

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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WITHDRAWN	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

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Shoaf offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraph (a) of subsection (2) of section
 7 514.0115, Florida Statutes, is amended to read:

8 514.0115 Exemptions from supervision or regulation;
 9 variances.—

10 (2) (a) Pools serving condominium, cooperative, and
 11 homeowners' associations, as well as other property
 12 associations, which have no more than 32 ~~condominium or~~
 13 cooperative units or parcels and which are not operated as a
 14 public lodging establishments are ~~establishment shall be~~ exempt
 15 from supervision under this chapter, except for water quality.

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16 Section 2. Subsection (4) of section 627.714, Florida
17 Statutes, is amended to read:

18 627.714 Residential condominium unit owner coverage; loss
19 assessment coverage required.—

20 (4) Every individual unit owner's residential property
21 policy must contain a provision stating that the coverage
22 afforded by such policy is excess coverage over the amount
23 recoverable under any other policy covering the same property.
24 If a condominium association's insurance policy does not provide
25 rights for subrogation against the unit owners in the
26 association, an insurance policy issued to an individual unit
27 owner located in the association may not provide rights of
28 subrogation against the condominium association.

29 Section 3. Section 712.065, Florida Statutes, is created
30 to read:

31 712.065 Extinguishment of discriminatory restrictions.—

32 (1) As used in this section, the term "discriminatory
33 restriction" means a provision in a title transaction recorded
34 in this state which restricts the ownership, occupancy, or use
35 of any real property in this state by any natural person on the
36 basis of a characteristic that has been held, or is held after
37 July 1, 2020, by the United States Supreme Court or the Florida
38 Supreme Court to be protected against discrimination under the
39 Fourteenth Amendment to the United States Constitution or under

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40 s. 2, Art. I of the State Constitution, including race, color,
41 national origin, religion, gender, or physical disability.

42 (2) A discriminatory restriction is not enforceable in
43 this state, and all discriminatory restrictions contained in any
44 title transaction recorded in this state are unlawful, are
45 unenforceable, and are declared null and void. Any
46 discriminatory restriction contained in a previously recorded
47 title transaction is extinguished and severed from the recorded
48 title transaction and the remainder of the title transaction
49 remains enforceable and effective except for the severed
50 discriminatory restriction. The recording of any notice
51 preserving or protecting interests or rights pursuant to s.
52 712.05 does not reimpose or preserve any discriminatory
53 restriction that is extinguished under this section.

54 (3) Upon request of a parcel owner, a discriminatory
55 restriction appearing in a covenant or restriction affecting the
56 parcel may be removed from the covenant or restriction by an
57 amendment approved by a majority vote of the board of directors
58 of the respective property owners' association or an owners'
59 association in which all owners may voluntarily join,
60 notwithstanding any other requirements for approval of an
61 amendment of the covenant or restriction. Unless the amendment
62 also changes other provisions of the covenant or restriction,
63 the recording of an amendment removing a discriminatory

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64 restriction does not constitute a title transaction occurring
65 after the root of title for purposes of s. 712.03(4).

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

69 718.111 The association.—

70 (12) OFFICIAL RECORDS.—

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

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

76 2. A photocopy of the recorded declaration of condominium
77 of each condominium operated by the association and each
78 amendment to each declaration.

79 3. A photocopy of the recorded bylaws of the association
80 and each amendment to the bylaws.

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

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

85 6. A book or books that contain the minutes of all
86 meetings of the association, the board of administration, and
87 the unit owners.

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

99 8. All current insurance policies of the association and
100 condominiums operated by the association.

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

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

107 11. Accounting records for the association and separate
108 accounting records for each condominium that the association
109 operates. Any person who knowingly or intentionally defaces or
110 destroys such records, or who knowingly or intentionally fails
111 to create or maintain such records, with the intent of causing
112 harm to the association or one or more of its members, is

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113 personally subject to a civil penalty under s. 718.501(2)(d)
114 ~~pursuant to s. 718.501(1)(d)~~. The accounting records must
115 include, but are not limited to:

116 a. Accurate, itemized, and detailed records of all
117 receipts and expenditures.

118 b. A current account and a monthly, bimonthly, or
119 quarterly statement of the account for each unit designating the
120 name of the unit owner, the due date and amount of each
121 assessment, the amount paid on the account, and the balance due.

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

124 d. All contracts for work to be performed. Bids for work
125 to be performed are also considered official records and must be
126 maintained by the association for at least 1 year after receipt
127 of the bid.

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

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

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

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

140 15.16. A copy of the inspection report as described in s.
141 718.301(4) (p).

142 16.17. Bids for materials, equipment, or services.

143 17. All other written records of the association not
144 specifically included in subparagraphs 1.-16. which are related
145 to the operation of the association.

146 (b) The official records specified in subparagraphs (a)1.-
147 6. must be permanently maintained from the inception of the
148 association. Bids for work to be performed or for materials,
149 equipment, or services must be maintained for at least 1 year
150 after receipt of the bid. All other official records must be
151 maintained within the state for at least 7 years, unless
152 otherwise provided by general law. All official records must be
153 maintained in a manner and format determined by the division so
154 that the records are easily accessible for inspection. The
155 records of the association shall be made available to a unit
156 owner within 45 miles of the condominium property or within the
157 county in which the condominium property is located within 10
158 working days after receipt of a written request by the board or
159 its designee. However, such distance requirement does not apply
160 to an association governing a timeshare condominium. This
161 paragraph may be complied with by having a copy of the official

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162 records of the association available for inspection or copying
163 on the condominium property or association property, or the
164 association may offer the option of making the records available
165 to a unit owner electronically via the Internet or by allowing
166 the records to be viewed in electronic format on a computer
167 screen and printed upon request. The association is not
168 responsible for the use or misuse of the information provided to
169 an association member or his or her authorized representative in
170 ~~pursuant to the compliance with requirements of~~ this chapter
171 unless the association has an affirmative duty not to disclose
172 such information under ~~pursuant to~~ this chapter.

173 (c)1. The official records of the association are open to
174 inspection by any association member or the authorized
175 representative of such member at all reasonable times. The right
176 to inspect the records includes the right to make or obtain
177 copies, at the reasonable expense, if any, of the member or
178 authorized representative of such member. A renter of a unit
179 only has a right to inspect and copy the declaration of
180 condominium and association's bylaws and rules. The association
181 must provide a checklist to the member or the authorized
182 representative of such member of all records that are made
183 available for inspection and copying in response to a written
184 request. If any of the association's official records are not
185 available, such records must be identified on the checklist
186 provided to the person requesting the records. The checklist

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187 must be signed by a manager, licensed pursuant to chapter 468
188 who certifies that the checklist is accurate to the best of his
189 or her knowledge and belief, or the association must provide the
190 person requesting the records with a sworn affidavit attesting
191 to the veracity of the checklist and executed by the person
192 responding to the written request on behalf of the association.
193 The association must maintain a copy of the checklist and
194 affidavit for at least 7 years. Delivery of the checklist and,
195 if required, the sworn affidavit to the person requesting the
196 records creates a rebuttable presumption that the association
197 complied with this paragraph. The association may adopt
198 reasonable rules regarding the frequency, time, location,
199 notice, and manner of record inspections and copying, but may
200 not require a member to demonstrate any purpose or state any
201 reason for the inspection. The failure of an association to
202 provide the records within 10 working days after receipt of a
203 written request creates a rebuttable presumption that the
204 association willfully failed to comply with this paragraph. A
205 unit owner who is denied access to official records is entitled
206 to the actual damages or minimum damages for the association's
207 willful failure to comply. Minimum damages are \$50 per calendar
208 day for up to 10 days, beginning on the 11th working day after
209 receipt of the written request. The failure to permit inspection
210 entitles any person prevailing in an enforcement action to
211 recover reasonable attorney fees from the person in control of

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212 the records who, directly or indirectly, knowingly denied access
213 to the records.

214 2. Any person who knowingly or intentionally defaces or
215 destroys accounting records that are required by this chapter to
216 be maintained during the period for which such records are
217 required to be maintained, or who knowingly or intentionally
218 fails to create or maintain accounting records that are required
219 to be created or maintained, with the intent of causing harm to
220 the association or one or more of its members, is personally
221 subject to a civil penalty under 718.501(2)(d) ~~pursuant to s.~~
222 ~~718.501(1)(d)~~.

223 3. The association shall maintain an adequate number of
224 copies of the declaration, articles of incorporation, bylaws,
225 and rules, and all amendments to each of the foregoing, as well
226 as the question and answer sheet as described in s. 718.504 and
227 year-end financial information required under this section, on
228 the condominium property to ensure their availability to unit
229 owners and prospective purchasers, and may charge its actual
230 costs for preparing and furnishing these documents to those
231 requesting the documents. An association shall allow a member or
232 his or her authorized representative to use a portable device,
233 including a smartphone, tablet, portable scanner, or any other
234 technology capable of scanning or taking photographs, to make an
235 electronic copy of the official records in lieu of the
236 association's providing the member or his or her authorized

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237 representative with a copy of such records. The association may
238 not charge a member or his or her authorized representative for
239 the use of a portable device. Notwithstanding this paragraph,
240 the following records are not accessible to unit owners:

241 a. Any record protected by the lawyer-client privilege as
242 described in s. 90.502 and any record protected by the work-
243 product privilege, including a record prepared by an association
244 attorney or prepared at the attorney's express direction, which
245 reflects a mental impression, conclusion, litigation strategy,
246 or legal theory of the attorney or the association, and which
247 was prepared exclusively for civil or criminal litigation or for
248 adversarial administrative proceedings, or which was prepared in
249 anticipation of such litigation or proceedings until the
250 conclusion of the litigation or proceedings.

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

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

261 d. Medical records of unit owners.

