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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 627.714, F.S.; prohibiting insurance policies from
4 providing specified rights of subrogation under
5 certain circumstances; amending s. 718.103, F.S.;
6 revising the definition of the terms
7 "multicondominium," "operation," and "operation of the
8 condominium"; amending s. 718.111, F.S.; requiring
9 that certain records be maintained for a specified
10 time; prohibiting an association from requiring
11 certain actions relating to the inspection of records;
12 revising requirements relating to the posting of
13 digital copies of certain documents by certain
14 condominium associations; amending s. 718.112, F.S.;
15 authorizing a condominium association to extinguish
16 discriminatory restrictions; revising the calculation
17 used in determining a board member's term limit;
18 providing requirements for certain notices; revising
19 the fees that an association may charge for transfers;
20 deleting a prohibition against employing or
21 contracting with certain service providers; amending
22 s. 718.113, F.S.; revising legislative findings;
23 defining the terms "natural gas fuel" and "natural gas
24 fuel vehicle"; revising requirements for electric
25 vehicle charging stations; providing requirements for
26 natural gas fuel stations on property governed by
27 condominium associations; authorizing the board of
28 administration of an association to take certain
29 actions relating to electric vehicle charging stations

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30 and natural gas fuel stations; providing that the
31 installation, repair, or maintenance of electric
32 vehicle charging stations or natural gas fuel stations
33 does not constitute a material alteration or
34 substantial addition to the common elements or
35 association property; amending s. 718.117, F.S.;
36 conforming provisions to changes made by the act;
37 amending s. 718.121, F.S.; providing that labor and
38 materials associated with the installation of a
39 natural gas fuel station may not serve as the basis
40 for filing a lien against an association but may serve
41 as the basis for filing a lien against a unit owner;
42 requiring that notices of intent to record a claim of
43 lien specify certain dates; amending s. 718.1255,
44 F.S.; authorizing parties to initiate presuit
45 mediation under certain circumstances; specifying the
46 circumstances under which arbitration is binding on
47 the parties; providing requirements for presuit
48 mediation; making technical changes; amending s.
49 718.1265, F.S.; revising the emergency powers of
50 condominium associations; prohibiting condominium
51 associations from taking certain actions during a
52 declared state of emergency; amending s. 718.202,
53 F.S.; revising the allowable uses of certain escrow
54 funds withdrawn by developers; defining the term
55 "actual costs"; amending s. 718.303, F.S.; revising
56 requirements for certain actions for failure to comply
57 with specified provisions relating to condominium
58 associations; revising requirements for certain fines;

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59 amending s. 718.405, F.S.; providing clarifying
60 language relating to certain multicondominium
61 declarations; providing applicability; amending s.
62 718.501, F.S.; conforming provisions to changes made
63 by the act; amending s. 718.5014, F.S.; revising a
64 requirement regarding the location of the principal
65 office of the Office of the Condominium Ombudsman;
66 amending s. 719.103, F.S.; revising the definition of
67 the term "unit" to specify that an interest in a
68 cooperative unit is an interest in real property;
69 amending s. 719.104, F.S.; prohibiting an association
70 from requiring certain actions relating to the
71 inspection of records; amending s. 719.106, F.S.;
72 revising provisions relating to a quorum and voting
73 rights for members remotely participating in meetings;
74 revising the procedure to challenge a board member
75 recall; authorizing cooperative associations to
76 extinguish discriminatory restrictions; amending s.
77 719.128, F.S.; revising emergency powers for
78 cooperative associations; prohibiting cooperative
79 associations from taking certain actions during a
80 declared state of emergency; amending s. 720.301,
81 F.S.; revising the definition of the term "governing
82 documents"; amending s. 720.303, F.S.; authorizing an
83 association to adopt procedures for electronic meeting
84 notices; revising the documents that constitute the
85 official records of an association; revising the types
86 of records that are not accessible to members or
87 parcel owners; revising the circumstances under which

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88 a specified statement must be included in an
89 association's financial report; revising requirements
90 for such statement; revising the circumstances under
91 which an association is deemed to have provided for
92 reserve accounts; authorizing certain developers to
93 include reserves in the budget; specifying that the
94 developers are not obligated to pay for certain
95 expenses; providing applicability; revising the
96 procedure to challenge a board member recall; amending
97 s. 720.305, F.S.; providing requirements for certain
98 fines levied by a board of administration; amending s.
99 720.306, F.S.; revising requirements for providing
100 certain notices; providing limitations on associations
101 when a parcel owner attempts to rent or lease his or
102 her parcel; providing when a change of ownership of a
103 parcel does and does not occur; defining the term
104 "affiliated entity"; amending the procedure for
105 election disputes; amending s. 720.307, F.S.; revising
106 the circumstances under which members other than the
107 developer are entitled to elect members to the board
108 of directors of the homeowners' association; amending
109 s. 720.311, F.S.; revising the dispute resolution
110 requirements for election disputes and recall
111 disputes; amending s. 720.3075, F.S.; authorizing
112 homeowners' associations to extinguish discriminatory
113 restrictions; amending s. 720.316, F.S.; revising
114 emergency powers of homeowners' associations;
115 prohibiting homeowners' associations from taking
116 certain actions during a declared state of emergency;

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117 providing an effective date.

118
119 Be It Enacted by the Legislature of the State of Florida:

120
121 Section 1. Subsection (4) of section 627.714, Florida
122 Statutes, is amended to read:

123 627.714 Residential condominium unit owner coverage; loss
124 assessment coverage required.—

125 (4) Every individual unit owner's residential property
126 policy must contain a provision stating that the coverage
127 afforded by such policy is excess coverage over the amount
128 recoverable under any other policy covering the same property.
129 If a condominium association's insurance policy does not provide
130 rights for subrogation against the unit owners in the
131 association, an insurance policy issued to an individual unit
132 owner in the association may not provide rights of subrogation
133 against the condominium association.

134 Section 2. Subsections (20) and (21) of section 718.103,
135 Florida Statutes, are amended to read:

136 718.103 Definitions.—As used in this chapter, the term:

137 (20) "Multicondominium" means real property ~~a real estate~~
138 ~~development~~ containing two or more condominiums, all of which
139 are operated by the same association.

140 (21) "Operation" or "operation of the condominium" includes
141 the administration and management of the condominium property
142 and the association.

143 Section 3. Paragraphs (a), (b), (c), and (g) of subsection
144 (12) of section 718.111, Florida Statutes, are amended to read:

145 718.111 The association.—

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146 (12) OFFICIAL RECORDS.—

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

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

152 2. A photocopy of the recorded declaration of condominium
153 of each condominium operated by the association and each
154 amendment to each declaration.

155 3. A photocopy of the recorded bylaws of the association
156 and each amendment to the bylaws.

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

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

161 6. A book or books that contain the minutes of all meetings
162 of the association, the board of administration, and the unit
163 owners.

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

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175 8. All current insurance policies of the association and
176 condominiums operated by the association.

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

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

183 11. Accounting records for the association and separate
184 accounting records for each condominium that the association
185 operates. Any person who knowingly or intentionally defaces or
186 destroys such records, or who knowingly or intentionally fails
187 to create or maintain such records, with the intent of causing
188 harm to the association or one or more of its members, is
189 personally subject to a civil penalty pursuant to s.

190 718.501(1)(d). The accounting records must include, but are not
191 limited to:

192 a. Accurate, itemized, and detailed records of all receipts
193 and expenditures.

194 b. A current account and a monthly, bimonthly, or quarterly
195 statement of the account for each unit designating the name of
196 the unit owner, the due date and amount of each assessment, the
197 amount paid on the account, and the balance due.

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

200 d. All contracts for work to be performed. Bids for work to
201 be performed are also considered official records and must be
202 maintained by the association for at least 1 year after receipt
203 of the bid.

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

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

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

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

216 ~~16.~~ A copy of the inspection report as described in s.
217 718.301(4) (p).

218 ~~16.~~17. Bids for materials, equipment, or services.

219 17. All other written records of the association not
220 specified in subparagraphs 1.-16. which are related to the
221 operation of the association.

222 (b) The official records specified in subparagraphs (a)1.-
223 6. must be permanently maintained from the inception of the
224 association. Bids for work to be performed or for materials,
225 equipment, or services must be maintained for at least 1 year
226 after receipt of the bid. All other official records must be
227 maintained within the state for at least 7 years, unless
228 otherwise provided by general law. The records of the
229 association shall be made available to a unit owner within 45
230 miles of the condominium property or within the county in which
231 the condominium property is located within 10 working days after
232 receipt of a written request by the board or its designee.

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233 However, such distance requirement does not apply to an
234 association governing a timeshare condominium. This paragraph
235 may be complied with by having a copy of the official records of
236 the association available for inspection or copying on the
237 condominium property or association property, or the association
238 may offer the option of making the records available to a unit
239 owner electronically via the Internet or by allowing the records
240 to be viewed in electronic format on a computer screen and
241 printed upon request. The association is not responsible for the
242 use or misuse of the information provided to an association
243 member or his or her authorized representative in pursuant to
244 ~~the compliance with requirements of~~ this chapter unless the
245 association has an affirmative duty not to disclose such
246 information under ~~pursuant to~~ this chapter.

247 (c)1. The official records of the association are open to
248 inspection by any association member or the authorized
249 representative of such member at all reasonable times. The right
250 to inspect the records includes the right to make or obtain
251 copies, at the reasonable expense, if any, of the member or
252 authorized representative of such member. A renter of a unit has
253 a right to inspect and copy only the declaration of condominium
254 and the association's bylaws and rules. The association may
255 adopt reasonable rules regarding the frequency, time, location,
256 notice, and manner of record inspections and copying, but may
257 not require a member to demonstrate any purpose or state any
258 reason for the inspection. The failure of an association to
259 provide the records within 10 working days after receipt of a
260 written request creates a rebuttable presumption that the
261 association willfully failed to comply with this paragraph. A

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262 unit owner who is denied access to official records is entitled
263 to the actual damages or minimum damages for the association's
264 willful failure to comply. Minimum damages are \$50 per calendar
265 day for up to 10 days, beginning on the 11th working day after
266 receipt of the written request. The failure to permit inspection
267 entitles any person prevailing in an enforcement action to
268 recover reasonable attorney fees from the person in control of
269 the records who, directly or indirectly, knowingly denied access
270 to the records.

271 2. Any person who knowingly or intentionally defaces or
272 destroys accounting records that are required by this chapter to
273 be maintained during the period for which such records are
274 required to be maintained, or who knowingly or intentionally
275 fails to create or maintain accounting records that are required
276 to be created or maintained, with the intent of causing harm to
277 the association or one or more of its members, is personally
278 subject to a civil penalty pursuant to s. 718.501(1)(d).

279 3. The association shall maintain an adequate number of
280 copies of the declaration, articles of incorporation, bylaws,
281 and rules, and all amendments to each of the foregoing, as well
282 as the question and answer sheet as described in s. 718.504 and
283 year-end financial information required under this section, on
284 the condominium property to ensure their availability to unit
285 owners and prospective purchasers, and may charge its actual
286 costs for preparing and furnishing these documents to those
287 requesting the documents. An association shall allow a member or
288 his or her authorized representative to use a portable device,
289 including a smartphone, tablet, portable scanner, or any other
290 technology capable of scanning or taking photographs, to make an

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291 electronic copy of the official records in lieu of the
292 association's providing the member or his or her authorized
293 representative with a copy of such records. The association may
294 not charge a member or his or her authorized representative for
295 the use of a portable device. Notwithstanding this paragraph,
296 the following records are not accessible to unit owners:

297 a. Any record protected by the lawyer-client privilege as
298 described in s. 90.502 and any record protected by the work-
299 product privilege, including a record prepared by an association
300 attorney or prepared at the attorney's express direction, which
301 reflects a mental impression, conclusion, litigation strategy,
302 or legal theory of the attorney or the association, and which
303 was prepared exclusively for civil or criminal litigation or for
304 adversarial administrative proceedings, or which was prepared in
305 anticipation of such litigation or proceedings until the
306 conclusion of the litigation or proceedings.

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

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

317 d. Medical records of unit owners.

318 e. Social security numbers, driver license numbers, credit
319 card numbers, e-mail addresses, telephone numbers, facsimile

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320 numbers, emergency contact information, addresses of a unit
321 owner other than as provided to fulfill the association's notice
322 requirements, and other personal identifying information of any
323 person, excluding the person's name, unit designation, mailing
324 address, property address, and any address, e-mail address, or
325 facsimile number provided to the association to fulfill the
326 association's notice requirements. Notwithstanding the
327 restrictions in this sub-subparagraph, an association may print
328 and distribute to unit ~~parcel~~ owners a directory containing the
329 name, unit ~~parcel~~ address, and all telephone numbers of each
330 unit ~~parcel~~ owner. However, an owner may exclude his or her
331 telephone numbers from the directory by so requesting in writing
332 to the association. An owner may consent in writing to the
333 disclosure of other contact information described in this sub-
334 subparagraph. The association is not liable for the inadvertent
335 disclosure of information that is protected under this sub-
336 subparagraph if the information is included in an official
337 record of the association and is voluntarily provided by an
338 owner and not requested by the association.

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

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

345 (g)1. By January 1, 2019, an association managing a
346 condominium with 150 or more units which does not contain
347 timeshare units shall post digital copies of the documents
348 specified in subparagraph 2. on its website or make such

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349 documents available through an application that can be
350 downloaded on a mobile device.

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

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

354 (II) A website, application, or web portal operated by a
355 third-party provider with whom the association owns, leases,
356 rents, or otherwise obtains the right to operate a web page,
357 subpage, web portal, ~~or~~ collection of subpages or web portals,
358 or an application which is dedicated to the association's
359 activities and on which required notices, records, and documents
360 may be posted or made available by the association.

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

366 c. Upon a unit owner's written request, the association
367 must provide the unit owner with a username and password and
368 access to the protected sections of the association's website or
369 application which ~~that~~ contain any notices, records, or
370 documents that must be electronically provided.

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

373 a. The recorded declaration of condominium of each
374 condominium operated by the association and each amendment to
375 each declaration.

376 b. The recorded bylaws of the association and each
377 amendment to the bylaws.

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378 c. The articles of incorporation of the association, or
379 other documents creating the association, and each amendment to
380 the articles of incorporation or other documents ~~thereto~~. The
381 copy posted pursuant to this sub-subparagraph must be a copy of
382 the articles of incorporation filed with the Department of
383 State.

384 d. The rules of the association.

385 e. A list of all executory contracts or documents to which
386 the association is a party or under which the association or the
387 unit owners have an obligation or responsibility and, after
388 bidding for the related materials, equipment, or services has
389 closed, a list of bids received by the association within the
390 past year. Summaries of bids for materials, equipment, or
391 services which exceed \$500 must be maintained on the website or
392 application for 1 year. In lieu of summaries, complete copies of
393 the bids may be posted.

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

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

399 h. The certification of each director required by s.
400 718.112(2)(d)4.b.

