.1255 and~~
 2272 ~~rules adopted by the division. Neither election disputes nor~~
 2273 ~~recall disputes are eligible for presuit mediation; these~~
 2274 ~~disputes shall be arbitrated by the department. At the~~
 2275 ~~conclusion of the proceeding, the department shall charge the~~

2276 ~~parties a fee in an amount adequate to cover all costs and~~
2277 ~~expenses incurred by the department in conducting the~~
2278 ~~proceeding. Initially, the petitioner shall remit a filing fee~~
2279 ~~of at least \$200 to the department. The fees paid to the~~
2280 ~~department shall become a recoverable cost in the arbitration~~
2281 ~~proceeding, and the prevailing party in an arbitration~~
2282 ~~proceeding shall recover its reasonable costs and attorney's~~
2283 ~~fees in an amount found reasonable by the arbitrator. The~~
2284 ~~department shall adopt rules to effectuate the purposes of this~~
2285 ~~section.~~

2286 (3) (a) 1.~~(2) (a)~~ Disputes between an association and a
2287 parcel owner regarding use of or changes to the parcel or the
2288 common areas and other covenant enforcement disputes, disputes
2289 regarding amendments to the association documents, disputes
2290 regarding meetings of the board and committees appointed by the
2291 board, membership meetings not including election meetings, and
2292 access to the official records of the association shall be the
2293 subject of a demand for presuit mediation served by an aggrieved
2294 party before the dispute is filed in court. Presuit mediation
2295 proceedings must be conducted in accordance with the applicable
2296 rules of the Florida Rules of Civil Procedure and chapter 44,
2297 and these proceedings are privileged and confidential to the
2298 same extent as court-ordered mediation. Disputes subject to
2299 presuit mediation under this section may ~~shall~~ not include the
2300 collection of any assessment, fine, or other financial

2301 obligation, including attorney ~~attorney's~~ fees and costs,
 2302 claimed to be due or any action to enforce a prior mediation
 2303 settlement agreement between the parties. ~~Also,~~ In any dispute
 2304 subject to presuit mediation under this section where
 2305 preliminary injunctive ~~emergency~~ relief is required, a motion
 2306 for temporary injunctive relief may be filed with the court
 2307 without first complying with the presuit mediation requirements
 2308 of this section. After any issues regarding preliminary
 2309 injunctive ~~emergency or temporary~~ relief are resolved, the court
 2310 may ~~either~~ refer the parties to a mediation program administered
 2311 by the courts or require mediation under this section. A ~~An~~
 2312 ~~arbitrator or~~ judge may not consider any information or evidence
 2313 arising from the presuit mediation proceeding except in a
 2314 proceeding to impose sanctions for failure to attend a presuit
 2315 mediation session or to enforce a mediated settlement agreement.
 2316 Persons who are not parties to the dispute may not attend the
 2317 presuit mediation conference without the consent of all parties,
 2318 except for counsel for the parties, and a corporate
 2319 representative designated by the association, and a
 2320 representative from the association's insurance carrier, if
 2321 applicable. When mediation is attended by a quorum of the board,
 2322 such mediation is not a board meeting for purposes of notice and
 2323 participation set forth in s. 720.303. An aggrieved party shall
 2324 serve on the responding party a written demand to participate in
 2325 presuit mediation in substantially the following form:

2326
 2327 STATUTORY OFFER TO PARTICIPATE
 2328 IN PRESUIT MEDIATION
 2329

2330 The alleged aggrieved party,, hereby demands
 2331 that, as the responding party, engage in
 2332 mandatory presuit mediation in connection with the following
 2333 disputes, which by statute are of a type that are subject to
 2334 presuit mediation:
 2335

2336 (List specific nature of the dispute or disputes to be mediated
 2337 and the authority supporting a finding of a violation as to each
 2338 dispute.)
 2339