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262 e. Social security numbers, driver license numbers, credit
263 card numbers, e-mail addresses, telephone numbers, facsimile
264 numbers, emergency contact information, addresses of a unit
265 owner other than as provided to fulfill the association's notice
266 requirements, and other personal identifying information of any
267 person, excluding the person's name, unit designation, mailing
268 address, property address, and any address, e-mail address, or
269 facsimile number provided to the association to fulfill the
270 association's notice requirements. Notwithstanding the
271 restrictions in this sub-subparagraph, an association may print
272 and distribute to unit ~~parcel~~ owners a directory containing the
273 name, unit ~~parcel~~ address, and all telephone numbers of each
274 unit ~~parcel~~ owner. However, an owner may exclude his or her
275 telephone numbers from the directory by so requesting in writing
276 to the association. An owner may consent in writing to the
277 disclosure of other contact information described in this sub-
278 subparagraph. The association is not liable for the inadvertent
279 disclosure of information that is protected under this sub-
280 subparagraph if the information is included in an official
281 record of the association and is voluntarily provided by an
282 owner and not requested by the association.

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

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

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

289 (f) An outgoing board or committee member must relinquish
290 all official records and property of the association in his or
291 her possession or under his or her control to the incoming board
292 within 5 days after the election. The division shall impose a
293 civil penalty as set forth in s. 718.501(2)(d)6. ~~s.~~
294 ~~718.501(1)(d)6.~~ against an outgoing board or committee member
295 who willfully and knowingly fails to relinquish such records and
296 property.

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

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

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

306 (II) A website, application, or web portal operated by a
307 third-party provider with whom the association owns, leases,
308 rents, or otherwise obtains the right to operate a web page,
309 subpage, web portal, ~~or~~ collection of subpages or web portals,
310 or application which is dedicated to the association's

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311 activities and on which required notices, records, and documents
312 may be posted or made available by the association.

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

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

323 2. A current copy of the following documents must be
324 posted in digital format on the association's website or
325 application:

326 a. The recorded declaration of condominium of each
327 condominium operated by the association and each amendment to
328 each declaration.

329 b. The recorded bylaws of the association and each
330 amendment to the bylaws.

331 c. The articles of incorporation of the association, or
332 other documents creating the association, and each amendment to
333 the articles of incorporation or other documents thereto. The
334 copy posted pursuant to this sub-subparagraph must be a copy of

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335 the articles of incorporation filed with the Department of
336 State.

337 d. The rules of the association.

338 e. A list of all executory contracts or documents to which
339 the association is a party or under which the association or the
340 unit owners have an obligation or responsibility and, after
341 bidding for the related materials, equipment, or services has
342 closed, a list of bids received by the association within the
343 past year. Summaries of bids for materials, equipment, or
344 services which exceed \$500 must be maintained on the website or
345 application for 1 year. In lieu of summaries, complete copies of
346 the bids may be posted.

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

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

352 h. The certification of each director required by s.
353 718.112(2)(d)4.b.

354 i. All contracts or transactions between the association
355 and any director, officer, corporation, firm, or association
356 that is not an affiliated condominium association or any other
357 entity in which an association director is also a director or
358 officer and financially interested.

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359 j. Any contract or document regarding a conflict of
360 interest or possible conflict of interest as provided in ss.
361 468.436(2)(b)6. and 718.3027(3).

362 k. The notice of any unit owner meeting and the agenda for
363 the meeting, as required by s. 718.112(2)(d)3., no later than 14
364 days before the meeting. The notice must be posted in plain view
365 on the front page of the website or application, or on a
366 separate subpage of the website or application labeled "Notices"
367 which is conspicuously visible and linked from the front page.
368 The association must also post on its website or application any
369 document to be considered and voted on by the owners during the
370 meeting or any document listed on the agenda at least 7 days
371 before the meeting at which the document or the information
372 within the document will be considered.

373 l. Notice of any board meeting, the agenda, and any other
374 document required for the meeting as required by s.
375 718.112(2)(c), which must be posted no later than the date
376 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

377 3. The association shall ensure that the information and
378 records described in paragraph (c), which are not allowed to be
379 accessible to unit owners, are not posted on the association's
380 website or application. If protected information or information
381 restricted from being accessible to unit owners is included in
382 documents that are required to be posted on the association's
383 website or application, the association shall ensure the

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384 information is redacted before posting the documents ~~online~~.
385 Notwithstanding the foregoing, the association or its agent is
386 not liable for disclosing information that is protected or
387 restricted under ~~pursuant to~~ this paragraph unless such
388 disclosure was made with a knowing or intentional disregard of
389 the protected or restricted nature of such information.

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

394 Section 5. Paragraphs (d), (i), (j), (k), and (p) of
395 subsection (2) of section 718.112, Florida Statutes, are
396 amended, and paragraph (c) is added to subsection (1) of that
397 section, to read:

398 718.112 Bylaws.—

399 (1) GENERALLY.—

400 (c) The association may extinguish a discriminatory
401 restriction, as defined in s. 712.065(1) pursuant to s. 712.065.

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

405 (d) *Unit owner meetings*.—

406 1. An annual meeting of the unit owners must be held at
407 the location provided in the association bylaws and, if the
408 bylaws are silent as to the location, the meeting must be held

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409 within 45 miles of the condominium property. However, such
410 distance requirement does not apply to an association governing
411 a timeshare condominium.

412 2. Unless the bylaws provide otherwise, a vacancy on the
413 board caused by the expiration of a director's term must be
414 filled by electing a new board member, and the election must be
415 by secret ballot. An election is not required if the number of
416 vacancies equals or exceeds the number of candidates. For
417 purposes of this paragraph, the term "candidate" means an
418 eligible person who has timely submitted the written notice, as
419 described in sub-subparagraph 4.a., of his or her intention to
420 become a candidate. Except in a timeshare or nonresidential
421 condominium, or if the staggered term of a board member does not
422 expire until a later annual meeting, or if all members' terms
423 would otherwise expire but there are no candidates, the terms of
424 all board members expire at the annual meeting, and such members
425 may stand for reelection unless prohibited by the bylaws. Board
426 members may serve terms longer than 1 year if permitted by the
427 bylaws or articles of incorporation. A board member may not
428 serve more than 8 consecutive years unless approved by an
429 affirmative vote of unit owners representing two-thirds of all
430 votes cast in the election or unless there are not enough
431 eligible candidates to fill the vacancies on the board at the
432 time of the vacancy. Only board service that occurs on or after
433 July 1, 2018, may be used when calculating a board member's term

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434 limit. If the number of board members whose terms expire at the
435 annual meeting equals or exceeds the number of candidates, the
436 candidates become members of the board effective upon the
437 adjournment of the annual meeting. Unless the bylaws provide
438 otherwise, any remaining vacancies shall be filled by the
439 affirmative vote of the majority of the directors making up the
440 newly constituted board even if the directors constitute less
441 than a quorum or there is only one director. In a residential
442 condominium association of more than 10 units or in a
443 residential condominium association that does not include
444 timeshare units or timeshare interests, co-owners of a unit may
445 not serve as members of the board of directors at the same time
446 unless they own more than one unit or unless there are not
447 enough eligible candidates to fill the vacancies on the board at
448 the time of the vacancy. A unit owner in a residential
449 condominium desiring to be a candidate for board membership must
450 comply with sub-subparagraph 4.a. and must be eligible to be a
451 candidate to serve on the board of directors at the time of the
452 deadline for submitting a notice of intent to run in order to
453 have his or her name listed as a proper candidate on the ballot
454 or to serve on the board. A person who has been suspended or
455 removed by the division under this chapter, or who is delinquent
456 in the payment of any monetary obligation due to the
457 association, is not eligible to be a candidate for board
458 membership and may not be listed on the ballot. A person who has

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459 | been convicted of any felony in this state or in a United States
460 | District or Territorial Court, or who has been convicted of any
461 | offense in another jurisdiction which would be considered a
462 | felony if committed in this state, is not eligible for board
463 | membership unless such felon's civil rights have been restored
464 | for at least 5 years as of the date such person seeks election
465 | to the board. The validity of an action by the board is not
466 | affected if it is later determined that a board member is
467 | ineligible for board membership due to having been convicted of
468 | a felony. This subparagraph does not limit the term of a member
469 | of the board of a nonresidential or timeshare condominium.

470 | 3. The bylaws must provide the method of calling meetings
471 | of unit owners, including annual meetings. Written notice of an
472 | annual meeting must include an agenda; ~~it must~~ be mailed, hand
473 | delivered, or electronically transmitted to each unit owner at
474 | least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
475 | a conspicuous place on the condominium property at least 14
476 | continuous days before the annual meeting. Written notice of a
477 | meeting other than an annual meeting must include an agenda; be
478 | mailed, hand delivered, or electronically transmitted to each
479 | unit owner; and be posted in a conspicuous place on the
480 | condominium property in accordance with the minimum period of
481 | time for posting a notice as set forth in the bylaws, and if the
482 | bylaws do not provide such notice requirements, then at least 14
483 | continuous days before the meeting. Upon notice to the unit

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484 owners, the board shall, by duly adopted rule, designate a
485 specific location on the condominium property where all notices
486 of unit owner meetings must be posted. This requirement does not
487 apply if there is no condominium property for posting notices.
488 In lieu of, or in addition to, the physical posting of meeting
489 notices, the association may, by reasonable rule, adopt a
490 procedure for conspicuously posting and repeatedly broadcasting
491 the notice and the agenda on a closed-circuit cable television
492 system serving the condominium association. However, if
493 broadcast notice is used in lieu of a notice posted physically
494 on the condominium property, the notice and agenda must be
495 broadcast at least four times every broadcast hour of each day
496 that a posted notice is otherwise required under this section.
497 If broadcast notice is provided, the notice and agenda must be
498 broadcast in a manner and for a sufficient continuous length of
499 time so as to allow an average reader to observe the notice and
500 read and comprehend the entire content of the notice and the
501 agenda. In addition to any of the authorized means of providing
502 notice of a meeting of the board, the association may, by rule,
503 adopt a procedure for conspicuously posting the meeting notice
504 and the agenda on a website serving the condominium association
505 for at least the minimum period of time for which a notice of a
506 meeting is also required to be physically posted on the
507 condominium property. Any rule adopted shall, in addition to
508 other matters, include a requirement that the association send

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

531 4. The members of the board of a residential condominium
532 shall be elected by written ballot or voting machine. Proxies
533 may not be used in electing the board in general elections or

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534 elections to fill vacancies caused by recall, resignation, or
535 otherwise, unless otherwise provided in this chapter. This
536 subparagraph does not apply to an association governing a
537 timeshare condominium.