401 i. All contracts or transactions between the association
402 and any director, officer, corporation, firm, or association
403 that is not an affiliated condominium association or any other
404 entity in which an association director is also a director or
405 officer and financially interested.

406 j. Any contract or document regarding a conflict of

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407 interest or possible conflict of interest as provided in ss.
408 468.436(2)(b)6. and 718.3027(3).

409 k. The notice of any unit owner meeting and the agenda for
410 the meeting, as required by s. 718.112(2)(d)3., no later than 14
411 days before the meeting. The notice must be posted in plain view
412 on the front page of the website or application, or on a
413 separate subpage of the website or application labeled "Notices"
414 which is conspicuously visible and linked from the front page.
415 The association must also post on its website or application any
416 document to be considered and voted on by the owners during the
417 meeting or any document listed on the agenda at least 7 days
418 before the meeting at which the document or the information
419 within the document will be considered.

420 1. Notice of any board meeting, the agenda, and any other
421 document required for the meeting as required by s.
422 718.112(2)(c), which must be posted no later than the date
423 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

424 3. The association shall ensure that the information and
425 records described in paragraph (c), which are not allowed to be
426 accessible to unit owners, are not posted on the association's
427 website or application. If protected information or information
428 restricted from being accessible to unit owners is included in
429 documents that are required to be posted on the association's
430 website or application, the association shall ensure the
431 information is redacted before posting the documents ~~online~~.
432 Notwithstanding the foregoing, the association or its agent is
433 not liable for disclosing information that is protected or
434 restricted under ~~pursuant to~~ this paragraph unless such
435 disclosure was made with a knowing or intentional disregard of

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436 the protected or restricted nature of such information.

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

441 Section 4. Paragraphs (d), (i), (j), (k), and (p) of
442 subsection (2) of section 718.112, Florida Statutes, are
443 amended, and paragraph (c) is added to subsection (1) of that
444 section, to read:

445 718.112 Bylaws.—

446 (1) GENERALLY.—

447 (c) The association may extinguish a discriminatory
448 restriction as provided under s. 712.065.

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

452 (d) *Unit owner meetings*.—

453 1. An annual meeting of the unit owners must be held at the
454 location provided in the association bylaws and, if the bylaws
455 are silent as to the location, the meeting must be held within
456 45 miles of the condominium property. However, such distance
457 requirement does not apply to an association governing a
458 timeshare condominium.

459 2. Unless the bylaws provide otherwise, a vacancy on the
460 board caused by the expiration of a director's term must be
461 filled by electing a new board member, and the election must be
462 by secret ballot. An election is not required if the number of
463 vacancies equals or exceeds the number of candidates. For
464 purposes of this paragraph, the term "candidate" means an

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465 eligible person who has timely submitted the written notice, as
466 described in sub-subparagraph 4.a., of his or her intention to
467 become a candidate. Except in a timeshare or nonresidential
468 condominium, or if the staggered term of a board member does not
469 expire until a later annual meeting, or if all members' terms
470 would otherwise expire but there are no candidates, the terms of
471 all board members expire at the annual meeting, and such members
472 may stand for reelection unless prohibited by the bylaws. Board
473 members may serve terms longer than 1 year if permitted by the
474 bylaws or articles of incorporation. A board member may not
475 serve more than 8 consecutive years unless approved by an
476 affirmative vote of unit owners representing two-thirds of all
477 votes cast in the election or unless there are not enough
478 eligible candidates to fill the vacancies on the board at the
479 time of the vacancy. Only board service that occurs on or after
480 July 1, 2018, may be used when calculating a board member's term
481 limit. If the number of board members whose terms expire at the
482 annual meeting equals or exceeds the number of candidates, the
483 candidates become members of the board effective upon the
484 adjournment of the annual meeting. Unless the bylaws provide
485 otherwise, any remaining vacancies shall be filled by the
486 affirmative vote of the majority of the directors making up the
487 newly constituted board even if the directors constitute less
488 than a quorum or there is only one director. In a residential
489 condominium association of more than 10 units or in a
490 residential condominium association that does not include
491 timeshare units or timeshare interests, co-owners of a unit may
492 not serve as members of the board of directors at the same time
493 unless they own more than one unit or unless there are not

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494 enough eligible candidates to fill the vacancies on the board at
495 the time of the vacancy. A unit owner in a residential
496 condominium desiring to be a candidate for board membership must
497 comply with sub-subparagraph 4.a. and must be eligible to be a
498 candidate to serve on the board of directors at the time of the
499 deadline for submitting a notice of intent to run in order to
500 have his or her name listed as a proper candidate on the ballot
501 or to serve on the board. A person who has been suspended or
502 removed by the division under this chapter, or who is delinquent
503 in the payment of any monetary obligation due to the
504 association, is not eligible to be a candidate for board
505 membership and may not be listed on the ballot. A person who has
506 been convicted of any felony in this state or in a United States
507 District or Territorial Court, or who has been convicted of any
508 offense in another jurisdiction which would be considered a
509 felony if committed in this state, is not eligible for board
510 membership unless such felon's civil rights have been restored
511 for at least 5 years as of the date such person seeks election
512 to the board. The validity of an action by the board is not
513 affected if it is later determined that a board member is
514 ineligible for board membership due to having been convicted of
515 a felony. This subparagraph does not limit the term of a member
516 of the board of a nonresidential or timeshare condominium.

517 3. The bylaws must provide the method of calling meetings
518 of unit owners, including annual meetings. Written notice of an
519 annual meeting must include an agenda; ~~it must~~ be mailed, hand
520 delivered, or electronically transmitted to each unit owner at
521 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
522 a conspicuous place on the condominium property or association

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523 property at least 14 continuous days before the annual meeting.
524 Written notice of a meeting other than an annual meeting must
525 include an agenda; be mailed, hand delivered, or electronically
526 transmitted to each unit owner; and be posted in a conspicuous
527 place on the condominium property or association property within
528 the timeframe specified in the bylaws. If the bylaws do not
529 specify a timeframe for written notice of a meeting other than
530 an annual meeting, notice must be provided at least 14
531 continuous days before the meeting. Upon notice to the unit
532 owners, the board shall, by duly adopted rule, designate a
533 specific location on the condominium property or association
534 property where all notices of unit owner meetings must be
535 posted. This requirement does not apply if there is no
536 condominium property for posting notices. In lieu of, or in
537 addition to, the physical posting of meeting notices, the
538 association may, by reasonable rule, adopt a procedure for
539 conspicuously posting and repeatedly broadcasting the notice and
540 the agenda on a closed-circuit cable television system serving
541 the condominium association. However, if broadcast notice is
542 used in lieu of a notice posted physically on the condominium
543 property, the notice and agenda must be broadcast at least four
544 times every broadcast hour of each day that a posted notice is
545 otherwise required under this section. If broadcast notice is
546 provided, the notice and agenda must be broadcast in a manner
547 and for a sufficient continuous length of time so as to allow an
548 average reader to observe the notice and read and comprehend the
549 entire content of the notice and the agenda. In addition to any
550 of the authorized means of providing notice of a meeting of the
551 board, the association may, by rule, adopt a procedure for

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552 conspicuously posting the meeting notice and the agenda on a
553 website serving the condominium association for at least the
554 minimum period of time for which a notice of a meeting is also
555 required to be physically posted on the condominium property.
556 Any rule adopted shall, in addition to other matters, include a
557 requirement that the association send an electronic notice in
558 the same manner as a notice for a meeting of the members, which
559 must include a hyperlink to the website where the notice is
560 posted, to unit owners whose e-mail addresses are included in
561 the association's official records. Unless a unit owner waives
562 in writing the right to receive notice of the annual meeting,
563 such notice must be hand delivered, mailed, or electronically
564 transmitted to each unit owner. Notice for meetings and notice
565 for all other purposes must be mailed to each unit owner at the
566 address last furnished to the association by the unit owner, or
567 hand delivered to each unit owner. However, if a unit is owned
568 by more than one person, the association must provide notice to
569 the address that the developer identifies for that purpose and
570 thereafter as one or more of the owners of the unit advise the
571 association in writing, or if no address is given or the owners
572 of the unit do not agree, to the address provided on the deed of
573 record. An officer of the association, or the manager or other
574 person providing notice of the association meeting, must provide
575 an affidavit or United States Postal Service certificate of
576 mailing, to be included in the official records of the
577 association affirming that the notice was mailed or hand
578 delivered in accordance with this provision.

579 4. The members of the board of a residential condominium
580 shall be elected by written ballot or voting machine. Proxies

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581 may not be used in electing the board in general elections or
582 elections to fill vacancies caused by recall, resignation, or
583 otherwise, unless otherwise provided in this chapter. This
584 subparagraph does not apply to an association governing a
585 timeshare condominium.

586 a. At least 60 days before a scheduled election, the
587 association shall mail, deliver, or electronically transmit, by
588 separate association mailing or included in another association
589 mailing, delivery, or transmission, including regularly
590 published newsletters, to each unit owner entitled to a vote, a
591 first notice of the date of the election. A unit owner or other
592 eligible person desiring to be a candidate for the board must
593 give written notice of his or her intent to be a candidate to
594 the association at least 40 days before a scheduled election.
595 Together with the written notice and agenda as set forth in
596 subparagraph 3., the association shall mail, deliver, or
597 electronically transmit a second notice of the election to all
598 unit owners entitled to vote, together with a ballot that lists
599 all candidates not less than 14 days or more than 34 days before
600 the date of the election. Upon request of a candidate, an
601 information sheet, no larger than 8 1/2 inches by 11 inches,
602 which must be furnished by the candidate at least 35 days before
603 the election, must be included with the mailing, delivery, or
604 transmission of the ballot, with the costs of mailing, delivery,
605 or electronic transmission and copying to be borne by the
606 association. The association is not liable for the contents of
607 the information sheets prepared by the candidates. In order to
608 reduce costs, the association may print or duplicate the
609 information sheets on both sides of the paper. The division

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610 shall by rule establish voting procedures consistent with this
611 sub-subparagraph, including rules establishing procedures for
612 giving notice by electronic transmission and rules providing for
613 the secrecy of ballots. Elections shall be decided by a
614 plurality of ballots cast. There is no quorum requirement;
615 however, at least 20 percent of the eligible voters must cast a
616 ballot in order to have a valid election. A unit owner may not
617 authorize any other person to vote his or her ballot, and any
618 ballots improperly cast are invalid. A unit owner who violates
619 this provision may be fined by the association in accordance
620 with s. 718.303. A unit owner who needs assistance in casting
621 the ballot for the reasons stated in s. 101.051 may obtain such
622 assistance. The regular election must occur on the date of the
623 annual meeting. Notwithstanding this sub-subparagraph, an
624 election is not required unless more candidates file notices of
625 intent to run or are nominated than board vacancies exist.

626 b. Within 90 days after being elected or appointed to the
627 board of an association of a residential condominium, each newly
628 elected or appointed director shall certify in writing to the
629 secretary of the association that he or she has read the
630 association's declaration of condominium, articles of
631 incorporation, bylaws, and current written policies; that he or
632 she will work to uphold such documents and policies to the best
633 of his or her ability; and that he or she will faithfully
634 discharge his or her fiduciary responsibility to the
635 association's members. In lieu of this written certification,
636 within 90 days after being elected or appointed to the board,
637 the newly elected or appointed director may submit a certificate
638 of having satisfactorily completed the educational curriculum

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639 administered by a division-approved condominium education
640 provider within 1 year before or 90 days after the date of
641 election or appointment. The written certification or
642 educational certificate is valid and does not have to be
643 resubmitted as long as the director serves on the board without
644 interruption. A director of an association of a residential
645 condominium who fails to timely file the written certification
646 or educational certificate is suspended from service on the
647 board until he or she complies with this sub-subparagraph. The
648 board may temporarily fill the vacancy during the period of
649 suspension. The secretary shall cause the association to retain
650 a director's written certification or educational certificate
651 for inspection by the members for 5 years after a director's
652 election or the duration of the director's uninterrupted tenure,
653 whichever is longer. Failure to have such written certification
654 or educational certificate on file does not affect the validity
655 of any board action.

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

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

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

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

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

686 9. Unless otherwise provided in the bylaws, any vacancy
687 occurring on the board before the expiration of a term may be
688 filled by the affirmative vote of the majority of the remaining
689 directors, even if the remaining directors constitute less than
690 a quorum, or by the sole remaining director. In the alternative,
691 a board may hold an election to fill the vacancy, in which case
692 the election procedures must conform to sub-subparagraph 4.a.
693 unless the association governs 10 units or fewer and has opted
694 out of the statutory election process, in which case the bylaws
695 of the association control. Unless otherwise provided in the
696 bylaws, a board member appointed or elected under this section

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

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

706

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

715 (i) *Transfer fees.*—An association may not ~~ne~~ charge a fee
716 ~~shall be made by the association or any body thereof~~ in
717 connection with the sale, mortgage, lease, sublease, or other
718 transfer of a unit unless the association is required to approve
719 such transfer and a fee for such approval is provided for in the
720 declaration, articles, or bylaws. Any such fee may be preset,
721 but may not ~~in no event may such fee~~ exceed \$150 ~~\$100~~ per
722 applicant. For the purpose of calculating the fee, spouses or a
723 parent or parents and any dependent children ~~other than~~
724 ~~husband/wife or parent/dependent child, which~~ are considered one
725 applicant. However, if the lease or sublease is a renewal of a

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726 lease or sublease with the same lessee or sublessee, a charge
727 may not ~~no charge shall~~ be made. Such fees must be adjusted
728 every 5 years in an amount equal to the total of the annual
729 increases occurring in the Consumer Price Index for All Urban
730 Consumers, U.S. City Average, All Items during that 5-year
731 period. The Department of Business and Professional Regulation
732 shall periodically calculate the fees, rounded to the nearest
733 dollar, and publish the amounts, as adjusted, on its website.
734 The foregoing notwithstanding, ~~an association may~~, if the
735 authority to do so appears in the declaration, articles, or
736 bylaws, an association may require that a prospective lessee
737 place a security deposit, in an amount not to exceed the
738 equivalent of 1 month's rent, into an escrow account maintained
739 by the association. The security deposit shall protect against
740 damages to the common elements or association property. Payment
741 of interest, claims against the deposit, refunds, and disputes
742 under this paragraph shall be handled in the same fashion as
743 provided in part II of chapter 83.

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

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

766 2. If the proposed recall is by an agreement in writing by
767 a majority of all voting interests, the agreement in writing or
768 a copy thereof shall be served on the association by certified
769 mail or by personal service in the manner authorized by chapter
770 48 and the Florida Rules of Civil Procedure. The board of
771 administration shall duly notice and hold a meeting of the board
772 within 5 full business days after receipt of the agreement in
773 writing. Such member or members shall be recalled effective
774 immediately upon the conclusion of the board meeting, provided
775 that the recall is facially valid. A recalled member must turn
776 over to the board, within 10 full business days, any and all
777 records and property of the association in their possession.