2340 Pursuant to section 720.311, Florida Statutes, this demand to
 2341 resolve the dispute through presuit mediation is required before
 2342 a lawsuit can be filed concerning the dispute. Pursuant to the
 2343 statute, the parties are required to engage in presuit mediation
 2344 with a neutral third-party mediator in order to attempt to
 2345 resolve this dispute without court action, and the aggrieved
 2346 party demands that you likewise agree to this process. If you
 2347 fail to participate in the mediation process, suit may be
 2348 brought against you without further warning.
 2349

2350 The process of mediation involves a supervised negotiation

2351 process in which a trained, neutral third-party mediator meets
2352 with both parties and assists them in exploring possible
2353 opportunities for resolving part or all of the dispute. By
2354 agreeing to participate in presuit mediation, you are not bound
2355 in any way to change your position. Furthermore, the mediator
2356 has no authority to make any decisions in this matter or to
2357 determine who is right or wrong and merely acts as a facilitator
2358 to ensure that each party understands the position of the other
2359 party and that all options for reasonable settlement are fully
2360 explored.

2361
2362 If an agreement is reached, it must ~~shall~~ be reduced to writing
2363 and signed, at which time the agreement becomes a binding and
2364 enforceable contract between ~~commitment of~~ the parties. A
2365 resolution of one or more disputes in this fashion avoids the
2366 need to litigate those ~~these~~ issues in court. The failure ~~to~~
2367 ~~reach an agreement, or the failure of a party to participate in~~
2368 the process or the failure of the parties to reach an agreement
2369 during the mediation process, results in the aggrieved party
2370 being able to ~~mediator declaring an impasse in the mediation,~~
2371 ~~after which the aggrieved party may~~ proceed to court on all
2372 outstanding and, unsettled disputes. If you fail or refuse ~~have~~
2373 ~~failed or refused~~ to participate in the entire mediation
2374 process, you will not be entitled to recover attorney ~~attorney's~~
2375 fees, even if you prevail.

2376
 2377 The aggrieved party has selected and hereby lists five circuit
 2378 court civil ~~certified~~ mediators certified by the Florida Supreme
 2379 Court who the aggrieved party believes ~~we believe~~ to be neutral
 2380 and qualified to mediate the dispute. You have the right to
 2381 select any one of these mediators. The fact that one party may
 2382 be familiar with one or more of the listed mediators does not
 2383 mean that the mediator cannot act as a neutral and impartial
 2384 facilitator. Any mediator who cannot act in this capacity is
 2385 required ethically to decline to accept engagement. The
 2386 mediators that we suggest, and their current hourly rates, are
 2387 as follows:

2388
 2389 (List the names, physical addresses, e-mail addresses, telephone
 2390 numbers, and hourly rates of the mediators. Other pertinent
 2391 information about the backgrounds ~~background~~ of the mediators
 2392 may be included as an attachment, including whether the mediator
 2393 is board certified by The Florida Bar in any practice area.)

2394
 2395 By mutual agreement, and before accepting presuit mediation, we
 2396 can also select mediators other than the Supreme Court-certified
 2397 circuit court civil mediators named above as alternates to the
 2398 above-named mediators. The alternate mediators are not required
 2399 to be Supreme Court-certified circuit court civil mediators. The
 2400 alternate mediators that we suggest, and their hourly rates, are

2401 as follows:
 2402 (List the names, physical addresses, e-mail addresses, telephone
 2403 numbers, and hourly rates of the alternate mediators. Other
 2404 pertinent information about the backgrounds of the alternate
 2405 mediators may be included as an attachment.)

2406
 2407 You may contact the offices of these mediators to confirm that
 2408 the listed mediators will be neutral and will not show any
 2409 favoritism toward either party. The Florida Supreme Court can
 2410 provide you a list of ~~certified~~ mediators who are certified in
 2411 the area of circuit civil law.