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

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

578 b. Within 90 days after being elected or appointed to the
579 board of an association of a residential condominium, each newly
580 elected or appointed director shall certify in writing to the
581 secretary of the association that he or she has read the
582 association's declaration of condominium, articles of
583 incorporation, bylaws, and current written policies; that he or

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

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

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

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

631 7. Unit owners have the right to participate in meetings
632 of unit owners with reference to all designated agenda items.

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633 However, the association may adopt reasonable rules governing
634 the frequency, duration, and manner of unit owner participation.

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

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

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

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

667 (i) *Transfer fees.*—No charge shall be made by the
668 association or any body thereof in connection with the sale,
669 mortgage, lease, sublease, or other transfer of a unit unless
670 the association is required to approve such transfer and a fee
671 for such approval is provided for in the declaration, articles,
672 or bylaws. Any such fee may be preset, but in no event may such
673 fee exceed \$150 ~~\$100~~ per applicant other than husband/wife or
674 parent/dependent child, which are considered one applicant.
675 However, if the lease or sublease is a renewal of a lease or
676 sublease with the same lessee or sublessee, no charge shall be
677 made. The fees specified in this subsection shall be adjusted
678 every 5 years in an amount equal to the total of the annual
679 increases for that 5-year period in the Consumer Price Index for
680 All Urban Consumers, U.S. City Average, All Items. The
681 Department of Business and Professional Regulation shall
682 periodically calculate the fees, rounded to the nearest dollar,

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683 and publish the amounts, as adjusted, on its website. The
684 foregoing notwithstanding, an association may, if the authority
685 to do so appears in the declaration, articles, or bylaws,
686 require that a prospective lessee place a security deposit, in
687 an amount not to exceed the equivalent of 1 month's rent, into
688 an escrow account maintained by the association. The security
689 deposit shall protect against damages to the common elements or
690 association property. Payment of interest, claims against the
691 deposit, refunds, and disputes under this paragraph shall be
692 handled in the same fashion as provided in part II of chapter
693 83.

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

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

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708 hold a board meeting within 5 full business days after the
709 adjournment of the unit owner meeting to recall one or more
710 board members. Such member or members shall be recalled
711 effective immediately upon conclusion of the board meeting,
712 provided that the recall is facially valid. A recalled member
713 must turn over to the board, within 10 full business days after
714 the vote, any and all records and property of the association in
715 their possession.

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

728 3. If the board fails to duly notice and hold a board
729 meeting within 5 full business days after service of an
730 agreement in writing or within 5 full business days after the
731 adjournment of the unit owner recall meeting, the recall shall
732 be deemed effective and the board members so recalled shall turn

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733 over to the board within 10 full business days after the vote
734 any and all records and property of the association.

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

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

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757 association during the period after a recall but before the
758 recall election.

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

775 7. The division or a court of competent jurisdiction may
776 not accept for filing a recall petition or action, whether filed
777 pursuant to subparagraph 1., subparagraph 2., subparagraph 4.,
778 or subparagraph 6. when there are 60 or fewer days until the
779 scheduled reelection of the board member sought to be recalled
780 or when 60 or fewer days have elapsed since the election of the
781 board member sought to be recalled.

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782 (k) Alternative Dispute Resolution Arbitration.— There
783 must shall be a provision for mandatory alternative dispute
784 resolution nonbinding arbitration as provided for in s. 718.1255
785 for any residential condominium.

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

797 Section 6. Subsection (8) of section 718.113, Florida
798 Statutes, is amended to read:

799 718.113 Maintenance; limitation upon improvement; display
800 of flag; hurricane shutters and protection; display of religious
801 decorations.—

802 (8) The Legislature finds that the use of electric and
803 natural gas fuel vehicles conserves and protects the state's
804 environmental resources, provides significant economic savings
805 to drivers, and serves an important public interest. The
806 participation of condominium associations is essential to the

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807 state's efforts to conserve and protect the state's
808 environmental resources and provide economic savings to drivers.
809 For purposes of this subsection, the term "natural gas fuel" has
810 the same meaning as in s. 206.9951, and the term "natural gas
811 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
812 that is powered by natural gas fuel. Therefore, the installation
813 of an electric vehicle charging station or natural gas fuel
814 station shall be governed as follows:

815 (a) A declaration of condominium or restrictive covenant
816 may not prohibit or be enforced so as to prohibit any unit owner
817 from installing an electric vehicle charging station or natural
818 gas fuel station within the boundaries of the unit owner's
819 limited common element or exclusively designated parking area.
820 The board of administration of a condominium association may not
821 prohibit a unit owner from installing an electric vehicle
822 charging station for an electric vehicle, as defined in s.
823 320.01, or a natural gas fuel station for a natural gas fuel
824 vehicle within the boundaries of his or her limited common
825 element or exclusively designated parking area. The installation
826 of such charging or fuel stations are subject to the provisions
827 of this subsection.

828 (b) The installation may not cause irreparable damage to
829 the condominium property.

830 (c) The electricity for the electric vehicle charging
831 station or natural gas fuel station must be separately metered

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832 or metered by an embedded meter and payable by the unit owner
833 installing such charging or fuel station or by his or her
834 successor.

835 (d) The cost for supply and storage of the natural gas
836 fuel must be paid by the unit owner installing the natural gas
837 fuel station or by his or her successor.

838 (e)~~(d)~~ The unit owner who is installing an electric
839 vehicle charging station or natural gas fuel station is
840 responsible for the costs of installation, operation,
841 maintenance, and repair, including, but not limited to, hazard
842 and liability insurance. The association may enforce payment of
843 such costs under ~~pursuant to~~ s. 718.116.

844 (f)~~(e)~~ If the unit owner or his or her successor decides
845 there is no longer a need for the electronic vehicle charging
846 station or natural gas fuel station, such person is responsible
847 for the cost of removal of such ~~the electronic vehicle~~ charging
848 or fuel station. The association may enforce payment of such
849 costs under ~~pursuant to~~ s. 718.116.

850 (g) The unit owner installing, maintaining, or removing
851 the electric vehicle charging station or natural gas fuel
852 station is responsible for complying with all federal, state, or
853 local laws and regulations applicable to such installation,
854 maintenance, or removal.

855 (h)~~(f)~~ The association may require the unit owner to:

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856 1. Comply with bona fide safety requirements, consistent
857 with applicable building codes or recognized safety standards,
858 for the protection of persons and property.

859 2. Comply with reasonable architectural standards adopted
860 by the association that govern the dimensions, placement, or
861 external appearance of the electric vehicle charging station or
862 natural gas fuel station, provided that such standards may not
863 prohibit the installation of such charging or fuel station or
864 substantially increase the cost thereof.

865 3. Engage the services of a licensed and registered firm
866 ~~electrical contractor or engineer~~ familiar with the installation
867 or removal and core requirements of an electric vehicle charging
868 station or natural gas fuel station.

869 4. Provide a certificate of insurance naming the
870 association as an additional insured on the owner's insurance
871 policy for any claim related to the installation, maintenance,
872 or use of the electric vehicle charging station or natural gas
873 fuel station within 14 days after receiving the association's
874 approval to install such charging or fuel station or notice to
875 provide such a certificate.

876 5. Reimburse the association for the actual cost of any
877 increased insurance premium amount attributable to the electric
878 vehicle charging station or natural gas fuel station within 14
879 days after receiving the association's insurance premium
880 invoice.

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881 (i)~~(g)~~ The association provides an implied easement across
882 the common elements of the condominium property to the unit
883 owner for purposes of ~~the installation of the~~ electric vehicle
884 charging station or natural gas fuel station installation, and
885 the furnishing of electrical power or natural gas fuel supply,
886 including any necessary equipment, to such charging or fuel
887 station, subject to the requirements of this subsection.

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

890 718.117 Termination of condominium.—

891 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest
892 a plan of termination by initiating a petition in accordance
893 with ~~for mandatory nonbinding arbitration pursuant to s.~~
894 718.1255 within 90 days after the date the plan is recorded. A
895 unit owner or lienor may only contest the fairness and
896 reasonableness of the apportionment of the proceeds from the
897 sale among the unit owners, that the liens of the first
898 mortgages of unit owners other than the bulk owner have not or
899 will not be satisfied to the extent required by subsection (3),
900 or that the required vote to approve the plan was not obtained.
901 A unit owner or lienor who does not contest the plan within the
902 90-day period is barred from asserting or prosecuting a claim
903 against the association, the termination trustee, any unit
904 owner, or any successor in interest to the condominium property.
905 In an action contesting a plan of termination, the person

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906 | contesting the plan has the burden of pleading and proving that
907 | the apportionment of the proceeds from the sale among the unit
908 | owners was not fair and reasonable or that the required vote was
909 | not obtained. The apportionment of sale proceeds is presumed
910 | fair and reasonable if it was determined pursuant to the methods
911 | prescribed in subsection (12). If the petition is filed with the
912 | division for arbitration, the arbitrator shall determine the
913 | rights and interests of the parties in the apportionment of the
914 | sale proceeds. If the arbitrator determines that the
915 | apportionment of sales proceeds is not fair and reasonable, the
916 | arbitrator may void the plan or may modify the plan to apportion
917 | the proceeds in a fair and reasonable manner pursuant to this
918 | section based upon the proceedings and order the modified plan
919 | of termination to be implemented. If the arbitrator determines
920 | that the plan was not properly approved, or that the procedures
921 | to adopt the plan were not properly followed, the arbitrator may
922 | void the plan or grant other relief it deems just and proper.
923 | The arbitrator shall automatically void the plan upon a finding
924 | that any of the disclosures required in subparagraph (3)(c)5.
925 | are omitted, misleading, incomplete, or inaccurate. Any
926 | challenge to a plan, other than a challenge that the required
927 | vote was not obtained, does not affect title to the condominium
928 | property or the vesting of the condominium property in the
929 | trustee, but shall only be a claim against the proceeds of the

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930 plan. In any such action, the prevailing party shall recover
931 reasonable attorney fees and costs.