778 3. If the board fails to duly notice and hold a board
779 meeting within 5 full business days after service of an
780 agreement in writing or within 5 full business days after the
781 adjournment of the unit owner recall meeting, the recall is
782 ~~shall be~~ deemed effective and the board members so recalled
783 shall turn over to the board within 10 full business days after

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784 the vote any and all records and property of the association.

785 4. If the board fails to duly notice and hold the required
786 meeting or at the conclusion of the meeting determines that the
787 recall is not facially valid, the unit owner representative may
788 file a petition or court action under ~~pursuant to~~ s. 718.1255
789 challenging the board's failure to act or challenging the
790 board's determination on facial validity. The petition or action
791 must be filed within 60 days after the expiration of the
792 applicable 5-full-business-day period. The review of a petition
793 or action under this subparagraph is limited to the sufficiency
794 of service on the board and the facial validity of the written
795 agreement or ballots filed.

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

809 6. A board member who has been recalled may file a petition
810 or court action under ~~pursuant to~~ s. 718.1255 challenging the
811 validity of the recall. The petition or action must be filed
812 within 60 days after the recall. The association and the unit

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813 owner representative shall be named as the respondents. The
814 petition or action may challenge the facial validity of the
815 written agreement or ballots filed or the substantial compliance
816 with the procedural requirements for the recall. If the
817 arbitrator or court determines the recall was invalid, the
818 petitioning board member shall immediately be reinstated and the
819 recall is null and void. A board member who is successful in
820 challenging a recall is entitled to recover reasonable attorney
821 fees and costs from the respondents. The arbitrator or court may
822 award reasonable attorney fees and costs to the respondents if
823 they prevail, if the arbitrator or court makes a finding that
824 the petitioner's claim is frivolous.

825 7. The division or a court of competent jurisdiction may
826 not accept for filing a recall petition or court action, whether
827 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
828 subparagraph 4., or subparagraph 6., when there are 60 or fewer
829 days until the scheduled reelection of the board member sought
830 to be recalled or when 60 or fewer days have elapsed since the
831 election of the board member sought to be recalled.

832 (k) Alternative dispute resolution Arbitration.—There must
833 ~~shall~~ be a provision for alternative dispute resolution
834 ~~mandatory nonbinding arbitration~~ as provided for in s. 718.1255
835 for any residential condominium.

836 ~~(p) Service providers; conflicts of interest. An~~
837 ~~association, which is not a timeshare condominium association,~~
838 ~~may not employ or contract with any service provider that is~~
839 ~~owned or operated by a board member or with any person who has a~~
840 ~~financial relationship with a board member or officer, or a~~
841 ~~relative within the third degree of consanguinity by blood or~~

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842 ~~marriage of a board member or officer. This paragraph does not~~
843 ~~apply to a service provider in which a board member or officer,~~
844 ~~or a relative within the third degree of consanguinity by blood~~
845 ~~or marriage of a board member or officer, owns less than 1~~
846 ~~percent of the equity shares.~~

847 Section 5. Subsection (8) of section 718.113, Florida
848 Statutes, is amended, and subsection (9) is added to that
849 section, to read:

850 718.113 Maintenance; limitation upon improvement; display
851 of flag; hurricane shutters and protection; display of religious
852 decorations.—

853 (8) The Legislature finds that the use of electric and
854 natural gas fuel vehicles conserves and protects the state's
855 environmental resources, provides significant economic savings
856 to drivers, and serves an important public interest. The
857 participation of condominium associations is essential to the
858 state's efforts to conserve and protect the state's
859 environmental resources and provide economic savings to drivers.
860 For purposes of this subsection, the term "natural gas fuel" has
861 the same meaning as in s. 206.9951, and the term "natural gas
862 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
863 that is powered by natural gas fuel. Therefore, the installation
864 of an electric vehicle charging station or a natural gas fuel
865 station shall be governed as follows:

866 (a) A declaration of condominium or restrictive covenant
867 may not prohibit or be enforced so as to prohibit any unit owner
868 from installing an electric vehicle charging station or a
869 natural gas fuel station within the boundaries of the unit
870 owner's limited common element or exclusively designated parking

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871 area. The board of administration of a condominium association
872 may not prohibit a unit owner from installing an electric
873 vehicle charging station for an electric vehicle, as defined in
874 s. 320.01, or a natural gas fuel station for a natural gas fuel
875 vehicle within the boundaries of his or her limited common
876 element or exclusively designated parking area. The installation
877 of such charging or fuel stations are subject to the provisions
878 of this subsection.

879 (b) The installation may not cause irreparable damage to
880 the condominium property.

881 (c) The electricity for the electric vehicle charging
882 station or natural gas fuel station must be separately metered
883 or metered by an embedded meter and payable by the unit owner
884 installing such charging or fuel station or by his or her
885 successor.

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

889 (e) ~~(d)~~ The unit owner who is installing an electric vehicle
890 charging station or a natural gas fuel station is responsible
891 for the costs of installation, operation, maintenance, and
892 repair, including, but not limited to, hazard and liability
893 insurance. The association may enforce payment of such costs
894 under ~~pursuant to~~ s. 718.116.

895 (f) ~~(e)~~ If the unit owner or his or her successor decides
896 there is no longer a need for the electric ~~electronic~~ vehicle
897 charging station or natural gas fuel station, such person is
898 responsible for the cost of removal of such ~~the electronic~~
899 ~~vehicle~~ charging or fuel station. The association may enforce

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900 payment of such costs under ~~pursuant to~~ s. 718.116.

901 (g) The unit owner installing, maintaining, or removing the
902 electric vehicle charging station or natural gas fuel station is
903 responsible for complying with all federal, state, or local laws
904 and regulations applicable to such installation, maintenance, or
905 removal.

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

907 1. Comply with bona fide safety requirements, consistent
908 with applicable building codes or recognized safety standards,
909 for the protection of persons and property.

910 2. Comply with reasonable architectural standards adopted
911 by the association that govern the dimensions, placement, or
912 external appearance of the electric vehicle charging station or
913 natural gas fuel station, provided that such standards may not
914 prohibit the installation of such charging or fuel station or
915 substantially increase the cost thereof.

916 3. Engage the services of a licensed and registered firm
917 ~~electrical contractor or engineer~~ familiar with the installation
918 or removal and core requirements of an electric vehicle charging
919 station or a natural gas fuel station.

920 4. Provide a certificate of insurance naming the
921 association as an additional insured on the owner's insurance
922 policy for any claim related to the installation, maintenance,
923 or use of the electric vehicle charging station or natural gas
924 fuel station within 14 days after receiving the association's
925 approval to install such charging or fuel station or notice to
926 provide such a certificate.

927 5. Reimburse the association for the actual cost of any
928 increased insurance premium amount attributable to the electric

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929 vehicle charging station or natural gas fuel station within 14
930 days after receiving the association's insurance premium
931 invoice.

932 (i)~~(g)~~ The association provides an implied easement across
933 the common elements of the condominium property to the unit
934 owner for purposes of ~~the installation of the~~ electric vehicle
935 charging station or natural gas fuel station installation, and
936 the furnishing of electrical power or natural gas fuel supply,
937 including any necessary equipment, to such charging or fuel
938 station, subject to the requirements of this subsection.

939 (9) The board of administration of an association may make
940 available, install, or operate an electric vehicle charging
941 station or a natural gas fuel station upon the common elements
942 or association property and establish the charges or the manner
943 of payments for the unit owners, residents, or guests who use
944 the electric vehicle charging station or natural gas fuel
945 station. For the purposes of this section, the installation,
946 repair, or maintenance of an electric vehicle charging station
947 or natural gas fuel station under this subsection does not
948 constitute a material alteration or substantial addition to the
949 common elements or association property.

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

952 718.117 Termination of condominium.—

953 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
954 plan of termination by initiating a petition in accordance with
955 ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~
956 within 90 days after the date the plan is recorded. A unit owner
957 or lienor may only contest the fairness and reasonableness of

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958 the apportionment of the proceeds from the sale among the unit
959 owners, that the liens of the first mortgages of unit owners
960 other than the bulk owner have not or will not be satisfied to
961 the extent required by subsection (3), or that the required vote
962 to approve the plan was not obtained. A unit owner or lienor who
963 does not contest the plan within the 90-day period is barred
964 from asserting or prosecuting a claim against the association,
965 the termination trustee, any unit owner, or any successor in
966 interest to the condominium property. In an action contesting a
967 plan of termination, the person contesting the plan has the
968 burden of pleading and proving that the apportionment of the
969 proceeds from the sale among the unit owners was not fair and
970 reasonable or that the required vote was not obtained. The
971 apportionment of sale proceeds is presumed fair and reasonable
972 if it was determined pursuant to the methods prescribed in
973 subsection (12). If the petition is filed with the division for
974 arbitration, the arbitrator shall determine the rights and
975 interests of the parties in the apportionment of the sale
976 proceeds. If the arbitrator determines that the apportionment of
977 sales proceeds is not fair and reasonable, the arbitrator may
978 void the plan or may modify the plan to apportion the proceeds
979 in a fair and reasonable manner pursuant to this section based
980 upon the proceedings and order the modified plan of termination
981 to be implemented. If the arbitrator determines that the plan
982 was not properly approved, or that the procedures to adopt the
983 plan were not properly followed, the arbitrator may void the
984 plan or grant other relief it deems just and proper. The
985 arbitrator shall automatically void the plan upon a finding that
986 any of the disclosures required in subparagraph (3)(c)5. are

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987 omitted, misleading, incomplete, or inaccurate. Any challenge to
988 a plan, other than a challenge that the required vote was not
989 obtained, does not affect title to the condominium property or
990 the vesting of the condominium property in the trustee, but
991 shall only be a claim against the proceeds of the plan. In any
992 such action, the prevailing party shall recover reasonable
993 attorney fees and costs.

994 Section 7. Subsections (2) and (4) of section 718.121,
995 Florida Statutes, are amended to read:

996 718.121 Liens.—

997 (2) Labor performed on or materials furnished to a unit may
998 ~~shall~~ not be the basis for the filing of a lien under ~~pursuant~~
999 ~~to~~ part I of chapter 713, the Construction Lien Law, against the
1000 unit or condominium parcel of any unit owner not expressly
1001 consenting to or requesting the labor or materials. Labor
1002 performed on or materials furnished for the installation of a
1003 natural gas fuel station or an electric ~~electronic~~ vehicle
1004 charging station under ~~pursuant to~~ s. 718.113(8) may not be the
1005 basis for filing a lien under part I of chapter 713 against the
1006 association, but such a lien may be filed against the unit
1007 owner. Labor performed on or materials furnished to the common
1008 elements are not the basis for a lien on the common elements,
1009 but if authorized by the association, the labor or materials are
1010 deemed to be performed or furnished with the express consent of
1011 each unit owner and may be the basis for the filing of a lien
1012 against all condominium parcels in the proportions for which the
1013 owners are liable for common expenses.

1014 (4) Except as otherwise provided in this chapter, no lien
1015 may be filed by the association against a condominium unit until

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1016 30 days after the date on which a notice of intent to file a
1017 lien has been delivered to the owner by registered or certified
1018 mail, return receipt requested, and by first-class United States
1019 mail to the owner at his or her last address as reflected in the
1020 records of the association, if the address is within the United
1021 States, and delivered to the owner at the address of the unit if
1022 the owner's address as reflected in the records of the
1023 association is not the unit address. If the address reflected in
1024 the records is outside the United States, sending the notice to
1025 that address and to the unit address by first-class United
1026 States mail is sufficient. ~~Delivery of the Notice is shall be~~
1027 deemed to have been delivered ~~given~~ upon mailing as required by
1028 this subsection, provided that it is. ~~The notice must be in~~
1029 substantially the following form:

1030
1031 NOTICE OF INTENT
1032 TO RECORD A CLAIM OF LIEN

1033
1034 RE: Unit of ...(name of association)...

1035
1036 The following amounts are currently due on your
1037 account to ...(name of association)..., and must be
1038 paid within 30 days after your receipt of this letter.
1039 This letter shall serve as the association's notice of
1040 intent to record a Claim of Lien against your property
1041 no sooner than 30 days after your receipt of this
1042 letter, unless you pay in full the amounts set forth
1043 below:
1044

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1045	Maintenance due ...(dates)...	\$.....
1046	Late fee, if applicable	\$.....
1047	Interest through ...(dates)...*	\$.....
1048	Certified mail charges <u>...(dates)...</u>	\$.....
1049	Other costs	\$.....
1050	TOTAL OUTSTANDING	\$.....

1051

1052 *Interest accrues at the rate of percent per annum.

1053 Section 8. Section 718.1255, Florida Statutes, is amended

1054 to read:

1055 718.1255 Alternative dispute resolution; ~~voluntary~~

1056 mediation; ~~mandatory~~ nonbinding arbitration; legislative

1057 findings.—

1058 (1) DEFINITIONS.—As used in this section, the term

1059 “dispute” means any disagreement between two or more parties

1060 that involves:

1061 (a) The authority of the board of directors, under this

1062 chapter or association document, to:

1063 1. Require any owner to take any action, or not to take any

1064 action, involving that owner’s unit or the appurtenances

1065 thereto.

1066 2. Alter or add to a common area or element.

1067 (b) The failure of a governing body, when required by this

1068 chapter or an association document, to:

1069 1. Properly conduct elections.

1070 2. Give adequate notice of meetings or other actions.

1071 3. Properly conduct meetings.

1072 4. Allow inspection of books and records.

1073 (c) A plan of termination pursuant to s. 718.117.

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1074
1075 "Dispute" does not include any disagreement that primarily
1076 involves: title to any unit or common element; the
1077 interpretation or enforcement of any warranty; the levy of a fee
1078 or assessment, or the collection of an assessment levied against
1079 a party; the eviction or other removal of a tenant from a unit;
1080 alleged breaches of fiduciary duty by one or more directors; or
1081 claims for damages to a unit based upon the alleged failure of
1082 the association to maintain the common elements or condominium
1083 property.

1084 (2) ~~VOLUNTARY MEDIATION.~~ Voluntary Mediation through
1085 Citizen Dispute Settlement Centers as provided for in s. 44.201
1086 is encouraged.

1087 (3) LEGISLATIVE FINDINGS.—

1088 (a) The Legislature finds that unit owners are frequently
1089 at a disadvantage when litigating against an association.
1090 Specifically, a condominium association, with its statutory
1091 assessment authority, is often more able to bear the costs and
1092 expenses of litigation than the unit owner who must rely on his
1093 or her own financial resources to satisfy the costs of
1094 litigation against the association.

1095 (b) The Legislature finds that alternative dispute
1096 resolution has been making progress in reducing court dockets
1097 and trials and in offering a more efficient, cost-effective
1098 option to court litigation. However, the Legislature also finds
1099 that alternative dispute resolution should not be used as a
1100 mechanism to encourage the filing of frivolous or nuisance
1101 suits.

1102 (c) There exists a need to develop a flexible means of

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1103 alternative dispute resolution that directs disputes to the most
1104 efficient means of resolution.