2412
 2413 Unless otherwise agreed by the parties, section 720.311(2)(b),
 2414 Florida Statutes, requires that the parties share equally the
 2415 costs of presuit mediation ~~equally~~, including the fee charged by
 2416 the mediator. A typical ~~An average~~ mediation may require three
 2417 to four hours of the mediator's time, including some preparation
 2418 time, and the parties would need to share equally the mediator's
 2419 fees as well as pay their own attorney ~~attorney's~~ fees if they
 2420 choose to employ an attorney in connection with the mediation.
 2421 However, use of an attorney is not required and is at the option
 2422 of each party. The mediators may require the advance payment of
 2423 some or all of the anticipated fees. The aggrieved party hereby
 2424 agrees to pay or prepay one-half of the mediator's estimated
 2425 fees and to forward this amount or such other reasonable advance

CS/CS/HB 1075

2019

2426 deposits as the mediator requires for this purpose. Any funds
2427 deposited will be returned to you if these are in excess of your
2428 share of the fees incurred.

2429

2430 To begin your participation in presuit mediation to try to
2431 resolve the dispute and avoid further legal action, please sign
2432 below and clearly indicate which mediator is acceptable to you.
2433 We will then ask the mediator to schedule a mutually convenient
2434 time and place for the mediation conference to be held. The
2435 mediation conference must be held within 90 ~~ninety (90)~~ days
2436 after the date of acceptance of presuit mediation ~~of this date~~,
2437 unless extended by mutual written agreement. In the event that
2438 you fail to respond within 30 days after ~~20 days from~~ the date
2439 of this letter, or if you fail to agree to at least one of the
2440 mediators that we have suggested or to pay or prepay to the
2441 mediator one-half of the costs involved, the aggrieved party
2442 will be authorized to proceed with the filing of a lawsuit
2443 against you without further notice and may seek an award of
2444 attorney ~~attorney's~~ fees or costs incurred in attempting to
2445 obtain mediation.

2446

2447 Therefore, please give this matter your immediate attention. By
2448 law, your response must be mailed by certified mail, return
2449 receipt requested, and by first-class mail to the address shown
2450 on this demand.

Page 98 of 104

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1075-02-c2

2451
2452
2453
2454
2455
2456
2457
2458
2459
2460
2461
2462
2463
2464
2465
2466
2467
2468
2469
2470
2471
2472
2473
2474
2475

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

AGREEMENT TO MEDIATE

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

(List acceptable mediator or mediators.)

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

.....
Signature of responding party #1

.....
Telephone contact information

2476
2477
2478
2479
2480
2481
2482
2483
2484
2485
2486
2487
2488
2489
2490
2491
2492
2493
2494
2495
2496
2497
2498
2499
2500

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

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

(b) Service of the statutory demand to participate in presuit mediation shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address of the responding party as it last appears on the books and records of the association. The responding party has 30 ~~20~~ days after ~~from~~ the date of the mailing of the statutory demand to serve a response to the aggrieved party in writing. The response must be sent ~~shall be served~~ by certified mail, return receipt requested, with an additional copy being sent by ~~regular~~ first-class mail, to the address shown on the statutory demand. Notwithstanding the foregoing, once the parties have agreed on a mediator, the

2501 mediator may schedule ~~reschedule~~ the mediation for a date and
2502 time mutually convenient to the parties. Each proposed mediator
2503 must be available to hold the mediation in the county in which
2504 the parcel is located or within 40 miles of the parcel without
2505 charging extra for travel-related costs. If a presuit mediation
2506 session cannot be scheduled and concluded within 90 days after
2507 the date of acceptance of presuit mediation and there is no
2508 agreement between the parties to extend the 90-day deadline, the
2509 aggrieved party may file an action in court. The parties shall
2510 share equally the costs of presuit mediation ~~equally~~, including
2511 the fee charged by the mediator, if any, unless the parties
2512 agree otherwise, and the mediator may require advance payment of
2513 its reasonable fees and costs. The failure of any party to
2514 respond to a demand or response, to agree upon a mediator, to
2515 make payment of fees and costs within the time established by
2516 the mediator, or to appear for a scheduled mediation session
2517 without the approval of the mediator, constitutes ~~shall~~
2518 ~~constitute~~ the failure or refusal to participate in the
2519 mediation process and operates ~~shall operate~~ as an impasse in
2520 the presuit mediation by such party, entitling the other party
2521 to proceed in court and to seek an award of the costs and fees
2522 associated with the mediation. Additionally, notwithstanding ~~the~~
2523 ~~provisions of~~ any other law or document, persons who fail or
2524 refuse to participate in the entire mediation process may not
2525 recover attorney ~~attorney's~~ fees and costs in subsequent