932 Section 8. Subsection (2) of section 718.121, Florida
933 Statutes, is amended to read:

934 718.121 Liens.—

935 (2) Labor performed on or materials furnished to a unit
936 shall not be the basis for the filing of a lien pursuant to part
937 I of chapter 713, the Construction Lien Law, against the unit or
938 condominium parcel of any unit owner not expressly consenting to
939 or requesting the labor or materials. Labor performed on or
940 materials furnished for the installation of a natural gas fuel
941 station or an electronic vehicle charging station pursuant to s.
942 718.113(8) may not be the basis for filing a lien under part I
943 of chapter 713 against the association, but such a lien may be
944 filed against the unit owner. Labor performed on or materials
945 furnished to the common elements are not the basis for a lien on
946 the common elements, but if authorized by the association, the
947 labor or materials are deemed to be performed or furnished with
948 the express consent of each unit owner and may be the basis for
949 the filing of a lien against all condominium parcels in the
950 proportions for which the owners are liable for common expenses.

951 Section 9. Subsections (5) and (6) of section 718.1255,
952 Florida Statutes, are renumbered as subsections (6) and (7),
953 respectively, paragraph (a) of subsection (4) of that section is

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954 amended, and a new subsection (5) is added to that section, to
955 read:

956 718.1255 Alternative dispute resolution; ~~voluntary~~
957 mediation; ~~mandatory~~ nonbinding arbitration; legislative
958 findings.—

959 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
960 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
961 Mobile Homes of the Department of Business and Professional
962 Regulation may employ full-time attorneys to act as arbitrators
963 to conduct the arbitration hearings provided by this chapter.
964 The division may also certify attorneys who are not employed by
965 the division to act as arbitrators to conduct the arbitration
966 hearings provided by this chapter. A ~~no~~ person may not be
967 employed by the department as a full-time arbitrator unless he
968 or she is a member in good standing of The Florida Bar. A person
969 may only be certified by the division to act as an arbitrator if
970 he or she has been a member in good standing of The Florida Bar
971 for at least 5 years and has mediated or arbitrated at least 10
972 disputes involving condominiums in this state during the 3 years
973 immediately preceding the date of application, mediated or
974 arbitrated at least 30 disputes in any subject area in this
975 state during the 3 years immediately preceding the date of
976 application, or attained board certification in real estate law
977 or condominium and planned development law from The Florida Bar.
978 Arbitrator certification is valid for 1 year. An arbitrator who

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979 does not maintain the minimum qualifications for initial
980 certification may not have his or her certification renewed. The
981 department may not enter into a legal services contract for an
982 arbitration hearing under this chapter with an attorney who is
983 not a certified arbitrator unless a certified arbitrator is not
984 available within 50 miles of the dispute. The department shall
985 adopt rules of procedure to govern such arbitration hearings
986 including mediation incident thereto. The decision of an
987 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
988 ~~be~~ deemed final agency action. Nothing in this provision shall
989 be construed to foreclose parties from proceeding in a trial de
990 novo unless the parties have agreed that the arbitration is
991 binding. If judicial proceedings are initiated, the final
992 decision of the arbitrator is ~~shall be~~ admissible in evidence in
993 the trial de novo.

994 (a) Before ~~Prior to~~ the institution of court litigation, a
995 party to a dispute shall either petition the division for
996 nonbinding arbitration or initiate presuit mediation as provided
997 in subsection (5). Arbitration is binding on the parties if all
998 parties in arbitration agree to be bound in a writing filed in
999 arbitration. The petition must be accompanied by a filing fee in
1000 the amount of \$50. Filing fees collected under this section must
1001 be used to defray the expenses of the alternative dispute
1002 resolution program.

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1003 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1004 nonbinding arbitration as set forth in subsections (1)-(4), a
1005 party may submit a dispute to presuit mediation in accordance
1006 with s. 720.311. Election and recall disputes are not eligible
1007 for mediation and such disputes must be arbitrated by the
1008 division or filed with a court of competent jurisdiction.

1009 Section 10. Subsection (3) of section 718.202, Florida
1010 Statutes, is amended to read:

1011 718.202 Sales or reservation deposits prior to closing.—

1012 (3) If the contract for sale of the condominium unit so
1013 provides, the developer may withdraw escrow funds in excess of
1014 10 percent of the purchase price from the special account
1015 required by subsection (2) when the construction of improvements
1016 has begun. He or she may use the funds for the actual costs
1017 incurred by the developer in the ~~actual~~ construction and
1018 development of the condominium property in which the unit to be
1019 sold is located. Actual costs include, but are not limited to,
1020 expenditures for demolition, site clearing, permit fees, impact
1021 fees, and utility reservation fees, as well as architectural,
1022 engineering, and surveying fees that directly relate to
1023 construction and development. However, no part of these funds
1024 may be used for salaries, commissions, or expenses of
1025 salespersons; ~~or~~ for advertising, marketing, or promotional
1026 purposes; or for loan fees, costs or interest, attorney fees,
1027 accounting fees, or insurance. A contract which permits use of

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1028 the advance payments for these purposes shall include the
1029 following legend conspicuously printed or stamped in boldfaced
1030 type on the first page of the contract and immediately above the
1031 place for the signature of the buyer: ANY PAYMENT IN EXCESS OF
1032 10 PERCENT OF THE PURCHASE PRICE MADE TO DEVELOPER PRIOR TO
1033 CLOSING PURSUANT TO THIS CONTRACT MAY BE USED FOR CONSTRUCTION
1034 PURPOSES BY THE DEVELOPER.

1035 Section 11. Subsection (1) and paragraph (b) of subsection
1036 (3) of section 718.303, Florida Statutes, are amended to read:

1037 718.303 Obligations of owners and occupants; remedies.—

1038 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1039 ~~each~~ association is governed by, and must comply with the
1040 provisions of, this chapter, the declaration, the documents
1041 creating the association, and the association bylaws which are
1042 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1043 Actions at law or in equity ~~for damages or for injunctive~~
1044 ~~relief~~, or both, for failure to comply with these provisions may
1045 be brought by the association or by a unit owner against:

1046 (a) The association.

1047 (b) A unit owner.

1048 (c) Directors designated by the developer, for actions
1049 taken by them before control of the association is assumed by
1050 unit owners other than the developer.

1051 (d) Any director who willfully and knowingly fails to
1052 comply with these provisions.

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1053 (e) Any tenant leasing a unit, and any other invitee
1054 occupying a unit.

1055
1056 The prevailing party in any such action or in any action in
1057 which the purchaser claims a right of voidability based upon
1058 contractual provisions as required in s. 718.503(1)(a) is
1059 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1060 owner prevailing in an action between the association and the
1061 unit owner under this subsection ~~section~~, in addition to
1062 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1063 recover additional amounts as determined by the court to be
1064 necessary to reimburse the unit owner for his or her share of
1065 assessments levied by the association to fund its expenses of
1066 the litigation. This relief does not exclude other remedies
1067 provided by law. Actions arising under this subsection are not
1068 considered ~~may not be deemed to be~~ actions for specific
1069 performance.

1070 (3) The association may levy reasonable fines for the
1071 failure of the owner of the unit or its occupant, licensee, or
1072 invitee to comply with any provision of the declaration, the
1073 association bylaws, or reasonable rules of the association. A
1074 fine may not become a lien against a unit. A fine may be levied
1075 by the board on the basis of each day of a continuing violation,
1076 with a single notice and opportunity for hearing before a

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1077 committee as provided in paragraph (b). However, the fine may
1078 not exceed \$100 per violation, or \$1,000 in the aggregate.

1079 (b) A fine or suspension levied by the board of
1080 administration may not be imposed unless the board first
1081 provides at least 14 days' written notice to the unit owner and,
1082 if applicable, any tenant occupant, licensee, or invitee of the
1083 unit owner sought to be fined or suspended, and an opportunity
1084 for a hearing before a committee of at least three members
1085 appointed by the board who are not officers, directors, or
1086 employees of the association, or the spouse, parent, child,
1087 brother, or sister of an officer, director, or employee. The
1088 role of the committee is limited to determining whether to
1089 confirm or reject the fine or suspension levied by the board. If
1090 the committee does not approve the proposed fine or suspension
1091 by majority vote, the fine or suspension may not be imposed. If
1092 the proposed fine or suspension is approved by the committee,
1093 the fine payment is due 5 days after notice of the approved fine
1094 is provided to the unit owner and, if applicable, to any tenant,
1095 licensee, or invitee of the unit owner ~~the date of the committee~~
1096 ~~meeting at which the fine is approved~~. The association must
1097 provide written notice of such fine or suspension by mail or
1098 hand delivery to the unit owner and, if applicable, to any
1099 tenant, licensee, or invitee of the unit owner.

1100 Section 12. Present subsections (1) and (2) of section
1101 718.501, Florida Statutes, are redesignated as subsections (2)

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1102 and (3), respectively, a new subsection (1) is added to that
1103 section and paragraphs (h) and (j) of present subsection (1) of
1104 that section are amended, to read:

1105 718.501 Authority, responsibility, and duties of Division
1106 of Florida Condominiums, Timeshares, and Mobile Homes.—

1107 (1) As used in this section, the term "financial issue"
1108 means an issue related to operating budgets; reserve schedules;
1109 accounting records under s. 718.111(12) (a)11.; notices of
1110 meetings; minutes of meetings discussing budget or financial
1111 issues; assessments for common expenses, fees, or fines; the
1112 commingling of funds; and any other record necessary to
1113 determine the revenues and expenses of the association. The
1114 division may adopt rules to further define what a financial
1115 issue is under this section and may adopt a rule outlining the
1116 requirements of the checklist under s. 718.111(c)1.

1117 (2) The division may enforce and ensure compliance with
1118 the provisions of this chapter and rules relating to the
1119 development, construction, sale, lease, ownership, operation,
1120 and management of residential condominium units. In performing
1121 its duties, the division has complete jurisdiction to
1122 investigate complaints and enforce compliance with respect to
1123 associations that are still under developer control or the
1124 control of a bulk assignee or bulk buyer pursuant to part VII of
1125 this chapter and complaints against developers, bulk assignees,
1126 or bulk buyers involving improper turnover or failure to

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1127 turnover, pursuant to s. 718.301. However, after turnover has
1128 occurred, the division has jurisdiction to investigate
1129 complaints related only to financial issues, elections, and the
1130 maintenance of and unit owner access to association records
1131 under ~~pursuant to~~ s. 718.111(12).