1105 (d) The high cost and significant delay of circuit court
1106 litigation faced by unit owners in the state can be alleviated
1107 by requiring nonbinding arbitration and mediation in appropriate
1108 cases, thereby reducing delay and attorney ~~attorney's~~ fees while
1109 preserving the right of either party to have its case heard by a
1110 jury, if applicable, in a court of law.

1111 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
1112 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
1113 Mobile Homes of the Department of Business and Professional
1114 Regulation may employ full-time attorneys to act as arbitrators
1115 to conduct the arbitration hearings provided by this chapter.
1116 The division may also certify attorneys who are not employed by
1117 the division to act as arbitrators to conduct the arbitration
1118 hearings provided by this chapter. A ~~No~~ person may not be
1119 employed by the department as a full-time arbitrator unless he
1120 or she is a member in good standing of The Florida Bar. A person
1121 may only be certified by the division to act as an arbitrator if
1122 he or she has been a member in good standing of The Florida Bar
1123 for at least 5 years and has mediated or arbitrated at least 10
1124 disputes involving condominiums in this state during the 3 years
1125 immediately preceding the date of application, mediated or
1126 arbitrated at least 30 disputes in any subject area in this
1127 state during the 3 years immediately preceding the date of
1128 application, or attained board certification in real estate law
1129 or condominium and planned development law from The Florida Bar.
1130 Arbitrator certification is valid for 1 year. An arbitrator who
1131 does not maintain the minimum qualifications for initial

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1132 certification may not have his or her certification renewed. The
1133 department may not enter into a legal services contract for an
1134 arbitration hearing under this chapter with an attorney who is
1135 not a certified arbitrator unless a certified arbitrator is not
1136 available within 50 miles of the dispute. The department shall
1137 adopt rules of procedure to govern such arbitration hearings
1138 including mediation incident thereto. The decision of an
1139 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1140 ~~be~~ deemed final agency action. Nothing in this provision shall
1141 be construed to foreclose parties from proceeding in a trial de
1142 novo unless the parties have agreed that the arbitration is
1143 binding. If judicial proceedings are initiated, the final
1144 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1145 the trial de novo.

1146 (a) Before ~~Prior to~~ the institution of court litigation, a
1147 party to a dispute, other than an election or recall dispute,
1148 shall either petition the division for nonbinding arbitration or
1149 initiate presuit mediation as provided in subsection (5).

1150 Arbitration is binding on the parties if all parties in
1151 arbitration agree to be bound in a writing filed in arbitration.
1152 The petition must be accompanied by a filing fee in the amount
1153 of \$50. Filing fees collected under this section must be used to
1154 defray the expenses of the alternative dispute resolution
1155 program.

1156 (b) The petition must recite, and have attached thereto,
1157 supporting proof that the petitioner gave the respondents:

1158 1. Advance written notice of the specific nature of the
1159 dispute;

1160 2. A demand for relief, and a reasonable opportunity to

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1161 comply or to provide the relief; and

1162 3. Notice of the intention to file an arbitration petition
1163 or other legal action in the absence of a resolution of the
1164 dispute.

1165
1166 Failure to include the allegations or proof of compliance with
1167 these prerequisites requires dismissal of the petition without
1168 prejudice.

1169 (c) Upon receipt, the petition shall be promptly reviewed
1170 by the division to determine the existence of a dispute and
1171 compliance with the requirements of paragraphs (a) and (b). If
1172 emergency relief is required and is not available through
1173 arbitration, a motion to stay the arbitration may be filed. The
1174 motion must be accompanied by a verified petition alleging facts
1175 that, if proven, would support entry of a temporary injunction,
1176 and if an appropriate motion and supporting papers are filed,
1177 the division may abate the arbitration pending a court hearing
1178 and disposition of a motion for temporary injunction.

1179 (d) Upon determination by the division that a dispute
1180 exists and that the petition substantially meets the
1181 requirements of paragraphs (a) and (b) and any other applicable
1182 rules, the division shall assign or enter into a contract with
1183 an arbitrator and serve a copy of the petition upon all
1184 respondents. The arbitrator shall conduct a hearing within 30
1185 days after being assigned or entering into a contract unless the
1186 petition is withdrawn or a continuance is granted for good cause
1187 shown.

1188 (e) Before or after the filing of the respondents' answer
1189 to the petition, any party may request that the arbitrator refer

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1190 the case to mediation under this section and any rules adopted
1191 by the division. Upon receipt of a request for mediation, the
1192 division shall promptly contact the parties to determine if
1193 there is agreement that mediation would be appropriate. If all
1194 parties agree, the dispute must be referred to mediation.
1195 Notwithstanding a lack of an agreement by all parties, the
1196 arbitrator may refer a dispute to mediation at any time.

1197 (f) Upon referral of a case to mediation, the parties must
1198 select a mutually acceptable mediator. To assist in the
1199 selection, the arbitrator shall provide the parties with a list
1200 of both volunteer and paid mediators that have been certified by
1201 the division under s. 718.501. If the parties are unable to
1202 agree on a mediator within the time allowed by the arbitrator,
1203 the arbitrator shall appoint a mediator from the list of
1204 certified mediators. If a case is referred to mediation, the
1205 parties shall attend a mediation conference, as scheduled by the
1206 parties and the mediator. If any party fails to attend a duly
1207 noticed mediation conference, without the permission or approval
1208 of the arbitrator or mediator, the arbitrator must impose
1209 sanctions against the party, including the striking of any
1210 pleadings filed, the entry of an order of dismissal or default
1211 if appropriate, and the award of costs and attorney fees
1212 incurred by the other parties. Unless otherwise agreed to by the
1213 parties or as provided by order of the arbitrator, a party is
1214 deemed to have appeared at a mediation conference by the
1215 physical presence of the party or its representative having full
1216 authority to settle without further consultation, provided that
1217 an association may comply by having one or more representatives
1218 present with full authority to negotiate a settlement and

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1219 recommend that the board of administration ratify and approve
1220 such a settlement within 5 days from the date of the mediation
1221 conference. The parties shall share equally the expense of
1222 mediation, unless they agree otherwise.

1223 (g) The purpose of mediation as provided for by this
1224 section is to present the parties with an opportunity to resolve
1225 the underlying dispute in good faith, and with a minimum
1226 expenditure of time and resources.

1227 (h) Mediation proceedings must generally be conducted in
1228 accordance with the Florida Rules of Civil Procedure, and these
1229 proceedings are privileged and confidential to the same extent
1230 as court-ordered mediation. Persons who are not parties to the
1231 dispute are not allowed to attend the mediation conference
1232 without the consent of all parties, with the exception of
1233 counsel for the parties and corporate representatives designated
1234 to appear for a party. If the mediator declares an impasse after
1235 a mediation conference has been held, the arbitration proceeding
1236 terminates, unless all parties agree in writing to continue the
1237 arbitration proceeding, in which case the arbitrator's decision
1238 shall be binding or nonbinding, as agreed upon by the parties;
1239 in the arbitration proceeding, the arbitrator shall not consider
1240 any evidence relating to the unsuccessful mediation except in a
1241 proceeding to impose sanctions for failure to appear at the
1242 mediation conference. If the parties do not agree to continue
1243 arbitration, the arbitrator shall enter an order of dismissal,
1244 and either party may institute a suit in a court of competent
1245 jurisdiction. The parties may seek to recover any costs and
1246 attorney fees incurred in connection with arbitration and
1247 mediation proceedings under this section as part of the costs

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1248 and fees that may be recovered by the prevailing party in any
1249 subsequent litigation.

1250 (i) Arbitration shall be conducted according to rules
1251 adopted by the division. The filing of a petition for
1252 arbitration shall toll the applicable statute of limitations.

1253 (j) At the request of any party to the arbitration, the
1254 arbitrator shall issue subpoenas for the attendance of witnesses
1255 and the production of books, records, documents, and other
1256 evidence and any party on whose behalf a subpoena is issued may
1257 apply to the court for orders compelling such attendance and
1258 production. Subpoenas shall be served and shall be enforceable
1259 in the manner provided by the Florida Rules of Civil Procedure.
1260 Discovery may, in the discretion of the arbitrator, be permitted
1261 in the manner provided by the Florida Rules of Civil Procedure.
1262 Rules adopted by the division may authorize any reasonable
1263 sanctions except contempt for a violation of the arbitration
1264 procedural rules of the division or for the failure of a party
1265 to comply with a reasonable nonfinal order issued by an
1266 arbitrator which is not under judicial review.

1267 (k) The arbitration decision shall be rendered within 30
1268 days after the hearing and presented to the parties in writing.
1269 An arbitration decision is final in those disputes in which the
1270 parties have agreed to be bound. An arbitration decision is also
1271 final if a complaint for a trial de novo is not filed in a court
1272 of competent jurisdiction in which the condominium is located
1273 within 30 days. The right to file for a trial de novo entitles
1274 the parties to file a complaint in the appropriate trial court
1275 for a judicial resolution of the dispute. The prevailing party
1276 in an arbitration proceeding shall be awarded the costs of the

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1277 arbitration and reasonable attorney fees in an amount determined
1278 by the arbitrator. Such an award shall include the costs and
1279 reasonable attorney fees incurred in the arbitration proceeding
1280 as well as the costs and reasonable attorney fees incurred in
1281 preparing for and attending any scheduled mediation. An
1282 arbitrator's failure to render a written decision within 30 days
1283 after the hearing may result in the cancellation of his or her
1284 arbitration certification.

1285 (l) The party who files a complaint for a trial de novo
1286 shall be assessed the other party's arbitration costs, court
1287 costs, and other reasonable costs, including attorney fees,
1288 investigation expenses, and expenses for expert or other
1289 testimony or evidence incurred after the arbitration hearing if
1290 the judgment upon the trial de novo is not more favorable than
1291 the arbitration decision. If the judgment is more favorable, the
1292 party who filed a complaint for trial de novo shall be awarded
1293 reasonable court costs and attorney fees.

1294 (m) Any party to an arbitration proceeding may enforce an
1295 arbitration award by filing a petition in a court of competent
1296 jurisdiction in which the condominium is located. A petition may
1297 not be granted unless the time for appeal by the filing of a
1298 complaint for trial de novo has expired. If a complaint for a
1299 trial de novo has been filed, a petition may not be granted with
1300 respect to an arbitration award that has been stayed. If the
1301 petition for enforcement is granted, the petitioner shall
1302 recover reasonable attorney fees and costs incurred in enforcing
1303 the arbitration award. A mediation settlement may also be
1304 enforced through the county or circuit court, as applicable, and
1305 any costs and fees incurred in the enforcement of a settlement

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1306 agreement reached at mediation must be awarded to the prevailing
1307 party in any enforcement action.

1308 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1309 nonbinding arbitration as provided in subsections (1)-(4), a
1310 party may submit a dispute to presuit mediation in accordance
1311 with s. 720.311; however, election and recall disputes are not
1312 eligible for mediation and such disputes must be arbitrated by
1313 the division or filed in a court of competent jurisdiction.

1314 (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
1315 arbitration petition received by the division and required to be
1316 filed under this section challenging the legality of the
1317 election of any director of the board of administration must be
1318 handled on an expedited basis in the manner provided by the
1319 division's rules for recall arbitration disputes.

1320 (7) ~~(6)~~ APPLICABILITY.—This section does not apply to a
1321 nonresidential condominium unless otherwise specifically
1322 provided for in the declaration of the nonresidential
1323 condominium.

1324 Section 9. Section 718.1265, Florida Statutes, is amended
1325 to read:

1326 718.1265 Association emergency powers.—

1327 (1) To the extent allowed by law, and unless specifically
1328 prohibited by the declaration of condominium, the articles, or
1329 the bylaws of an association, and consistent with ~~the provisions~~
1330 ~~of~~ s. 617.0830, the board of administration, in response to
1331 damage or injury caused by or anticipated in connection with an
1332 emergency, as defined in s. 252.34(4), event for which a state
1333 of emergency is declared pursuant to s. 252.36 in the locale in
1334 which the condominium is located, ~~may, but is not required to,~~

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1335 exercise the following powers:

1336 (a) Conduct board meetings, committee meetings, elections,
1337 and membership meetings, in whole or in part, by telephone,
1338 real-time videoconferencing, or similar real-time electronic or
1339 video communication with notice given as is practicable. Such
1340 notice may be given in any practicable manner, including
1341 publication, radio, United States mail, the Internet, electronic
1342 transmission, public service announcements, and conspicuous
1343 posting on the condominium property or association property or
1344 any other means the board deems reasonable under the
1345 circumstances. Notice of ~~board~~ decisions also may be
1346 communicated as provided in this paragraph.

1347 (b) Cancel and reschedule any association meeting.

1348 (c) Name as assistant officers persons who are not
1349 directors, which assistant officers shall have the same
1350 authority as the executive officers to whom they are assistants
1351 during the state of emergency to accommodate the incapacity or
1352 unavailability of any officer of the association.

1353 (d) Relocate the association's principal office or
1354 designate alternative principal offices.

1355 (e) Enter into agreements with local counties and
1356 municipalities to assist counties and municipalities with debris
1357 removal.

1358 (f) Implement a disaster plan or an emergency plan before,
1359 during, or ~~immediately~~ following the event for which a state of
1360 emergency is declared which may include, but is not limited to,
1361 shutting down or off elevators; electricity; water, sewer, or
1362 security systems; or air conditioners.

1363 (g) Based upon advice of emergency management officials or

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1364 public health officials, or upon the advice of licensed
1365 professionals retained by or otherwise available to the board,
1366 determine any portion of the condominium property or association
1367 property unavailable for entry or occupancy by unit owners,
1368 family members, tenants, guests, agents, or invitees to protect
1369 the health, safety, or welfare of such persons.

1370 (h) Require the evacuation of the condominium property in
1371 the event of a mandatory evacuation order in the locale in which
1372 the condominium is located. Should any unit owner or other
1373 occupant of a condominium fail or refuse to evacuate the
1374 condominium property or association property where the board has
1375 required evacuation, the association shall be immune from
1376 liability or injury to persons or property arising from such
1377 failure or refusal.

1378 (i) Based upon advice of emergency management officials or
1379 public health officials, or upon the advice of licensed
1380 professionals retained by or otherwise available to the board,
1381 determine whether the condominium property, association
1382 property, or any portion thereof can be safely inhabited,
1383 accessed, or occupied. However, such determination is not
1384 conclusive as to any determination of habitability pursuant to
1385 the declaration.

1386 (j) Mitigate further damage, injury, or contagion,
1387 including taking action to contract for the removal of debris
1388 and to prevent or mitigate the spread of fungus or contagion,
1389 including, but not limited to, mold or mildew, by removing and
1390 disposing of wet drywall, insulation, carpet, cabinetry, or
1391 other fixtures on or within the condominium property, even if
1392 the unit owner is obligated by the declaration or law to insure

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1393 or replace those fixtures and to remove personal property from a
1394 unit.