2526 litigation relating to the dispute. ~~If any presuit mediation~~
2527 ~~session cannot be scheduled and conducted within 90 days after~~
2528 ~~the offer to participate in mediation was filed, an impasse~~
2529 ~~shall be deemed to have occurred unless both parties agree to~~
2530 ~~extend this deadline.~~

2531 (c) If presuit mediation as described in paragraph (a) is
2532 not successful in resolving all issues between the parties, any
2533 party ~~the parties~~ may file an action regarding the unresolved
2534 dispute in a court of competent jurisdiction ~~or elect to enter~~
2535 ~~into binding or nonbinding arbitration pursuant to the~~
2536 ~~procedures set forth in s. 718.1255 and rules adopted by the~~
2537 ~~division, with the arbitration proceeding to be conducted by a~~
2538 ~~department arbitrator or by a private arbitrator certified by~~
2539 ~~the department. If all parties do not agree to arbitration~~
2540 ~~proceedings following an unsuccessful presuit mediation, any~~
2541 ~~party may file the dispute in court. A final order resulting~~
2542 ~~from nonbinding arbitration is final and enforceable in the~~
2543 ~~courts if a complaint for trial de novo is not filed in a court~~
2544 ~~of competent jurisdiction within 30 days after entry of the~~
2545 ~~order.~~ As to any issue or dispute that is not resolved at
2546 presuit mediation, and as to any issue that is settled at
2547 presuit mediation but is thereafter subject to an action seeking
2548 enforcement of the mediation settlement, the prevailing party in
2549 any subsequent arbitration or litigation proceeding shall be
2550 entitled to seek recovery of all costs and attorney ~~attorney's~~

2551 fees incurred in the presuit mediation process.

2552 (d) The parties may agree to a mediator who is not
2553 certified by the Florida Supreme Court. Unless such mediator is
2554 agreed upon, a mediator may not ~~or arbitrator shall be~~
2555 ~~authorized to~~ conduct mediation or arbitration under this
2556 section unless ~~only if~~ he or she has been certified as a circuit
2557 court civil mediator ~~or arbitrator, respectively,~~ pursuant to
2558 the requirements established by the Florida Supreme Court.
2559 Settlement agreements resulting from mediation may ~~shall~~ not
2560 have precedential value in proceedings involving parties other
2561 than those participating in the mediation to support either a
2562 claim or defense in other disputes.

2563 (e) The presuit mediation procedures provided by this
2564 subsection may be used by a Florida corporation responsible for
2565 the operation of a community in which the voting members are
2566 parcel owners or their representatives, in which membership in
2567 the corporation is not a mandatory condition of parcel
2568 ownership, or which is not authorized to impose an assessment
2569 that may become a lien on the parcel.

2570 (4) Any dispute challenging the legality of the election
2571 or the recall of any member of the board of directors must be
2572 filed as a summary procedure under s. 51.011, and in any such
2573 action the prevailing party is entitled to recover reasonable
2574 attorney fees and costs. Any action filed pursuant to this
2575 subsection must be tried without a jury.

CS/CS/HB 1075

2019

2576 | Section 21. This act shall take effect July 1, 2019. |