1132 (h) The division shall furnish each association that pays
1133 the fees required by paragraph (3) (a) ~~(2) (a)~~ a copy of this
1134 chapter, as amended, and the rules adopted thereto on an annual
1135 basis.

1136 (j) The division shall provide training and educational
1137 programs for condominium association board members and unit
1138 owners. The training may, in the division's discretion, include
1139 web-based electronic media, and live training and seminars in
1140 various locations throughout the state. The division may review
1141 and approve education and training programs for board members
1142 and unit owners offered by providers and shall maintain a
1143 current list of approved programs and providers and make such
1144 list available to board members and unit owners in a reasonable
1145 and cost-effective manner. The division may adopt rules to
1146 establish requirements for the training and educational programs
1147 required in this paragraph.

1148 Section 13. Section 718.5014, Florida Statutes, is amended
1149 to read:

1150 718.5014 Ombudsman location.—The ombudsman shall maintain
1151 his or her principal office in a ~~Leon County on the premises of~~

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1152 ~~the division or, if suitable space cannot be provided there, at~~
1153 ~~another~~ place convenient to the offices of the division which
1154 will enable the ombudsman to expeditiously carry out the duties
1155 and functions of his or her office. The ombudsman may establish
1156 branch offices elsewhere in the state upon the concurrence of
1157 the Governor.

1158 Section 14. Subsection (25) of section 719.103, Florida
1159 Statutes, is amended to read:

1160 719.103 Definitions.—As used in this chapter:

1161 (25) "Unit" means a part of the cooperative property which
1162 is subject to exclusive use and possession. A unit may be
1163 improvements, land, or land and improvements together, as
1164 specified in the cooperative documents. An interest in a unit is
1165 an interest in real property.

1166 Section 15. Paragraph (c) of subsection (2) of section
1167 719.104, Florida Statutes, is amended to read:

1168 719.104 Cooperatives; access to units; records; financial
1169 reports; assessments; purchase of leases.—

1170 (2) OFFICIAL RECORDS.—

1171 (c) The official records of the association are open to
1172 inspection by any association member or the authorized
1173 representative of such member at all reasonable times. The right
1174 to inspect the records includes the right to make or obtain
1175 copies, at the reasonable expense, if any, of the association
1176 member. The association may adopt reasonable rules regarding the

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1177 frequency, time, location, notice, and manner of record
1178 inspections and copying, but may not require a member to
1179 demonstrate any purpose or state any reason for the inspection.
1180 The failure of an association to provide the records within 10
1181 working days after receipt of a written request creates a
1182 rebuttable presumption that the association willfully failed to
1183 comply with this paragraph. A member ~~unit owner~~ who is denied
1184 access to official records is entitled to the actual damages or
1185 minimum damages for the association's willful failure to comply.
1186 The minimum damages are \$50 per calendar day for up to 10 days,
1187 beginning on the 11th working day after receipt of the written
1188 request. The failure to permit inspection entitles any person
1189 prevailing in an enforcement action to recover reasonable
1190 attorney fees from the person in control of the records who,
1191 directly or indirectly, knowingly denied access to the records.
1192 Any person who knowingly or intentionally defaces or destroys
1193 accounting records that are required by this chapter to be
1194 maintained during the period for which such records are required
1195 to be maintained, or who knowingly or intentionally fails to
1196 create or maintain accounting records that are required to be
1197 created or maintained, with the intent of causing harm to the
1198 association or one or more of its members, is personally subject
1199 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1200 association shall maintain an adequate number of copies of the
1201 declaration, articles of incorporation, bylaws, and rules, and

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1202 all amendments to each of the foregoing, as well as the question
1203 and answer sheet as described in s. 719.504 and year-end
1204 financial information required by the department, on the
1205 cooperative property to ensure their availability to members
1206 ~~unit owners~~ and prospective purchasers, and may charge its
1207 actual costs for preparing and furnishing these documents to
1208 those requesting the same. An association shall allow a member
1209 or his or her authorized representative to use a portable
1210 device, including a smartphone, tablet, portable scanner, or any
1211 other technology capable of scanning or taking photographs, to
1212 make an electronic copy of the official records in lieu of the
1213 association providing the member or his or her authorized
1214 representative with a copy of such records. The association may
1215 not charge a member or his or her authorized representative for
1216 the use of a portable device. Notwithstanding this paragraph,
1217 the following records shall not be accessible to members ~~unit~~
1218 ~~owners~~:

1219 1. Any record protected by the lawyer-client privilege as
1220 described in s. 90.502 and any record protected by the work-
1221 product privilege, including any record prepared by an
1222 association attorney or prepared at the attorney's express
1223 direction which reflects a mental impression, conclusion,
1224 litigation strategy, or legal theory of the attorney or the
1225 association, and which was prepared exclusively for civil or
1226 criminal litigation or for adversarial administrative

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1227 proceedings, or which was prepared in anticipation of such
1228 litigation or proceedings until the conclusion of the litigation
1229 or proceedings.

1230 2. Information obtained by an association in connection
1231 with the approval of the lease, sale, or other transfer of a
1232 unit.

1233 3. Personnel records of association or management company
1234 employees, including, but not limited to, disciplinary, payroll,
1235 health, and insurance records. For purposes of this
1236 subparagraph, the term "personnel records" does not include
1237 written employment agreements with an association employee or
1238 management company, or budgetary or financial records that
1239 indicate the compensation paid to an association employee.

1240 4. Medical records of unit owners.

1241 5. Social security numbers, driver license numbers, credit
1242 card numbers, e-mail addresses, telephone numbers, facsimile
1243 numbers, emergency contact information, addresses of a unit
1244 owner other than as provided to fulfill the association's notice
1245 requirements, and other personal identifying information of any
1246 person, excluding the person's name, unit designation, mailing
1247 address, property address, and any address, e-mail address, or
1248 facsimile number provided to the association to fulfill the
1249 association's notice requirements. Notwithstanding the
1250 restrictions in this subparagraph, an association may print and
1251 distribute to unit ~~parcel~~ owners a directory containing the

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1252 name, unit ~~parcel~~ address, and all telephone numbers of each
1253 unit ~~parcel~~ owner. However, an owner may exclude his or her
1254 telephone numbers from the directory by so requesting in writing
1255 to the association. An owner may consent in writing to the
1256 disclosure of other contact information described in this
1257 subparagraph. The association is not liable for the inadvertent
1258 disclosure of information that is protected under this
1259 subparagraph if the information is included in an official
1260 record of the association and is voluntarily provided by an
1261 owner and not requested by the association.

1262 6. Electronic security measures that are used by the
1263 association to safeguard data, including passwords.

1264 7. The software and operating system used by the
1265 association which allow the manipulation of data, even if the
1266 owner owns a copy of the same software used by the association.
1267 The data is part of the official records of the association.

1268 Section 16. Paragraphs (b), (f), and (l) of subsection (1)
1269 of section 719.106, Florida Statutes, is amended, and subsection
1270 (3) is added to that section, to read:

1271 719.106 Bylaws; cooperative ownership.—

1272 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1273 documents shall provide for the following, and if they do not,
1274 they shall be deemed to include the following:

1275 (b) *Quorum; voting requirements; proxies.*—

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1276 1. Unless otherwise provided in the bylaws, the percentage
1277 of voting interests required to constitute a quorum at a meeting
1278 of the members shall be a majority of voting interests, and
1279 decisions shall be made by owners of a majority of the voting
1280 interests. Unless otherwise provided in this chapter, or in the
1281 articles of incorporation, bylaws, or other cooperative
1282 documents, and except as provided in subparagraph (d)1.,
1283 decisions shall be made by owners of a majority of the voting
1284 interests represented at a meeting at which a quorum is present.

1285 2. Except as specifically otherwise provided herein, after
1286 January 1, 1992, unit owners may not vote by general proxy, but
1287 may vote by limited proxies substantially conforming to a
1288 limited proxy form adopted by the division. Limited proxies and
1289 general proxies may be used to establish a quorum. Limited
1290 proxies shall be used for votes taken to waive or reduce
1291 reserves in accordance with subparagraph (j)2., for votes taken
1292 to waive the financial reporting requirements of s.

1293 719.104(4)(b), for votes taken to amend the articles of
1294 incorporation or bylaws pursuant to this section, and for any
1295 other matter for which this chapter requires or permits a vote
1296 of the unit owners. Except as provided in paragraph (d), after
1297 January 1, 1992, no proxy, limited or general, shall be used in
1298 the election of board members. General proxies may be used for
1299 other matters for which limited proxies are not required, and
1300 may also be used in voting for nonsubstantive changes to items

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1301 for which a limited proxy is required and given. Notwithstanding
1302 the provisions of this section, unit owners may vote in person
1303 at unit owner meetings. Nothing contained herein shall limit the
1304 use of general proxies or require the use of limited proxies or
1305 require the use of limited proxies for any agenda item or
1306 election at any meeting of a timeshare cooperative.

1307 3. Any proxy given shall be effective only for the
1308 specific meeting for which originally given and any lawfully
1309 adjourned meetings thereof. In no event shall any proxy be valid
1310 for a period longer than 90 days after the date of the first
1311 meeting for which it was given. Every proxy shall be revocable
1312 at any time at the pleasure of the unit owner executing it.

1313 4. A member of the board of administration or a committee
1314 may submit in writing his or her agreement or disagreement with
1315 any action taken at a meeting that the member did not attend.
1316 This agreement or disagreement may not be used as a vote for or
1317 against the action taken and may not be used for the purposes of
1318 creating a quorum.