1395 (k) Contract, on behalf of any unit owner or owners, for
1396 items or services for which the owners are otherwise
1397 individually responsible, but which are necessary to prevent
1398 further injury, contagion, or damage to the condominium property
1399 or association property. In such event, the unit owner or owners
1400 on whose behalf the board has contracted are responsible for
1401 reimbursing the association for the actual costs of the items or
1402 services, and the association may use its lien authority
1403 provided by s. 718.116 to enforce collection of the charges.
1404 Without limitation, such items or services may include the
1405 drying of units, the boarding of broken windows or doors, ~~and~~
1406 the replacement of damaged air conditioners or air handlers to
1407 provide climate control in the units or other portions of the
1408 property, and the sanitizing of the condominium property or
1409 association property, as applicable.

1410 (l) Regardless of any provision to the contrary and even if
1411 such authority does not specifically appear in the declaration
1412 of condominium, articles, or bylaws of the association, levy
1413 special assessments without a vote of the owners.

1414 (m) Without unit owners' approval, borrow money and pledge
1415 association assets as collateral to fund emergency repairs and
1416 carry out the duties of the association when operating funds are
1417 insufficient. This paragraph does not limit the general
1418 authority of the association to borrow money, subject to such
1419 restrictions as are contained in the declaration of condominium,
1420 articles, or bylaws of the association.

1421 (2) The special powers authorized under subsection (1)

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1422 shall be limited to that time reasonably necessary to protect
1423 the health, safety, and welfare of the association and the unit
1424 owners and the unit owners' family members, tenants, guests,
1425 agents, or invitees and shall be reasonably necessary to
1426 mitigate further damage, injury, or contagion and make emergency
1427 repairs.

1428 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
1429 of emergency declared by executive order or proclamation of the
1430 Governor pursuant to s. 252.36, an association may not prohibit
1431 unit owners, tenants, guests, agents, or invitees of a unit
1432 owner from accessing the unit and the common elements and
1433 limited common elements appurtenant thereto for the purposes of
1434 ingress to and egress from the unit and when access is necessary
1435 in connection with:

1436 (a) The sale, lease, or other transfer of title of a unit;
1437 or

1438 (b) The habitability of the unit or for the health and
1439 safety of such person unless a governmental order or
1440 determination, or a public health directive from the Centers for
1441 Disease Control and Prevention, has been issued prohibiting such
1442 access to the unit. Any such access is subject to reasonable
1443 restrictions adopted by the association.

1444 Section 10. Subsection (3) of section 718.202, Florida
1445 Statutes, is amended to read:

1446 718.202 Sales or reservation deposits prior to closing.—

1447 (3) If the contract for sale of the condominium unit so
1448 provides, the developer may withdraw escrow funds in excess of
1449 10 percent of the purchase price from the special account
1450 required by subsection (2) when the construction of improvements

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1451 has begun. He or she may use the funds for the actual costs
1452 incurred by the developer in the ~~actual~~ construction and
1453 development of the condominium property in which the unit to be
1454 sold is located. For purposes of this subsection, the term
1455 "actual costs" includes, but is not limited to, expenditures for
1456 demolition, site clearing, permit fees, impact fees, and utility
1457 reservation fees, as well as architectural, engineering, and
1458 surveying fees that directly relate to construction and
1459 development of the condominium property. However, no part of
1460 these funds may be used for salaries, commissions, or expenses
1461 of salespersons; ~~or~~ for advertising, marketing, or promotional
1462 purposes; or for loan fees and costs, principal and interest on
1463 loans, attorney fees, accounting fees, or insurance costs. A
1464 contract which permits use of the advance payments for these
1465 purposes shall include the following legend conspicuously
1466 printed or stamped in boldfaced type on the first page of the
1467 contract and immediately above the place for the signature of
1468 the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE
1469 PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS
1470 CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

1471 Section 11. Subsection (1) and paragraph (b) of subsection
1472 (3) of section 718.303, Florida Statutes, are amended to read:

1473 718.303 Obligations of owners and occupants; remedies.—

1474 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1475 ~~each~~ association is governed by, and must comply with the
1476 provisions of, this chapter, the declaration, the documents
1477 creating the association, and the association bylaws which are
1478 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1479 Actions at law or in equity ~~for damages or for injunctive~~

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1480 relief, or both, for failure to comply with these provisions may
1481 be brought by the association or by a unit owner against:

1482 (a) The association.

1483 (b) A unit owner.

1484 (c) Directors designated by the developer, for actions
1485 taken by them before control of the association is assumed by
1486 unit owners other than the developer.

1487 (d) Any director who willfully and knowingly fails to
1488 comply with these provisions.

1489 (e) Any tenant leasing a unit, and any other invitee
1490 occupying a unit.

1491

1492 The prevailing party in any such action or in any action in
1493 which the purchaser claims a right of voidability based upon
1494 contractual provisions as required in s. 718.503(1)(a) is
1495 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1496 owner prevailing in an action between the association and the
1497 unit owner under this subsection ~~section~~, in addition to
1498 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1499 recover additional amounts as determined by the court to be
1500 necessary to reimburse the unit owner for his or her share of
1501 assessments levied by the association to fund its expenses of
1502 the litigation. This relief does not exclude other remedies
1503 provided by law. Actions arising under this subsection are not
1504 considered ~~may not be deemed to be~~ actions for specific
1505 performance.

1506 (3) The association may levy reasonable fines for the
1507 failure of the owner of the unit or its occupant, licensee, or
1508 invitee to comply with any provision of the declaration, the

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1509 association bylaws, or reasonable rules of the association. A
1510 fine may not become a lien against a unit. A fine may be levied
1511 by the board on the basis of each day of a continuing violation,
1512 with a single notice and opportunity for hearing before a
1513 committee as provided in paragraph (b). However, the fine may
1514 not exceed \$100 per violation, or \$1,000 in the aggregate.

1515 (b) A fine or suspension levied by the board of
1516 administration may not be imposed unless the board first
1517 provides at least 14 days' written notice to the unit owner and,
1518 if applicable, any tenant occupant, licensee, or invitee of the
1519 unit owner sought to be fined or suspended, and an opportunity
1520 for a hearing before a committee of at least three members
1521 appointed by the board who are not officers, directors, or
1522 employees of the association, or the spouse, parent, child,
1523 brother, or sister of an officer, director, or employee. The
1524 role of the committee is limited to determining whether to
1525 confirm or reject the fine or suspension levied by the board. If
1526 the committee does not approve the proposed fine or suspension
1527 by majority vote, the fine or suspension may not be imposed. If
1528 the proposed fine or suspension is approved by the committee,
1529 the fine payment is due 5 days after notice of the approved fine
1530 is provided to the unit owner and, if applicable, to any tenant,
1531 licensee, or invitee of the unit owner ~~the date of the committee~~
1532 ~~meeting at which the fine is approved~~. The association must
1533 provide written notice of such fine or suspension by mail or
1534 hand delivery to the unit owner and, if applicable, to any
1535 tenant, licensee, or invitee of the unit owner.

1536 Section 12. Subsection (5) is added to section 718.405,
1537 Florida Statutes, to read:

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1538 718.405 Multicondominiums; multicondominium associations.—

1539 (5) This section does not prevent or restrict a
1540 multicondominium association from adopting a consolidated or
1541 combined declaration of condominium if such declaration complies
1542 with s. 718.104 and does not serve to merge the condominiums or
1543 change the legal descriptions of the condominium parcels as set
1544 forth in s. 718.109, unless accomplished in accordance with law.
1545 This section is intended to clarify existing law and applies to
1546 associations existing on July 1, 2021.

1547 Section 13. Section 718.501, Florida Statutes, is amended
1548 to read:

1549 718.501 Authority, responsibility, and duties of Division
1550 of Florida Condominiums, Timeshares, and Mobile Homes.—

1551 (1) The division may enforce and ensure compliance with ~~the~~
1552 ~~provisions of~~ this chapter and rules relating to the
1553 development, construction, sale, lease, ownership, operation,
1554 and management of residential condominium units. In performing
1555 its duties, the division has complete jurisdiction to
1556 investigate complaints and enforce compliance with respect to
1557 associations that are still under developer control or the
1558 control of a bulk assignee or bulk buyer pursuant to part VII of
1559 this chapter and complaints against developers, bulk assignees,
1560 or bulk buyers involving improper turnover or failure to
1561 turnover, pursuant to s. 718.301. However, after turnover has
1562 occurred, the division has jurisdiction to investigate
1563 complaints related only to financial issues, elections, and the
1564 maintenance of and unit owner access to association records
1565 under ~~pursuant to~~ s. 718.111(12).

1566 (a)1. The division may make necessary public or private

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1567 investigations within or outside this state to determine whether
1568 any person has violated this chapter or any rule or order
1569 hereunder, to aid in the enforcement of this chapter, or to aid
1570 in the adoption of rules or forms.

1571 2. The division may submit any official written report,
1572 worksheet, or other related paper, or a duly certified copy
1573 thereof, compiled, prepared, drafted, or otherwise made by and
1574 duly authenticated by a financial examiner or analyst to be
1575 admitted as competent evidence in any hearing in which the
1576 financial examiner or analyst is available for cross-examination
1577 and attests under oath that such documents were prepared as a
1578 result of an examination or inspection conducted pursuant to
1579 this chapter.

1580 (b) The division may require or permit any person to file a
1581 statement in writing, under oath or otherwise, as the division
1582 determines, as to the facts and circumstances concerning a
1583 matter to be investigated.

1584 (c) For the purpose of any investigation under this
1585 chapter, the division director or any officer or employee
1586 designated by the division director may administer oaths or
1587 affirmations, subpoena witnesses and compel their attendance,
1588 take evidence, and require the production of any matter which is
1589 relevant to the investigation, including the existence,
1590 description, nature, custody, condition, and location of any
1591 books, documents, or other tangible things and the identity and
1592 location of persons having knowledge of relevant facts or any
1593 other matter reasonably calculated to lead to the discovery of
1594 material evidence. Upon the failure by a person to obey a
1595 subpoena or to answer questions propounded by the investigating

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1596 officer and upon reasonable notice to all affected persons, the
1597 division may apply to the circuit court for an order compelling
1598 compliance.

1599 (d) Notwithstanding any remedies available to unit owners
1600 and associations, if the division has reasonable cause to
1601 believe that a violation of any provision of this chapter or
1602 related rule has occurred, the division may institute
1603 enforcement proceedings in its own name against any developer,
1604 bulk assignee, bulk buyer, association, officer, or member of
1605 the board of administration, or its assignees or agents, as
1606 follows:

1607 1. The division may permit a person whose conduct or
1608 actions may be under investigation to waive formal proceedings
1609 and enter into a consent proceeding whereby orders, rules, or
1610 letters of censure or warning, whether formal or informal, may
1611 be entered against the person.

1612 2. The division may issue an order requiring the developer,
1613 bulk assignee, bulk buyer, association, developer-designated
1614 officer, or developer-designated member of the board of
1615 administration, developer-designated assignees or agents, bulk
1616 assignee-designated assignees or agents, bulk buyer-designated
1617 assignees or agents, community association manager, or community
1618 association management firm to cease and desist from the
1619 unlawful practice and take such affirmative action as in the
1620 judgment of the division carry out the purposes of this chapter.
1621 If the division finds that a developer, bulk assignee, bulk
1622 buyer, association, officer, or member of the board of
1623 administration, or its assignees or agents, is violating or is
1624 about to violate any provision of this chapter, any rule adopted

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1625 or order issued by the division, or any written agreement
1626 entered into with the division, and presents an immediate danger
1627 to the public requiring an immediate final order, it may issue
1628 an emergency cease and desist order reciting with particularity
1629 the facts underlying such findings. The emergency cease and
1630 desist order is effective for 90 days. If the division begins
1631 nonemergency cease and desist proceedings, the emergency cease
1632 and desist order remains effective until the conclusion of the
1633 proceedings under ss. 120.569 and 120.57.

1634 3. If a developer, bulk assignee, or bulk buyer, fails to
1635 pay any restitution determined by the division to be owed, plus
1636 any accrued interest at the highest rate permitted by law,
1637 within 30 days after expiration of any appellate time period of
1638 a final order requiring payment of restitution or the conclusion
1639 of any appeal thereof, whichever is later, the division must
1640 bring an action in circuit or county court on behalf of any
1641 association, class of unit owners, lessees, or purchasers for
1642 restitution, declaratory relief, injunctive relief, or any other
1643 available remedy. The division may also temporarily revoke its
1644 acceptance of the filing for the developer to which the
1645 restitution relates until payment of restitution is made.

1646 4. The division may petition the court for appointment of a
1647 receiver or conservator. If appointed, the receiver or
1648 conservator may take action to implement the court order to
1649 ensure the performance of the order and to remedy any breach
1650 thereof. In addition to all other means provided by law for the
1651 enforcement of an injunction or temporary restraining order, the
1652 circuit court may impound or sequester the property of a party
1653 defendant, including books, papers, documents, and related

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1654 records, and allow the examination and use of the property by
1655 the division and a court-appointed receiver or conservator.

1656 5. The division may apply to the circuit court for an order
1657 of restitution whereby the defendant in an action brought under
1658 ~~pursuant to~~ subparagraph 4. is ordered to make restitution of
1659 those sums shown by the division to have been obtained by the
1660 defendant in violation of this chapter. At the option of the
1661 court, such restitution is payable to the conservator or
1662 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1663 to the persons whose funds or assets were obtained in violation
1664 of this chapter.