1319 5. A board or committee member participating in a meeting
1320 via telephone, real-time video conferencing, or similar real-
1321 time electronic or video communication counts toward a quorum,
1322 and such member may vote as if physically present ~~When some or~~
1323 ~~all of the board or committee members meet by telephone~~
1324 ~~conference, those board or committee members attending by~~
1325 ~~telephone conference may be counted toward obtaining a quorum~~

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1326 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1327 used ~~utilized~~ so that the conversation of such ~~those~~ board or
1328 ~~committee~~ members ~~attending by telephone~~ may be heard by the
1329 board or committee members attending in person, as well as by
1330 any unit owners present at a meeting.

1331 (f) Recall of board members.—Subject to s. 719.301, any
1332 member of the board of administration may be recalled and
1333 removed from office with or without cause by the vote or
1334 agreement in writing by a majority of all the voting interests.
1335 A special meeting of the voting interests to recall any member
1336 of the board of administration may be called by 10 percent of
1337 the unit owners giving notice of the meeting as required for a
1338 meeting of unit owners, and the notice shall state the purpose
1339 of the meeting. Electronic transmission may not be used as a
1340 method of giving notice of a meeting called in whole or in part
1341 for this purpose.

1342 1. If the recall is approved by a majority of all voting
1343 interests by a vote at a meeting, the recall shall be effective
1344 as provided in this paragraph. The board shall duly notice and
1345 hold a board meeting within 5 full business days after the
1346 adjournment of the unit owner meeting to recall one or more
1347 board members. At the meeting, the board shall either certify
1348 the recall, in which case such member or members shall be
1349 recalled effective immediately and shall turn over to the board
1350 within 5 full business days any and all records and property of

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1351 the association in their possession, or shall proceed as set
1352 forth in subparagraph 3.

1353 2. If the proposed recall is by an agreement in writing by
1354 a majority of all voting interests, the agreement in writing or
1355 a copy thereof shall be served on the association by certified
1356 mail or by personal service in the manner authorized by chapter
1357 48 and the Florida Rules of Civil Procedure. The board of
1358 administration shall duly notice and hold a meeting of the board
1359 within 5 full business days after receipt of the agreement in
1360 writing. At the meeting, the board shall either certify the
1361 written agreement to recall members of the board, in which case
1362 such members shall be recalled effective immediately and shall
1363 turn over to the board, within 5 full business days, any and all
1364 records and property of the association in their possession, or
1365 proceed as described in subparagraph 3.

1366 3. If the board determines not to certify the written
1367 agreement to recall members of the board, or does not certify
1368 the recall by a vote at a meeting, the board shall, within 5
1369 full business days after the board meeting, file with the
1370 division a petition for binding arbitration pursuant to the
1371 procedures of s. 719.1255 or file an action with a court of
1372 competent jurisdiction. For purposes of this paragraph, the unit
1373 owners who voted at the meeting or who executed the agreement in
1374 writing shall constitute one party under the petition for
1375 arbitration or action with a court of competent jurisdiction. If

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1376 the arbitrator or court certifies the recall as to any member of
1377 the board, the recall shall be effective upon the final order of
1378 the court or the mailing of the final order of arbitration to
1379 the association. If the association fails to comply with the
1380 order of the arbitrator or court, the division may take action
1381 pursuant to s. 719.501. Any member so recalled shall deliver to
1382 the board any and all records and property of the association in
1383 the member's possession within 5 full business days after the
1384 effective date of the recall.

1385 4. If the board fails to duly notice and hold a board
1386 meeting within 5 full business days after service of an
1387 agreement in writing or within 5 full business days after the
1388 adjournment of the unit owner recall meeting, the recall shall
1389 be deemed effective and the board members so recalled shall
1390 immediately turn over to the board any and all records and
1391 property of the association.

1392 5. If the board fails to duly notice and hold the required
1393 meeting or fails to file the required petition or action, the
1394 unit owner representative may file a petition pursuant to s.
1395 719.1255 or file an action in a court of competent jurisdiction
1396 challenging the board's failure to act. The petition or action
1397 must be filed within 60 days after the expiration of the
1398 applicable 5-full-business-day period. The review of a petition
1399 or action under this subparagraph is limited to the sufficiency

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1400 of service on the board and the facial validity of the written
1401 agreement or ballots filed.

1402 6. If a vacancy occurs on the board as a result of a
1403 recall and less than a majority of the board members are
1404 removed, the vacancy may be filled by the affirmative vote of a
1405 majority of the remaining directors, notwithstanding any
1406 provision to the contrary contained in this chapter. If
1407 vacancies occur on the board as a result of a recall and a
1408 majority or more of the board members are removed, the vacancies
1409 shall be filled in accordance with procedural rules to be
1410 adopted by the division, which rules need not be consistent with
1411 this chapter. The rules must provide procedures governing the
1412 conduct of the recall election as well as the operation of the
1413 association during the period after a recall but before the
1414 recall election.

1415 7. A board member who has been recalled may file a
1416 petition pursuant to s. 719.1255 or file an action in a court of
1417 competent jurisdiction challenging the validity of the recall.
1418 The petition or action must be filed within 60 days after the
1419 recall is deemed certified. The association and the unit owner
1420 representative shall be named as the respondents.

1421 8. The division or a court of competent jurisdiction may
1422 not accept for filing a recall petition or action, whether filed
1423 pursuant to subparagraph 1., subparagraph 2., subparagraph 5.,
1424 or subparagraph 7. and regardless of whether the recall was

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1425 certified, when there are 60 or fewer days until the scheduled
1426 reelection of the board member sought to be recalled or when 60
1427 or fewer days have not elapsed since the election of the board
1428 member sought to be recalled.

1429 (1) Alternative Dispute Resolution Arbitration.—There
1430 shall be a provision for mandatory nonbinding alternative
1431 dispute resolution arbitration of internal disputes arising from
1432 the operation of the cooperative in accordance with s. 719.1255.

1433 (3) GENERALLY.—The association may extinguish a
1434 discriminatory restriction, as defined in s. 712.065(1),
1435 pursuant to s. 712.065.

1436 Section 17. Paragraph (1) of subsection (4) of section
1437 720.303, Florida Statutes, is redesignated as paragraph (m), a
1438 new paragraph (1) is added to that subsection, and paragraph (c)
1439 of subsection (2), present paragraph (1) of subsection (4), and
1440 paragraphs (c) and (d) of subsection (6), and paragraphs (b),
1441 (d), (g), (k), and (l) of subsection (10) of that section are
1442 amended, to read:

1443 720.303 Association powers and duties; meetings of board;
1444 official records; budgets; financial reporting; association
1445 funds; recalls.—

1446 (2) BOARD MEETINGS.—

1447 (c) The bylaws shall provide the following for giving
1448 notice to parcel owners and members of all board meetings and,
1449 if they do not do so, shall be deemed to include the following:

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1450 1. Notices of all board meetings must be posted in a
1451 conspicuous place in the community at least 48 hours in advance
1452 of a meeting, except in an emergency. In the alternative, if
1453 notice is not posted in a conspicuous place in the community,
1454 notice of each board meeting must be mailed or delivered to each
1455 member at least 7 days before the meeting, except in an
1456 emergency. Notwithstanding this general notice requirement, for
1457 communities with more than 100 members, the association bylaws
1458 may provide for a reasonable alternative to posting or mailing
1459 of notice for each board meeting, including publication of
1460 notice, provision of a schedule of board meetings, or the
1461 conspicuous posting and repeated broadcasting of the notice on a
1462 closed-circuit cable television system serving the homeowners'
1463 association. However, if broadcast notice is used in lieu of a
1464 notice posted physically in the community, the notice must be
1465 broadcast at least four times every broadcast hour of each day
1466 that a posted notice is otherwise required. When broadcast
1467 notice is provided, the notice and agenda must be broadcast in a
1468 manner and for a sufficient continuous length of time so as to
1469 allow an average reader to observe the notice and read and
1470 comprehend the entire content of the notice and the agenda. In
1471 addition to any of the authorized means of providing notice of a
1472 meeting of the board, the association may, by rule, adopt a
1473 procedure for conspicuously posting the meeting notice and the
1474 agenda on the association's website or mobile application for at

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1475 least the minimum period of time for which a notice of a meeting
1476 is also required to be physically posted on the association
1477 property. Any rule adopted shall, in addition to other matters,
1478 include a requirement that the association send an electronic
1479 notice in the same manner as is required for a notice of a
1480 meeting of the members, which must include a hyperlink to the
1481 website or mobile application where the notice is posted, to
1482 members whose e-mail addresses are included in the association's
1483 official records. The association may provide notice by
1484 electronic transmission in a manner authorized by law for
1485 meetings of the board of directors, committee meetings requiring
1486 notice under this section, and annual and special meetings of
1487 the members to any member who has provided a facsimile number or
1488 e-mail address to the association to be used for such purposes;
1489 however, a member must consent in writing to receiving notice by
1490 electronic transmission.

1491 2. An assessment may not be levied at a board meeting
1492 unless the notice of the meeting includes a statement that
1493 assessments will be considered and the nature of the
1494 assessments. Written notice of any meeting at which special
1495 assessments will be considered or at which amendments to rules
1496 regarding parcel use will be considered must be mailed,
1497 delivered, or electronically transmitted to the members and
1498 parcel owners and posted conspicuously on the property or

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1499 broadcast on closed-circuit cable television not less than 14
1500 days before the meeting.

1501 3. Directors may not vote by proxy or by secret ballot at
1502 board meetings, except that secret ballots may be used in the
1503 election of officers. This subsection also applies to the
1504 meetings of any committee or other similar body, when a final
1505 decision will be made regarding the expenditure of association
1506 funds, and to any body vested with the power to approve or
1507 disapprove architectural decisions with respect to a specific
1508 parcel of residential property owned by a member of the
1509 community.

1510 (4) OFFICIAL RECORDS.—The association shall maintain each
1511 of the following items, when applicable, which constitute the
1512 official records of the association:

1513 (1) Ballots, sign-in sheets, voting proxies, and all other
1514 papers and electronic records relating to voting by parcel
1515 owners, which must be maintained for at least 1 year after the
1516 date of the election, vote, or meeting.

1517 (m)~~(l)~~ All other written records of the association not
1518 specifically included in this subsection ~~the foregoing~~ which are
1519 related to the operation of the association.