1665 6. The division may impose a civil penalty against a
1666 developer, bulk assignee, or bulk buyer, or association, or its
1667 assignee or agent, for any violation of this chapter or related
1668 rule. The division may impose a civil penalty individually
1669 against an officer or board member who willfully and knowingly
1670 violates ~~a provision of~~ this chapter, adopted rule, or a final
1671 order of the division; may order the removal of such individual
1672 as an officer or from the board of administration or as an
1673 officer of the association; and may prohibit such individual
1674 from serving as an officer or on the board of a community
1675 association for a period of time. The term "willfully and
1676 knowingly" means that the division informed the officer or board
1677 member that his or her action or intended action violates this
1678 chapter, a rule adopted under this chapter, or a final order of
1679 the division and that the officer or board member refused to
1680 comply with the requirements of this chapter, a rule adopted
1681 under this chapter, or a final order of the division. The
1682 division, before initiating formal agency action under chapter

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1683 120, must afford the officer or board member an opportunity to
1684 voluntarily comply, and an officer or board member who complies
1685 within 10 days is not subject to a civil penalty. A penalty may
1686 be imposed on the basis of each day of continuing violation, but
1687 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1688 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1689 applicable to possible violations or to categories of violations
1690 of this chapter or rules adopted by the division. The guidelines
1691 must specify a meaningful range of civil penalties for each such
1692 violation of the statute and rules and must be based upon the
1693 harm caused by the violation, the repetition of the violation,
1694 and upon such other factors deemed relevant by the division. For
1695 example, the division may consider whether the violations were
1696 committed by a developer, bulk assignee, or bulk buyer, or
1697 owner-controlled association, the size of the association, and
1698 other factors. The guidelines must designate the possible
1699 mitigating or aggravating circumstances that justify a departure
1700 from the range of penalties provided by the rules. It is the
1701 legislative intent that minor violations be distinguished from
1702 those which endanger the health, safety, or welfare of the
1703 condominium residents or other persons and that such guidelines
1704 provide reasonable and meaningful notice to the public of likely
1705 penalties that may be imposed for proscribed conduct. This
1706 subsection does not limit the ability of the division to
1707 informally dispose of administrative actions or complaints by
1708 stipulation, agreed settlement, or consent order. All amounts
1709 collected shall be deposited with the Chief Financial Officer to
1710 the credit of the Division of Florida Condominiums, Timeshares,
1711 and Mobile Homes Trust Fund. If a developer, bulk assignee, or

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1712 bulk buyer fails to pay the civil penalty and the amount deemed
1713 to be owed to the association, the division shall issue an order
1714 directing that such developer, bulk assignee, or bulk buyer
1715 cease and desist from further operation until such time as the
1716 civil penalty is paid or may pursue enforcement of the penalty
1717 in a court of competent jurisdiction. If an association fails to
1718 pay the civil penalty, the division shall pursue enforcement in
1719 a court of competent jurisdiction, and the order imposing the
1720 civil penalty or the cease and desist order is not effective
1721 until 20 days after the date of such order. Any action commenced
1722 by the division shall be brought in the county in which the
1723 division has its executive offices or in the county where the
1724 violation occurred.

1725 7. If a unit owner presents the division with proof that
1726 the unit owner has requested access to official records in
1727 writing by certified mail, and that after 10 days the unit owner
1728 again made the same request for access to official records in
1729 writing by certified mail, and that more than 10 days has
1730 elapsed since the second request and the association has still
1731 failed or refused to provide access to official records as
1732 required by this chapter, the division shall issue a subpoena
1733 requiring production of the requested records where the records
1734 are kept pursuant to s. 718.112.

1735 8. In addition to subparagraph 6., the division may seek
1736 the imposition of a civil penalty through the circuit court for
1737 any violation for which the division may issue a notice to show
1738 cause under paragraph (r). The civil penalty shall be at least
1739 \$500 but no more than \$5,000 for each violation. The court may
1740 also award to the prevailing party court costs and reasonable

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1741 attorney ~~attorney's~~ fees and, if the division prevails, may also
1742 award reasonable costs of investigation.

1743 (e) The division may prepare and disseminate a prospectus
1744 and other information to assist prospective owners, purchasers,
1745 lessees, and developers of residential condominiums in assessing
1746 the rights, privileges, and duties pertaining thereto.

1747 (f) The division may adopt rules to administer and enforce
1748 ~~the provisions of~~ this chapter.

1749 (g) The division shall establish procedures for providing
1750 notice to an association and the developer, bulk assignee, or
1751 bulk buyer during the period in which the developer, bulk
1752 assignee, or bulk buyer controls the association if the division
1753 is considering the issuance of a declaratory statement with
1754 respect to the declaration of condominium or any related
1755 document governing such condominium community.

1756 (h) The division shall furnish each association that pays
1757 the fees required by paragraph (2)(a) a copy of this chapter, as
1758 amended, and the rules adopted thereto on an annual basis.

1759 (i) The division shall annually provide each association
1760 with a summary of declaratory statements and formal legal
1761 opinions relating to the operations of condominiums which were
1762 rendered by the division during the previous year.

1763 (j) The division shall provide training and educational
1764 programs for condominium association board members and unit
1765 owners. The training may, in the division's discretion, include
1766 web-based electronic media, and live training and seminars in
1767 various locations throughout the state. The division may review
1768 and approve education and training programs for board members
1769 and unit owners offered by providers and shall maintain a

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1770 current list of approved programs and providers and make such
1771 list available to board members and unit owners in a reasonable
1772 and cost-effective manner.

1773 (k) The division shall maintain a toll-free telephone
1774 number accessible to condominium unit owners.

1775 (l) The division shall develop a program to certify both
1776 volunteer and paid mediators to provide mediation of condominium
1777 disputes. The division shall provide, upon request, a list of
1778 such mediators to any association, unit owner, or other
1779 participant in alternative dispute resolution ~~arbitration~~
1780 proceedings under s. 718.1255 requesting a copy of the list. The
1781 division shall include on the list of volunteer mediators only
1782 the names of persons who have received at least 20 hours of
1783 training in mediation techniques or who have mediated at least
1784 20 disputes. In order to become initially certified by the
1785 division, paid mediators must be certified by the Supreme Court
1786 to mediate court cases in county or circuit courts. However, the
1787 division may adopt, by rule, additional factors for the
1788 certification of paid mediators, which must be related to
1789 experience, education, or background. Any person initially
1790 certified as a paid mediator by the division must, in order to
1791 continue to be certified, comply with the factors or
1792 requirements adopted by rule.

1793 (m) If a complaint is made, the division must conduct its
1794 inquiry with due regard for the interests of the affected
1795 parties. Within 30 days after receipt of a complaint, the
1796 division shall acknowledge the complaint in writing and notify
1797 the complainant whether the complaint is within the jurisdiction
1798 of the division and whether additional information is needed by

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1799 the division from the complainant. The division shall conduct
1800 its investigation and, within 90 days after receipt of the
1801 original complaint or of timely requested additional
1802 information, take action upon the complaint. However, the
1803 failure to complete the investigation within 90 days does not
1804 prevent the division from continuing the investigation,
1805 accepting or considering evidence obtained or received after 90
1806 days, or taking administrative action if reasonable cause exists
1807 to believe that a violation of this chapter or a rule has
1808 occurred. If an investigation is not completed within the time
1809 limits established in this paragraph, the division shall, on a
1810 monthly basis, notify the complainant in writing of the status
1811 of the investigation. When reporting its action to the
1812 complainant, the division shall inform the complainant of any
1813 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57.

1814 (n) Condominium association directors, officers, and
1815 employees; condominium developers; bulk assignees, bulk buyers,
1816 and community association managers; and community association
1817 management firms have an ongoing duty to reasonably cooperate
1818 with the division in any investigation under ~~pursuant to~~ this
1819 section. The division shall refer to local law enforcement
1820 authorities any person whom the division believes has altered,
1821 destroyed, concealed, or removed any record, document, or thing
1822 required to be kept or maintained by this chapter with the
1823 purpose to impair its verity or availability in the department's
1824 investigation.

1825 (o) The division may:

1826 1. Contract with agencies in this state or other
1827 jurisdictions to perform investigative functions; or

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1828 2. Accept grants-in-aid from any source.

1829 (p) The division shall cooperate with similar agencies in
1830 other jurisdictions to establish uniform filing procedures and
1831 forms, public offering statements, advertising standards, and
1832 rules and common administrative practices.

1833 (q) The division shall consider notice to a developer, bulk
1834 assignee, or bulk buyer to be complete when it is delivered to
1835 the address of the developer, bulk assignee, or bulk buyer
1836 currently on file with the division.

1837 (r) In addition to its enforcement authority, the division
1838 may issue a notice to show cause, which must provide for a
1839 hearing, upon written request, in accordance with chapter 120.

1840 (s) The division shall submit to the Governor, the
1841 President of the Senate, the Speaker of the House of
1842 Representatives, and the chairs of the legislative
1843 appropriations committees an annual report that includes, but
1844 need not be limited to, the number of training programs provided
1845 for condominium association board members and unit owners, the
1846 number of complaints received by type, the number and percent of
1847 complaints acknowledged in writing within 30 days and the number
1848 and percent of investigations acted upon within 90 days in
1849 accordance with paragraph (m), and the number of investigations
1850 exceeding the 90-day requirement. The annual report must also
1851 include an evaluation of the division's core business processes
1852 and make recommendations for improvements, including statutory
1853 changes. The report shall be submitted by September 30 following
1854 the end of the fiscal year.

1855 (2) (a) Each condominium association which operates more
1856 than two units shall pay to the division an annual fee in the

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1857 amount of \$4 for each residential unit in condominiums operated
1858 by the association. If the fee is not paid by March 1, the
1859 association shall be assessed a penalty of 10 percent of the
1860 amount due, and the association will not have standing to
1861 maintain or defend any action in the courts of this state until
1862 the amount due, plus any penalty, is paid.

1863 (b) All fees shall be deposited in the Division of Florida
1864 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1865 provided by law.

1866 Section 14. Section 718.5014, Florida Statutes, is amended
1867 to read:

1868 718.5014 Ombudsman location.—The ombudsman shall maintain
1869 his or her principal office in a Leon County ~~on the premises of~~
1870 ~~the division or, if suitable space cannot be provided there, at~~
1871 ~~another~~ place convenient to the offices of the division which
1872 will enable the ombudsman to expeditiously carry out the duties
1873 and functions of his or her office. The ombudsman may establish
1874 branch offices elsewhere in the state upon the concurrence of
1875 the Governor.

1876 Section 15. Subsection (25) of section 719.103, Florida
1877 Statutes, is amended to read:

1878 719.103 Definitions.—As used in this chapter:

1879 (25) "Unit" means a part of the cooperative property which
1880 is subject to exclusive use and possession. A unit may be
1881 improvements, land, or land and improvements together, as
1882 specified in the cooperative documents. An interest in a unit is
1883 an interest in real property.

1884 Section 16. Paragraph (c) of subsection (2) of section
1885 719.104, Florida Statutes, is amended to read:

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1886 719.104 Cooperatives; access to units; records; financial
1887 reports; assessments; purchase of leases.—

1888 (2) OFFICIAL RECORDS.—

1889 (c) The official records of the association are open to
1890 inspection by any association member or the authorized
1891 representative of such member at all reasonable times. The right
1892 to inspect the records includes the right to make or obtain
1893 copies, at the reasonable expense, if any, of the association
1894 member. The association may adopt reasonable rules regarding the
1895 frequency, time, location, notice, and manner of record
1896 inspections and copying, but may not require a member to
1897 demonstrate any purpose or state any reason for the inspection.
1898 The failure of an association to provide the records within 10
1899 working days after receipt of a written request creates a
1900 rebuttable presumption that the association willfully failed to
1901 comply with this paragraph. A member ~~unit owner~~ who is denied
1902 access to official records is entitled to the actual damages or
1903 minimum damages for the association's willful failure to comply.
1904 The minimum damages are \$50 per calendar day for up to 10 days,
1905 beginning on the 11th working day after receipt of the written
1906 request. The failure to permit inspection entitles any person
1907 prevailing in an enforcement action to recover reasonable
1908 attorney fees from the person in control of the records who,
1909 directly or indirectly, knowingly denied access to the records.
1910 Any person who knowingly or intentionally defaces or destroys
1911 accounting records that are required by this chapter to be
1912 maintained during the period for which such records are required
1913 to be maintained, or who knowingly or intentionally fails to
1914 create or maintain accounting records that are required to be

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1915 created or maintained, with the intent of causing harm to the
1916 association or one or more of its members, is personally subject
1917 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1918 association shall maintain an adequate number of copies of the
1919 declaration, articles of incorporation, bylaws, and rules, and
1920 all amendments to each of the foregoing, as well as the question
1921 and answer sheet as described in s. 719.504 and year-end
1922 financial information required by the department, on the
1923 cooperative property to ensure their availability to members
1924 ~~unit owners~~ and prospective purchasers, and may charge its
1925 actual costs for preparing and furnishing these documents to
1926 those requesting the same. An association shall allow a member
1927 or his or her authorized representative to use a portable
1928 device, including a smartphone, tablet, portable scanner, or any
1929 other technology capable of scanning or taking photographs, to
1930 make an electronic copy of the official records in lieu of the
1931 association providing the member or his or her authorized
1932 representative with a copy of such records. The association may
1933 not charge a member or his or her authorized representative for
1934 the use of a portable device. Notwithstanding this paragraph,
1935 the following records shall not be accessible to members ~~unit~~
1936 ~~owners~~:

1937 1. Any record protected by the lawyer-client privilege as
1938 described in s. 90.502 and any record protected by the work-
1939 product privilege, including any record prepared by an
1940 association attorney or prepared at the attorney's express
1941 direction which reflects a mental impression, conclusion,
1942 litigation strategy, or legal theory of the attorney or the
1943 association, and which was prepared exclusively for civil or

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1944 criminal litigation or for adversarial administrative
1945 proceedings, or which was prepared in anticipation of such
1946 litigation or proceedings until the conclusion of the litigation
1947 or proceedings.

1948 2. Information obtained by an association in connection
1949 with the approval of the lease, sale, or other transfer of a
1950 unit.

1951 3. Personnel records of association or management company
1952 employees, including, but not limited to, disciplinary, payroll,
1953 health, and insurance records. For purposes of this
1954 subparagraph, the term "personnel records" does not include
1955 written employment agreements with an association employee or
1956 management company, or budgetary or financial records that
1957 indicate the compensation paid to an association employee.

1958 4. Medical records of unit owners.

1959 5. Social security numbers, driver license numbers, credit
1960 card numbers, e-mail addresses, telephone numbers, facsimile
1961 numbers, emergency contact information, addresses of a unit
1962 owner other than as provided to fulfill the association's notice
1963 requirements, and other personal identifying information of any
1964 person, excluding the person's name, unit designation, mailing
1965 address, property address, and any address, e-mail address, or
1966 facsimile number provided to the association to fulfill the
1967 association's notice requirements. Notwithstanding the
1968 restrictions in this subparagraph, an association may print and
1969 distribute to unit ~~parcel~~ owners a directory containing the
1970 name, unit ~~parcel~~ address, and all telephone numbers of each
1971 unit ~~parcel~~ owner. However, an owner may exclude his or her
1972 telephone numbers from the directory by so requesting in writing

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1973 to the association. An owner may consent in writing to the
1974 disclosure of other contact information described in this
1975 subparagraph. The association is not liable for the inadvertent
1976 disclosure of information that is protected under this
1977 subparagraph if the information is included in an official
1978 record of the association and is voluntarily provided by an
1979 owner and not requested by the association.

1980 6. Electronic security measures that are used by the
1981 association to safeguard data, including passwords.

1982 7. The software and operating system used by the
1983 association which allow the manipulation of data, even if the
1984 owner owns a copy of the same software used by the association.
1985 The data is part of the official records of the association.

1986 Section 17. Paragraphs (b), (f), and (l) of subsection (1)
1987 of section 719.106, Florida Statutes, are amended, and
1988 subsection (3) is added to that section, to read:

1989 719.106 Bylaws; cooperative ownership.—

1990 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1991 documents shall provide for the following, and if they do not,
1992 they shall be deemed to include the following:

1993 (b) *Quorum; voting requirements; proxies.*—

1994 1. Unless otherwise provided in the bylaws, the percentage
1995 of voting interests required to constitute a quorum at a meeting
1996 of the members shall be a majority of voting interests, and
1997 decisions shall be made by owners of a majority of the voting
1998 interests. Unless otherwise provided in this chapter, or in the
1999 articles of incorporation, bylaws, or other cooperative
2000 documents, and except as provided in subparagraph (d)1.,
2001 decisions shall be made by owners of a majority of the voting

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2002 interests represented at a meeting at which a quorum is present.