1520 (6) BUDGETS.—

1521 (c)1. If the budget of the association does not provide
1522 for reserve accounts pursuant to paragraph (d), or the
1523 declaration of covenants, articles, or bylaws do not obligate

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1524 the developer to create reserves, and the association is
1525 responsible for the repair and maintenance of capital
1526 improvements that may result in a special assessment if reserves
1527 are not provided or not fully funded, then each financial report
1528 for the preceding fiscal year required by subsection (7) must
1529 contain the following statement in conspicuous type:

1530
1531 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDING
1532 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
1533 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
1534 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDING
1535 RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA
1536 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
1537 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
1538 MEETING OR BY WRITTEN CONSENT.

1539
1540 2. If the budget of the association does provide for
1541 funding accounts for deferred expenditures, including, but not
1542 limited to, funds for capital expenditures and deferred
1543 maintenance, but such accounts are not created or established
1544 pursuant to paragraph (d), each financial report for the
1545 preceding fiscal year required under subsection (7) must also
1546 contain the following statement in conspicuous type:

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1548 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
1549 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
1550 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
1551 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
1552 TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),
1553 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
1554 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
1555 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

1556 (d) An association is deemed to have provided for reserve
1557 accounts ~~if reserve accounts have been initially established by~~
1558 ~~the developer or if the membership of the association~~
1559 ~~affirmatively elects to provide for reserves. If reserve~~
1560 ~~accounts are established by the developer, the budget must~~
1561 ~~designate the components for which the reserve accounts may be~~
1562 ~~used. If reserve accounts are not initially provided by the~~
1563 ~~developer, the membership of the association may elect to do so~~
1564 upon the affirmative approval of a majority of the total voting
1565 interests of the association. Such approval may be obtained by
1566 vote of the members at a duly called meeting of the membership
1567 or by the written consent of a majority of the total voting
1568 interests of the association. The approval action of the
1569 membership must state that reserve accounts shall be provided
1570 for in the budget and must designate the components for which
1571 the reserve accounts are to be established. Upon approval by the
1572 membership, the board of directors shall include the required

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1573 reserve accounts in the budget in the next fiscal year following
1574 the approval and each year thereafter. Once established as
1575 provided in this subsection, the reserve accounts must be funded
1576 or maintained or have their funding waived in the manner
1577 provided in paragraph (f).

1578 (10) RECALL OF DIRECTORS.—

1579 (b)1. Board directors may be recalled by an agreement in
1580 writing or by written ballot without a membership meeting. The
1581 agreement in writing or the written ballots, or a copy thereof,
1582 shall be served on the association by certified mail or by
1583 personal service in the manner authorized by chapter 48 and the
1584 Florida Rules of Civil Procedure.

1585 2. The board shall duly notice and hold a meeting of the
1586 board within 5 full business days after receipt of the agreement
1587 in writing or written ballots. At the meeting, the board shall
1588 either certify the written ballots or written agreement to
1589 recall a director or directors of the board, in which case such
1590 director or directors shall be recalled effective immediately
1591 and shall turn over to the board within 5 full business days any
1592 and all records and property of the association in their
1593 possession, or proceed as described in paragraph (d).

1594 3. When it is determined by the department pursuant to
1595 binding arbitration proceedings or a court of competent
1596 jurisdiction that an initial recall effort was defective,
1597 written recall agreements or written ballots used in the first

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1598 recall effort and not found to be defective may be reused in one
1599 subsequent recall effort. However, in no event is a written
1600 agreement or written ballot valid for more than 120 days after
1601 it has been signed by the member.

1602 4. Any rescission or revocation of a member's written
1603 recall ballot or agreement must be in writing and, in order to
1604 be effective, must be delivered to the association before the
1605 association is served with the written recall agreements or
1606 ballots.

1607 5. The agreement in writing or ballot shall list at least
1608 as many possible replacement directors as there are directors
1609 subject to the recall, when at least a majority of the board is
1610 sought to be recalled; the person executing the recall
1611 instrument may vote for as many replacement candidates as there
1612 are directors subject to the recall.

1613 (d) If the board determines not to certify the written
1614 agreement or written ballots to recall a director or directors
1615 of the board or does not certify the recall by a vote at a
1616 meeting, the board shall, within 5 full business days after the
1617 meeting, file an action with a court of competent jurisdiction
1618 or file with the department a petition for binding arbitration
1619 pursuant to the applicable procedures in ss. 718.112(2)(j) and
1620 718.1255 and the rules adopted thereunder. For the purposes of
1621 this section, the members who voted at the meeting or who
1622 executed the agreement in writing shall constitute one party

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1623 under the petition for arbitration or action in a court of
1624 competent jurisdiction. If the arbitrator or court certifies the
1625 recall as to any director or directors of the board, the recall
1626 will be effective upon the final order of the court or the
1627 mailing of the final order of arbitration to the association.
1628 The director or directors so recalled shall deliver to the board
1629 any and all records of the association in their possession
1630 within 5 full business days after the effective date of the
1631 recall.

1632 (g) If the board fails to duly notice and hold the
1633 required meeting or fails to file the required petition or
1634 action, the unit owner representative may file an action in a
1635 court of competent jurisdiction or a petition pursuant to s.
1636 718.1255 challenging the board's failure to act. The petition or
1637 action must be filed within 60 days after the expiration of the
1638 applicable 5-full-business-day period. The review of a petition
1639 or action under this paragraph is limited to the sufficiency of
1640 service on the board and the facial validity of the written
1641 agreement or ballots filed.

1642 (k) A board member who has been recalled may file an
1643 action with a court of competent jurisdiction or file a petition
1644 pursuant to ss. 718.112(2)(j) and 718.1255 and the rules adopted
1645 challenging the validity of the recall. The petition or action
1646 must be filed within 60 days after the recall is deemed

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1647 certified. The association and the unit owner representative
1648 shall be named as respondents.

1649 (1) The division or a court of competent jurisdiction may
1650 not accept for filing a recall petition or action, whether filed
1651 pursuant to paragraph (b), paragraph (c), paragraph (g), or
1652 paragraph (k) and regardless of whether the recall was
1653 certified, when there are 60 or fewer days until the scheduled
1654 reelection of the board member sought to be recalled or when 60
1655 or fewer days have not elapsed since the election of the board
1656 member sought to be recalled.

1657 Section 18. Subsections (1) and (2) of section 720.305,
1658 Florida Statutes, are amended to read:

1659 720.305 Obligations of members; remedies at law or in
1660 equity; levy of fines and suspension of use rights.-

1661 (1) Each member and the member's tenants, guests, and
1662 invitees, and each association, are governed by, and must comply
1663 with, this chapter and, the governing documents of the
1664 community, ~~and the rules of the association~~. Actions at law or
1665 in equity, or both, to redress alleged failure or refusal to
1666 comply with these provisions may be brought by the association
1667 or by any member against:

1668 (a) The association;

1669 (b) A member;

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1670 (c) Any director or officer of an association who
1671 willfully and knowingly fails to comply with these provisions;
1672 and

1673 (d) Any tenants, guests, or invitees occupying a parcel or
1674 using the common areas.

1675
1676 The prevailing party in any such litigation is entitled to
1677 recover reasonable attorney fees and costs. A member prevailing
1678 in an action between the association and the member under this
1679 section, in addition to recovering his or her reasonable
1680 attorney fees, may recover additional amounts as determined by
1681 the court to be necessary to reimburse the member for his or her
1682 share of assessments levied by the association to fund its
1683 expenses of the litigation. This relief does not exclude other
1684 remedies provided by law. This section does not deprive any
1685 person of any other available right or remedy.

1686 (2) An ~~The~~ association may levy reasonable fines. A fine
1687 may not exceed \$100 per violation against any member or any
1688 member's tenant, guest, or invitee for the failure of the owner
1689 of the parcel or its occupant, licensee, or invitee to comply
1690 with any provision of the declaration, the association bylaws,
1691 or reasonable rules of the association unless otherwise provided
1692 in the governing documents. A fine may be levied by the board
1693 for each day of a continuing violation, with a single notice and
1694 opportunity for hearing, except that the fine may not exceed

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1695 \$1,000 in the aggregate unless otherwise provided in the
1696 governing documents. A fine of less than \$1,000 may not become a
1697 lien against a parcel. In any action to recover a fine, the
1698 prevailing party is entitled to reasonable attorney fees and
1699 costs from the nonprevailing party as determined by the court.

1700 (a) An association may suspend, for a reasonable period of
1701 time, the right of a member, or a member's tenant, guest, or
1702 invitee, to use common areas and facilities for the failure of
1703 the owner of the parcel or its occupant, licensee, or invitee to
1704 comply with any provision of the declaration, the association
1705 bylaws, or reasonable rules of the association. This paragraph
1706 does not apply to that portion of common areas used to provide
1707 access or utility services to the parcel. A suspension may not
1708 prohibit an owner or tenant of a parcel from having vehicular
1709 and pedestrian ingress to and egress from the parcel, including,
1710 but not limited to, the right to park.

1711 (b) A fine or suspension levied by the board of
1712 administration may not be imposed unless the board first
1713 provides at least 14 days' notice to the parcel owner and, if
1714 applicable, any occupant, licensee, or invitee of the parcel
1715 owner, sought to be fined or suspended and an opportunity for a
1716 hearing before a committee of at least three members appointed
1717 by the board who are not officers, directors, or employees of
1718 the association, or the spouse, parent, child, brother, or
1719 sister of an officer, director, or employee. If the committee,

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1720 by majority vote, does not approve a proposed fine or
1721 suspension, the proposed fine or suspension may not be imposed.
1722 The role of the committee is limited to determining whether to
1723 confirm or reject the fine or suspension levied by the board. If
1724 the proposed fine or suspension levied by the board is approved
1725 by the committee, the fine payment is due 5 days after notice of
1726 the approved fine is provided to the parcel owner and, if
1727 applicable, to any occupant, licensee, or invitee of the parcel
1728 owner ~~the date of the committee meeting at which the fine is~~
1729 ~~approved~~. The association must provide written notice of such
1730 fine or suspension by mail or hand delivery to the parcel owner
1731 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
1732 of the parcel owner.