2003 2. Except as specifically otherwise provided herein, after
2004 January 1, 1992, unit owners may not vote by general proxy, but
2005 may vote by limited proxies substantially conforming to a
2006 limited proxy form adopted by the division. Limited proxies and
2007 general proxies may be used to establish a quorum. Limited
2008 proxies shall be used for votes taken to waive or reduce
2009 reserves in accordance with subparagraph (j)2., for votes taken
2010 to waive the financial reporting requirements of s.
2011 719.104(4) (b), for votes taken to amend the articles of
2012 incorporation or bylaws pursuant to this section, and for any
2013 other matter for which this chapter requires or permits a vote
2014 of the unit owners. Except as provided in paragraph (d), after
2015 January 1, 1992, no proxy, limited or general, shall be used in
2016 the election of board members. General proxies may be used for
2017 other matters for which limited proxies are not required, and
2018 may also be used in voting for nonsubstantive changes to items
2019 for which a limited proxy is required and given. Notwithstanding
2020 the provisions of this section, unit owners may vote in person
2021 at unit owner meetings. Nothing contained herein shall limit the
2022 use of general proxies or require the use of limited proxies or
2023 require the use of limited proxies for any agenda item or
2024 election at any meeting of a timeshare cooperative.

2025 3. Any proxy given shall be effective only for the specific
2026 meeting for which originally given and any lawfully adjourned
2027 meetings thereof. In no event shall any proxy be valid for a
2028 period longer than 90 days after the date of the first meeting
2029 for which it was given. Every proxy shall be revocable at any
2030 time at the pleasure of the unit owner executing it.

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2031 4. A member of the board of administration or a committee
2032 may submit in writing his or her agreement or disagreement with
2033 any action taken at a meeting that the member did not attend.
2034 This agreement or disagreement may not be used as a vote for or
2035 against the action taken and may not be used for the purposes of
2036 creating a quorum.

2037 5. A board member or committee member participating in a
2038 meeting via telephone, real-time videoconferencing, or similar
2039 real-time electronic or video communication counts toward a
2040 quorum, and such member may vote as if physically present ~~When~~
2041 ~~some or all of the board or committee members meet by telephone~~
2042 ~~conference, those board or committee members attending by~~
2043 ~~telephone conference may be counted toward obtaining a quorum~~
2044 ~~and may vote by telephone. A telephone speaker must shall be~~
2045 ~~used~~ utilized so that the conversation of such ~~those board or~~
2046 ~~committee members attending by telephone~~ may be heard by the
2047 board or committee members attending in person, as well as by
2048 any unit owners present at a meeting.

2049 (f) *Recall of board members.*—Subject to s. 719.301, any
2050 member of the board of administration may be recalled and
2051 removed from office with or without cause by the vote or
2052 agreement in writing by a majority of all the voting interests.
2053 A special meeting of the voting interests to recall any member
2054 of the board of administration may be called by 10 percent of
2055 the unit owners giving notice of the meeting as required for a
2056 meeting of unit owners, and the notice shall state the purpose
2057 of the meeting. Electronic transmission may not be used as a
2058 method of giving notice of a meeting called in whole or in part
2059 for this purpose.

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2060 1. If the recall is approved by a majority of all voting
2061 interests by a vote at a meeting, the recall shall be effective
2062 as provided in this paragraph. The board shall duly notice and
2063 hold a board meeting within 5 full business days after the
2064 adjournment of the unit owner meeting to recall one or more
2065 board members. At the meeting, the board shall either certify
2066 the recall, in which case such member or members shall be
2067 recalled effective immediately and shall turn over to the board
2068 within 5 full business days any and all records and property of
2069 the association in their possession, or shall proceed as set
2070 forth in subparagraph 3.

2071 2. If the proposed recall is by an agreement in writing by
2072 a majority of all voting interests, the agreement in writing or
2073 a copy thereof shall be served on the association by certified
2074 mail or by personal service in the manner authorized by chapter
2075 48 and the Florida Rules of Civil Procedure. The board of
2076 administration shall duly notice and hold a meeting of the board
2077 within 5 full business days after receipt of the agreement in
2078 writing. At the meeting, the board shall either certify the
2079 written agreement to recall members of the board, in which case
2080 such members shall be recalled effective immediately and shall
2081 turn over to the board, within 5 full business days, any and all
2082 records and property of the association in their possession, or
2083 proceed as described in subparagraph 3.

2084 3. If the board determines not to certify the written
2085 agreement to recall members of the board, or does not certify
2086 the recall by a vote at a meeting, the board shall, within 5
2087 full business days after the board meeting, file with the
2088 division a petition for binding arbitration under ~~pursuant to~~

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2089 ~~the procedures of~~ s. 719.1255 or file an action with a court of
2090 competent jurisdiction. For purposes of this paragraph, the unit
2091 owners who voted at the meeting or who executed the agreement in
2092 writing shall constitute one party under the petition for
2093 arbitration or in a court action. If the arbitrator or court
2094 certifies the recall as to any member of the board, the recall
2095 ~~is shall be~~ effective upon the mailing of the final order of
2096 arbitration to the association or the final order of the court.
2097 If the association fails to comply with the order of the court
2098 or the arbitrator, the division may take action under ~~pursuant~~
2099 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
2100 any and all records and property of the association in the
2101 member's possession within 5 full business days after the
2102 effective date of the recall.

2103 4. If the board fails to duly notice and hold a board
2104 meeting within 5 full business days after service of an
2105 agreement in writing or within 5 full business days after the
2106 adjournment of the unit owner recall meeting, the recall is
2107 ~~shall be~~ deemed effective and the board members so recalled
2108 shall immediately turn over to the board any and all records and
2109 property of the association.

2110 5. If the board fails to duly notice and hold the required
2111 meeting or fails to file the required petition or action, the
2112 unit owner representative may file a petition under ~~pursuant to~~
2113 s. 719.1255 or file an action in a court of competent
2114 jurisdiction challenging the board's failure to act. The
2115 petition or action must be filed within 60 days after the
2116 expiration of the applicable 5-full-business-day period. The
2117 review of a petition or action under this subparagraph is

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2118 limited to the sufficiency of service on the board and the
2119 facial validity of the written agreement or ballots filed.

2120 6. If a vacancy occurs on the board as a result of a recall
2121 and less than a majority of the board members are removed, the
2122 vacancy may be filled by the affirmative vote of a majority of
2123 the remaining directors, notwithstanding any provision to the
2124 contrary contained in this chapter. If vacancies occur on the
2125 board as a result of a recall and a majority or more of the
2126 board members are removed, the vacancies shall be filled in
2127 accordance with procedural rules to be adopted by the division,
2128 which rules need not be consistent with this chapter. The rules
2129 must provide procedures governing the conduct of the recall
2130 election as well as the operation of the association during the
2131 period after a recall but before the recall election.

2132 7. A board member who has been recalled may file a petition
2133 under ~~pursuant to~~ s. 719.1255 or file an action in a court of
2134 competent jurisdiction challenging the validity of the recall.
2135 The petition or action must be filed within 60 days after the
2136 recall is deemed certified. The association and the unit owner
2137 representative shall be named as the respondents.

2138 8. The division or court may not accept for filing a recall
2139 petition or action, whether filed under ~~pursuant to~~ subparagraph
2140 1., subparagraph 2., subparagraph 5., or subparagraph 7. and
2141 regardless of whether the recall was certified, when there are
2142 60 or fewer days until the scheduled reelection of the board
2143 member sought to be recalled or when 60 or fewer days have not
2144 elapsed since the election of the board member sought to be
2145 recalled.

2146 (1) Alternative dispute resolution ~~Arbitration~~.—There shall

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2147 be a provision for alternative dispute resolution ~~mandatory~~
2148 ~~nonbinding arbitration~~ of internal disputes arising from the
2149 operation of the cooperative in accordance with s. 719.1255.

2150 (3) GENERALLY.—The association may extinguish a
2151 discriminatory restriction as provided under s. 712.065.

2152 Section 18. Section 719.128, Florida Statutes, is amended
2153 to read:

2154 719.128 Association emergency powers.—

2155 (1) To the extent allowed by law, unless specifically
2156 prohibited by the cooperative documents, and consistent with s.
2157 617.0830, the board of administration, in response to damage or
2158 injury caused by or anticipated in connection with an emergency,
2159 as defined in s. 252.34(4), event for which a state of emergency
2160 is declared pursuant to s. 252.36 in the area encompassed by the
2161 cooperative, may exercise the following powers:

2162 (a) Conduct board meetings, committee meetings, elections,
2163 or membership meetings, in whole or in part, by telephone, real-
2164 time videoconferencing, or similar real-time electronic or video
2165 communication after notice of the meetings and board decisions
2166 is provided in as practicable a manner as possible, including
2167 via publication, radio, United States mail, the Internet,
2168 electronic transmission, public service announcements,
2169 conspicuous posting on the cooperative property, or any other
2170 means the board deems appropriate under the circumstances.
2171 Notice of decisions may also be communicated as provided in this
2172 paragraph.

2173 (b) Cancel and reschedule an association meeting.

2174 (c) Designate assistant officers who are not directors. If
2175 the executive officer is incapacitated or unavailable, the

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2176 assistant officer has the same authority during the state of
2177 emergency as the executive officer he or she assists.

2178 (d) Relocate the association's principal office or
2179 designate an alternative principal office.

2180 (e) Enter into agreements with counties and municipalities
2181 to assist counties and municipalities with debris removal.

2182 (f) Implement a disaster or an emergency plan before,
2183 during, or ~~immediately~~ following the event for which a state of
2184 emergency is declared, which may include turning on or shutting
2185 off elevators; electricity; water, sewer, or security systems;
2186 or air conditioners for association buildings.

2187 (g) Based upon the advice of emergency management officials
2188 or public health officials, or upon the advice of licensed
2189 professionals retained by or otherwise available to the board of
2190 administration, determine any portion of the cooperative
2191 property unavailable for entry or occupancy by unit owners or
2192 their family members, tenants, guests, agents, or invitees to
2193 protect their health, safety, or welfare.

2194 (h) Based upon the advice of emergency management officials
2195 or public health officials, or upon the advice of licensed
2196 professionals retained by or otherwise available to the board of
2197 administration, determine whether the cooperative property or
2198 any portion thereof can be safely inhabited or occupied.
2199 However, such determination is not conclusive as to any
2200 determination of habitability pursuant to the cooperative
2201 documents declaration.

2202 (i) Require the evacuation of the cooperative property in
2203 the event of a mandatory evacuation order in the area where the
2204 cooperative is located or prohibit or restrict access to the

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2205 cooperative property in the event of a public health threat. If
2206 a unit owner or other occupant of a cooperative fails to
2207 evacuate the cooperative property for which the board has
2208 required evacuation, the association is immune from liability
2209 for injury to persons or property arising from such failure.

2210 (j) Mitigate further damage, injury, or contagion,
2211 including taking action to contract for the removal of debris
2212 and to prevent or mitigate the spread of fungus, including mold
2213 or mildew, by removing and disposing of wet drywall, insulation,
2214 carpet, cabinetry, or other fixtures on or within the
2215 cooperative property, regardless of whether the unit owner is
2216 obligated by the cooperative documents ~~declaration~~ or law to
2217 insure or replace those fixtures and to remove personal property
2218 from a unit or to sanitize the cooperative property.

2219 (k) Contract, on behalf of a unit owner, for items or
2220 services for which the owner is otherwise individually
2221 responsible, but which are necessary to prevent further injury,
2222 contagion, or damage to the cooperative property. In such event,
2223 the unit owner on whose behalf the board has contracted is
2224 responsible for reimbursing the association for the actual costs
2225 of the items or services, and the association may use its lien
2226 authority provided by s. 719.108 to enforce collection of the
2227 charges. Such items or services may include the drying of the
2228 unit, the boarding of broken windows or doors, ~~and~~ the
2229 replacement of a damaged air conditioner or air handler to
2230 provide climate control in the unit or other portions of the
2231 property, and the sanitizing of the cooperative property.

2232 (l) Notwithstanding a provision to the contrary, and
2233 regardless of whether such authority does not specifically

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2234 appear in the cooperative documents, levy special assessments
2235 without a vote of the owners.

2236 (m) Without unit owners' approval, borrow money and pledge
2237 association assets as collateral to fund emergency repairs and
2238 carry out the duties of the association if operating funds are
2239 insufficient. This paragraph does not limit the general
2240 authority of the association to borrow money, subject to such
2241 restrictions contained in the cooperative documents.

2242 (2) The authority granted under subsection (1) is limited
2243 to that time reasonably necessary to protect the health, safety,
2244 and welfare of the association and the unit owners and their
2245 family members, tenants, guests, agents, or invitees, and to
2246 mitigate further damage, injury, or contagion and make emergency
2247 repairs.

2248 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2249 of emergency declared by executive order or proclamation of the
2250 Governor pursuant to s. 252.36, an association may not prohibit
2251 unit owners, tenants, guests, agents, or invitees of a unit
2252 owner from accessing the common elements and limited common
2253 elements appurtenant thereto for the purposes of ingress to and
2254 egress from the unit when access is necessary in connection
2255 with:

2256 (a) The sale, lease, or other transfer of title of a unit;
2257 or

2258 (b) The habitability of the unit or for the health and
2259 safety of such person unless a governmental order or
2260 determination, or a public health directive from the Centers for
2261 Disease Control and Prevention, has been issued prohibiting such
2262 access to the unit. Any such access is subject to reasonable

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2263 restrictions adopted by the association.