1733 Section 19. Paragraph (g) of subsection (1) and paragraph
1734 (c) of subsection 9 of section 720.306, Florida Statutes, are
1735 amended, and paragraph (h) is added to subsection (1) to read:

1736 720.306 Meetings of members; voting and election
1737 procedures; amendments.—

1738 (1) QUORUM; AMENDMENTS.—

1739 (g) A notice required under this section must be mailed or
1740 delivered to the address identified as the parcel owner's
1741 mailing address in the official records of the association as
1742 required under s. 720.303(4) ~~on the property appraiser's website~~
1743 ~~for the county in which the parcel is located~~, or electronically
1744 transmitted in a manner authorized by the association if the

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1745 parcel owner has consented, in writing, to receive notice by
1746 electronic transmission.

1747 (h)1. Except as provided herein, an amendment to any
1748 governing document enacted after July 1, 2020, that prohibits a
1749 parcel owner from renting his or her parcel, alters the
1750 authorized duration of a rental term, or specifies or limits the
1751 number of times that a parcel owner may rent his or her parcel
1752 during a specified period, applies only to a parcel owner who
1753 consents, individually or through a representative, to the
1754 amendment, and to parcel owners who acquire title to a parcel
1755 after the effective date of the amendment.

1756 2. Notwithstanding subparagraph 1. an association may
1757 amend its governing documents to prohibit or regulate rental
1758 durations that are for terms of less than six months, and
1759 prohibit a parcel owner from renting his or parcel more than
1760 three times in a calendar year. Any such amendments apply to all
1761 parcel owners.

1762 3. Nothing in this paragraph shall affect the amendment
1763 restrictions for associations of 15 or fewer parcel owners as
1764 provided in s. 720.303(1).

1765 4. For purposes of this paragraph, a change of ownership
1766 does not occur when a parcel owner conveys the parcel to an
1767 affiliated entity or when beneficial ownership of the parcel
1768 does not change. For purposes of this paragraph, the term
1769 "affiliated entity" means an entity which controls, is

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1770 controlled by, or is under common control with the parcel owner
1771 or that becomes a parent or successor entity by reason of
1772 transfer, merger, consolidation, public offering,
1773 reorganization, dissolution or sale of stock, or transfer of
1774 membership partnership interests. For a conveyance to be
1775 recognized as one made to an affiliated entity, the entity must
1776 furnish the association a document certifying that this
1777 paragraph applies, as well as providing any organizational
1778 documents for the parcel owner and the affiliated entity that
1779 support the representations in the certificate, as requested by
1780 the association.

1781 (9) ELECTIONS AND BOARD VACANCIES.—

1782 (c) Any election dispute between a member and an
1783 association must be submitted to mandatory binding arbitration
1784 with the division or filed with a court of competent
1785 jurisdiction. Such proceedings that are submitted to mandatory
1786 binding arbitration with the division must be conducted in the
1787 manner provided by s. 718.1255 and the procedural rules adopted
1788 by the division. Unless otherwise provided in the bylaws, any
1789 vacancy occurring on the board before the expiration of a term
1790 may be filled by an affirmative vote of the majority of the
1791 remaining directors, even if the remaining directors constitute
1792 less than a quorum, or by the sole remaining director. In the
1793 alternative, a board may hold an election to fill the vacancy,
1794 in which case the election procedures must conform to the

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1795 requirements of the governing documents. Unless otherwise
1796 provided in the bylaws, a board member appointed or elected
1797 under this section is appointed for the unexpired term of the
1798 seat being filled. Filling vacancies created by recall is
1799 governed by s. 720.303(10) and rules adopted by the division.

1800 Section 20. Subsection (1) of section 720.311, Florida
1801 Statutes, is amended to read:

1802 720.311 Dispute resolution.—

1803 (1) The Legislature finds that alternative dispute
1804 resolution has made progress in reducing court dockets and
1805 trials and in offering a more efficient, cost-effective option
1806 to litigation. The filing of any petition for arbitration or the
1807 serving of a demand for presuit mediation as provided for in
1808 this section shall toll the applicable statute of limitations.
1809 Any recall dispute filed with the department pursuant to s.
1810 720.303(10) shall be conducted by the department in accordance
1811 with the provisions of ss. 718.112(2)(j) and 718.1255, and the
1812 rules adopted by the division. In addition, the department shall
1813 conduct mandatory binding arbitration of election disputes
1814 between a member and an association pursuant to s. 718.1255 and
1815 rules adopted by the division. Neither election disputes nor
1816 recall disputes are eligible for presuit mediation; these
1817 disputes shall be arbitrated by the department or filed in a
1818 court of competent jurisdiction. At the conclusion of a the
1819 proceeding filed for arbitration with the department, the

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1820 department shall charge the parties a fee in an amount adequate
1821 to cover all costs and expenses incurred by the department in
1822 conducting the proceeding. Initially, the petitioner shall remit
1823 a filing fee of at least \$200 to the department. The fees paid
1824 to the department shall become a recoverable cost in the
1825 arbitration proceeding, and the prevailing party in an
1826 arbitration proceeding shall recover its reasonable costs and
1827 attorney's fees in an amount found reasonable by the arbitrator.
1828 The department shall adopt rules to effectuate the purposes of
1829 this section.

1830 Section 21. Subsection (6) is added to section 720.3075,
1831 Florida Statutes, to read:

1832 720.3075 Prohibited clauses in association documents.—

1833 (6) The association may extinguish a discriminatory
1834 restriction, as defined in s. 712.065(1), pursuant to s.
1835 712.065.

1836 Section 22. This act shall take effect July 1, 2020.

1837

1838

1839 -----

1840 **T I T L E A M E N D M E N T**

1841 Remove everything before the enacting clause and insert:

1842 An act relating to community associations; amending s.

1843 514.0015, F.S.; exempting certain property association

1844 pools from Department of Health regulations; amending

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1845 s. 627.714, F.S.; prohibiting subrogation rights
1846 against a condominium association under certain
1847 circumstances; creating s. 712.065, F.S.; defining the
1848 term "discriminatory restriction"; providing that
1849 discriminatory restrictions are unlawful,
1850 unenforceable, and declared null and void; providing
1851 that certain discriminatory restrictions are
1852 extinguished and severed from recorded title
1853 transactions; specifying that the recording of certain
1854 notices does not reimpose or preserve a discriminatory
1855 restriction; providing requirements for a parcel owner
1856 to remove a discriminatory restriction from a covenant
1857 or restriction; amending s. 718.111, F.S.; requiring
1858 that certain records be maintained for a specified
1859 time; requiring associations to maintain official
1860 records in a specified manner; requiring an
1861 association to provide a checklist or affidavit
1862 relating to certain records to certain persons;
1863 providing a timeframe for maintaining such checklist
1864 and affidavit; creating a rebuttable presumption;
1865 prohibiting an association from requiring certain
1866 actions relating to the inspection of records;
1867 revising requirements relating to the posting of
1868 digital copies of certain documents by certain
1869 condominium associations; conforming cross-references;

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1870 amending s. 718.112, F.S.; authorizing condominium
1871 associations to extinguish discriminatory
1872 restrictions; specifying that only board service that
1873 occurs on or after a specified date may be used for
1874 calculating a board member's term limit; providing
1875 requirements for certain notices; revising the fees an
1876 association may charge for transfers; conforming
1877 provisions to changes made by the act; deleting a
1878 prohibition against employing or contracting with
1879 certain service providers; amending s. 718.113, F.S.;
1880 defining the terms "natural gas fuel" and "natural gas
1881 fuel vehicle"; revising legislative findings; revising
1882 requirements for electric vehicle charging stations;
1883 providing requirements for the installation of natural
1884 gas fuel stations on property governed by condominium
1885 associations; amending s. 718.1255, F.S.; authorizing
1886 parties to initiate presuit mediation under certain
1887 circumstances; specifying when arbitration is binding
1888 on the parties; providing requirements for presuit
1889 mediation; amending s. 718.117, F.S.; conforming
1890 provisions to changes made by the act; amending s.
1891 718.121, F.S.; providing when the installation of a
1892 natural gas fuel station may be the basis of a lien;
1893 amending s. 718.202, F.S.; revising how developers may
1894 use certain withdrawn escrow funds; amending s.

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1895 718.303, F.S.; revising requirements for certain
1896 actions for failure to comply with specified
1897 provisions; revising requirements for certain fines;
1898 amending s. 718.501, F.S.; defining the term
1899 "financial issue"; authorizing the Division of
1900 Condominiums, Timeshares, and Mobile Homes to adopt
1901 rules; amending s. 718.5014, F.S.; revising where the
1902 principal office of the Office of the Condominium
1903 Ombudsman must be maintained; amending s. 719.103,
1904 F.S.; revising the definition of the term "unit" to
1905 specify that an interest in a cooperative unit is an
1906 interest in real property; amending s. 719.104, F.S.;
1907 prohibiting an association from requiring certain
1908 actions relating to the inspection of records; making
1909 technical changes; amending s. 719.106, F.S.; revising
1910 provisions relating to a quorum and voting rights for
1911 members remotely participating in meetings; amending
1912 procedure to challenge a board member recall;
1913 conforming provisions to changes made by the act;
1914 authorizing cooperative associations to extinguish
1915 discriminatory restrictions; amending s. 720.303,
1916 F.S.; authorizing an association to adopt procedures
1917 for electronic meeting notices; revising the documents
1918 that constitute the official records of an
1919 association; revising when a specified statement must

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1920 be included in an association's financial report for
1921 the preceding fiscal year; revising requirements for
1922 such statement; revising when an association is deemed
1923 to have provided for reserve accounts; amending
1924 procedure to challenge a board member recall; amending
1925 s. 720.305, F.S.; providing requirements for certain
1926 fines; amending s. 720.306, F.S.; revising
1927 requirements for providing certain notices; providing
1928 limitations on associations when a parcel owner
1929 attempts to rent or lease his or her parcel; amending
1930 the procedure for election disputes; amending s.
1931 720.311, F.S.; amending procedure for election
1932 disputes; amending s. 720.3075, F.S.; authorizing
1933 homeowners' associations to extinguish discriminatory
1934 restrictions; providing an effective date.