2264 Section 19. Subsection (8) of section 720.301, Florida
2265 Statutes, is amended to read:

2266 720.301 Definitions.—As used in this chapter, the term:

2267 (8) "Governing documents" means:

2268 (a) The recorded declaration of covenants for a community
2269 and all duly adopted and recorded amendments, supplements, and
2270 recorded exhibits thereto; and

2271 (b) The articles of incorporation and bylaws of the
2272 homeowners' association and any duly adopted amendments thereto;
2273 ~~and~~

2274 ~~(c) Rules and regulations adopted under the authority of~~
2275 ~~the recorded declaration, articles of incorporation, or bylaws~~
2276 ~~and duly adopted amendments thereto.~~

2277 Section 20. Present paragraph (1) of subsection (4) of
2278 section 720.303, Florida Statutes, is redesignated as paragraph
2279 (m) and amended, a new paragraph (1) is added to that
2280 subsection, paragraph (i) is added to subsection (6) of that
2281 section, and paragraph (c) of subsection (2), paragraph (c) of
2282 subsection (5), paragraphs (c) and (d) of subsection (6), and
2283 paragraphs (b), (d), (g), (k), and (l) of subsection (10) of
2284 that section are amended, to read:

2285 720.303 Association powers and duties; meetings of board;
2286 official records; budgets; financial reporting; association
2287 funds; recalls.—

2288 (2) BOARD MEETINGS.—

2289 (c) The bylaws shall provide the following for giving
2290 notice to parcel owners and members of all board meetings and,
2291 if they do not do so, shall be deemed to include the following:

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2292 1. Notices of all board meetings must be posted in a
2293 conspicuous place in the community at least 48 hours in advance
2294 of a meeting, except in an emergency. In the alternative, if
2295 notice is not posted in a conspicuous place in the community,
2296 notice of each board meeting must be mailed or delivered to each
2297 member at least 7 days before the meeting, except in an
2298 emergency. Notwithstanding this general notice requirement, for
2299 communities with more than 100 members, the association bylaws
2300 may provide for a reasonable alternative to posting or mailing
2301 of notice for each board meeting, including publication of
2302 notice, provision of a schedule of board meetings, or the
2303 conspicuous posting and repeated broadcasting of the notice on a
2304 closed-circuit cable television system serving the homeowners'
2305 association. However, if broadcast notice is used in lieu of a
2306 notice posted physically in the community, the notice must be
2307 broadcast at least four times every broadcast hour of each day
2308 that a posted notice is otherwise required. When broadcast
2309 notice is provided, the notice and agenda must be broadcast in a
2310 manner and for a sufficient continuous length of time so as to
2311 allow an average reader to observe the notice and read and
2312 comprehend the entire content of the notice and the agenda. In
2313 addition to any of the authorized means of providing notice of a
2314 meeting of the board, the association may, by rule, adopt a
2315 procedure for conspicuously posting the meeting notice and the
2316 agenda on the association's website or an application that can
2317 be downloaded on a mobile device for at least the minimum period
2318 of time for which a notice of a meeting is also required to be
2319 physically posted on the association property. Any rule adopted
2320 must, in addition to other matters, include a requirement that

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2321 the association send an electronic notice to members whose e-
2322 mail addresses are included in the association's official
2323 records in the same manner as is required for a notice of a
2324 meeting of the members. Such notice must include a hyperlink to
2325 the website or such mobile application on which the meeting
2326 notice is posted. The association may provide notice by
2327 electronic transmission in a manner authorized by law for
2328 meetings of the board of directors, committee meetings requiring
2329 notice under this section, and annual and special meetings of
2330 the members to any member who has provided a facsimile number or
2331 e-mail address to the association to be used for such purposes;
2332 however, a member must consent in writing to receiving notice by
2333 electronic transmission.

2334 2. An assessment may not be levied at a board meeting
2335 unless the notice of the meeting includes a statement that
2336 assessments will be considered and the nature of the
2337 assessments. Written notice of any meeting at which special
2338 assessments will be considered or at which amendments to rules
2339 regarding parcel use will be considered must be mailed,
2340 delivered, or electronically transmitted to the members and
2341 parcel owners and posted conspicuously on the property or
2342 broadcast on closed-circuit cable television not less than 14
2343 days before the meeting.

2344 3. Directors may not vote by proxy or by secret ballot at
2345 board meetings, except that secret ballots may be used in the
2346 election of officers. This subsection also applies to the
2347 meetings of any committee or other similar body, when a final
2348 decision will be made regarding the expenditure of association
2349 funds, and to any body vested with the power to approve or

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2350 disapprove architectural decisions with respect to a specific
2351 parcel of residential property owned by a member of the
2352 community.

2353 (4) OFFICIAL RECORDS.—The association shall maintain each
2354 of the following items, when applicable, which constitute the
2355 official records of the association:

2356 (1) Ballots, sign-in sheets, voting proxies, and all other
2357 papers and electronic records relating to voting by parcel
2358 owners, which must be maintained for at least 1 year after the
2359 date of the election, vote, or meeting.

2360 (m) ~~(l)~~ All other written records of the association not
2361 specifically included in this subsection ~~the foregoing~~ which are
2362 related to the operation of the association.

2363 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2364 shall be maintained within the state for at least 7 years and
2365 shall be made available to a parcel owner for inspection or
2366 photocopying within 45 miles of the community or within the
2367 county in which the association is located within 10 business
2368 days after receipt by the board or its designee of a written
2369 request. This subsection may be complied with by having a copy
2370 of the official records available for inspection or copying in
2371 the community or, at the option of the association, by making
2372 the records available to a parcel owner electronically via the
2373 Internet or by allowing the records to be viewed in electronic
2374 format on a computer screen and printed upon request. If the
2375 association has a photocopy machine available where the records
2376 are maintained, it must provide parcel owners with copies on
2377 request during the inspection if the entire request is limited
2378 to no more than 25 pages. An association shall allow a member or

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2379 his or her authorized representative to use a portable device,
2380 including a smartphone, tablet, portable scanner, or any other
2381 technology capable of scanning or taking photographs, to make an
2382 electronic copy of the official records in lieu of the
2383 association's providing the member or his or her authorized
2384 representative with a copy of such records. The association may
2385 not charge a fee to a member or his or her authorized
2386 representative for the use of a portable device.

2387 (c) The association may adopt reasonable written rules
2388 governing the frequency, time, location, notice, records to be
2389 inspected, and manner of inspections, but may not require a
2390 parcel owner to demonstrate any proper purpose for the
2391 inspection, state any reason for the inspection, or limit a
2392 parcel owner's right to inspect records to less than one 8-hour
2393 business day per month. The association may impose fees to cover
2394 the costs of providing copies of the official records, including
2395 the costs of copying and the costs required for personnel to
2396 retrieve and copy the records if the time spent retrieving and
2397 copying the records exceeds one-half hour and if the personnel
2398 costs do not exceed \$20 per hour. Personnel costs may not be
2399 charged for records requests that result in the copying of 25 or
2400 fewer pages. The association may charge up to 25 cents per page
2401 for copies made on the association's photocopier. If the
2402 association does not have a photocopy machine available where
2403 the records are kept, or if the records requested to be copied
2404 exceed 25 pages in length, the association may have copies made
2405 by an outside duplicating service and may charge the actual cost
2406 of copying, as supported by the vendor invoice. The association
2407 shall maintain an adequate number of copies of the recorded

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2408 governing documents, to ensure their availability to members and
2409 prospective members. Notwithstanding this paragraph, the
2410 following records are not accessible to members or parcel
2411 owners:

2412 1. Any record protected by the lawyer-client privilege as
2413 described in s. 90.502 and any record protected by the work-
2414 product privilege, including, but not limited to, a record
2415 prepared by an association attorney or prepared at the
2416 attorney's express direction which reflects a mental impression,
2417 conclusion, litigation strategy, or legal theory of the attorney
2418 or the association and which was prepared exclusively for civil
2419 or criminal litigation or for adversarial administrative
2420 proceedings or which was prepared in anticipation of such
2421 litigation or proceedings until the conclusion of the litigation
2422 or proceedings.

2423 2. Information obtained by an association in connection
2424 with the approval of the lease, sale, or other transfer of a
2425 parcel.

2426 3. Information an association obtains in a gated community
2427 in connection with guests' visits to parcel owners or community
2428 residents.

2429 4. Personnel records of association or management company
2430 employees, including, but not limited to, disciplinary, payroll,
2431 health, and insurance records. For purposes of this
2432 subparagraph, the term "personnel records" does not include
2433 written employment agreements with an association or management
2434 company employee or budgetary or financial records that indicate
2435 the compensation paid to an association or management company
2436 employee.

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2437 ~~5.4.~~ Medical records of parcel owners or community
2438 residents.

2439 ~~6.5.~~ Social security numbers, driver license numbers,
2440 credit card numbers, electronic mailing addresses, telephone
2441 numbers, facsimile numbers, emergency contact information, any
2442 addresses for a parcel owner other than as provided for
2443 association notice requirements, and other personal identifying
2444 information of any person, excluding the person's name, parcel
2445 designation, mailing address, and property address.
2446 Notwithstanding the restrictions in this subparagraph, an
2447 association may print and distribute to parcel owners a
2448 directory containing the name, parcel address, and all telephone
2449 numbers of each parcel owner. However, an owner may exclude his
2450 or her telephone numbers from the directory by so requesting in
2451 writing to the association. An owner may consent in writing to
2452 the disclosure of other contact information described in this
2453 subparagraph. The association is not liable for the disclosure
2454 of information that is protected under this subparagraph if the
2455 information is included in an official record of the association
2456 and is voluntarily provided by an owner and not requested by the
2457 association.

2458 ~~7.6.~~ Any electronic security measure that is used by the
2459 association to safeguard data, including passwords.

2460 ~~8.7.~~ The software and operating system used by the
2461 association which allows the manipulation of data, even if the
2462 owner owns a copy of the same software used by the association.
2463 The data is part of the official records of the association.

2464 (6) BUDGETS.—

2465 (c)1. If the budget of the association does not provide for

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2466 reserve accounts under ~~pursuant to~~ paragraph (d), or the
2467 declaration of covenants, articles, or bylaws do not obligate
2468 the developer to create reserves, and the association is
2469 responsible for the repair and maintenance of capital
2470 improvements that may result in a special assessment if reserves
2471 are not provided or not fully funded, each financial report for
2472 the preceding fiscal year required by subsection (7) must
2473 contain the following statement in conspicuous type:

2474
2475 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
2476 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2477 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
2478 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
2479 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
2480 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
2481 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
2482 MEETING OR BY WRITTEN CONSENT.

2483 2. If the budget of the association does provide for
2484 funding accounts for deferred expenditures, including, but not
2485 limited to, funds for capital expenditures and deferred
2486 maintenance, but such accounts are not created or established
2487 under ~~pursuant to~~ paragraph (d), each financial report for the
2488 preceding fiscal year required under subsection (7) must also
2489 contain the following statement in conspicuous type:

2490 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
2491 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
2492 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
2493 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
2494 TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION

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2495 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
2496 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
2497 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

2498 (d) An association is deemed to have provided for reserve
2499 accounts ~~if reserve accounts have been initially established by~~
2500 ~~the developer or if the membership of the association~~
2501 ~~affirmatively elects to provide for reserves. If reserve~~
2502 ~~accounts are established by the developer, the budget must~~
2503 ~~designate the components for which the reserve accounts may be~~
2504 ~~used. If reserve accounts are not initially provided by the~~
2505 ~~developer, the membership of the association may elect to do so~~
2506 upon the affirmative approval of a majority of the total voting
2507 interests of the association. Such approval may be obtained by
2508 vote of the members at a duly called meeting of the membership
2509 or by the written consent of a majority of the total voting
2510 interests of the association. The approval action of the
2511 membership must state that reserve accounts shall be provided
2512 for in the budget and must designate the components for which
2513 the reserve accounts are to be established. Upon approval by the
2514 membership, the board of directors shall include the required
2515 reserve accounts in the budget in the next fiscal year following
2516 the approval and each year thereafter. Once established as
2517 provided in this subsection, the reserve accounts must be funded
2518 or maintained or have their funding waived in the manner
2519 provided in paragraph (f).

2520 (i)1. While a developer is in control of a homeowners'
2521 association, the developer may, but is not required to, include
2522 reserves in the budget. If the developer includes reserves in
2523 the budget, the developer may determine the amount of reserves

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2524 included. The developer is not obligated to pay for:

2525 a. Contributions to reserve accounts for capital
2526 expenditures and deferred maintenance, as well as any other
2527 reserves that the homeowners' association or the developer may
2528 be required to fund pursuant to any state, municipal, county, or
2529 other governmental statute or ordinance;

2530 b. Operating expenses; or

2531 c. Any other assessments related to the developer's parcels
2532 for any period of time for which the developer has provided in
2533 the declaration that in lieu of paying any assessments imposed
2534 on any parcel owned by the developer, the developer need only
2535 pay the deficit, if any, in any fiscal year of the association,
2536 between the total amount of the assessments receivable from
2537 other members plus any other association income and the lesser
2538 of the budgeted or actual expenses incurred by the association
2539 during such fiscal year.

2540 2. This paragraph applies to all homeowners' associations
2541 existing on or created after July 1, 2021.

2542 (10) RECALL OF DIRECTORS.—

2543 (b)1. Board directors may be recalled by an agreement in
2544 writing or by written ballot without a membership meeting. The
2545 agreement in writing or the written ballots, or a copy thereof,
2546 shall be served on the association by certified mail or by
2547 personal service in the manner authorized by chapter 48 and the
2548 Florida Rules of Civil Procedure.

2549 2. The board shall duly notice and hold a meeting of the
2550 board within 5 full business days after receipt of the agreement
2551 in writing or written ballots. At the meeting, the board shall
2552 either certify the written ballots or written agreement to

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2553 recall a director or directors of the board, in which case such
2554 director or directors shall be recalled effective immediately
2555 and shall turn over to the board within 5 full business days any
2556 and all records and property of the association in their
2557 possession, or proceed as described in paragraph (d).

2558 3. When it is determined by the department pursuant to
2559 binding arbitration proceedings or the court in an action filed
2560 in a court of competent jurisdiction that an initial recall
2561 effort was defective, written recall agreements or written
2562 ballots used in the first recall effort and not found to be
2563 defective may be reused in one subsequent recall effort.
2564 However, in no event is a written agreement or written ballot
2565 valid for more than 120 days after it has been signed by the
2566 member.

2567 4. Any rescission or revocation of a member's written
2568 recall ballot or agreement must be in writing and, in order to
2569 be effective, must be delivered to the association before the
2570 association is served with the written recall agreements or
2571 ballots.

2572 5. The agreement in writing or ballot shall list at least
2573 as many possible replacement directors as there are directors
2574 subject to the recall, when at least a majority of the board is
2575 sought to be recalled; the person executing the recall
2576 instrument may vote for as many replacement candidates as there
2577 are directors subject to the recall.

2578 (d) If the board determines not to certify the written
2579 agreement or written ballots to recall a director or directors
2580 of the board or does not certify the recall by a vote at a
2581 meeting, the board shall, within 5 full business days after the

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2582 meeting, file an action with a court of competent jurisdiction
2583 or file with the department a petition for binding arbitration
2584 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2585 and 718.1255 and the rules adopted thereunder. For the purposes
2586 of this section, the members who voted at the meeting or who
2587 executed the agreement in writing shall constitute one party
2588 under the petition for arbitration or in a court action. If the
2589 arbitrator or court certifies the recall as to any director or
2590 directors of the board, the recall will be effective upon the
2591 final order of the court or the mailing of the final order of
2592 arbitration to the association. The director or directors so
2593 recalled shall deliver to the board any and all records of the
2594 association in their possession within 5 full business days
2595 after the effective date of the recall.

2596 (g) If the board fails to duly notice and hold the required
2597 meeting or fails to file the required petition or action, the
2598 parcel unit owner representative may file a petition or a court
2599 action under ~~pursuant to~~ s. 718.1255 challenging the board's
2600 failure to act. The petition or action must be filed within 60
2601 days after the expiration of the applicable 5-full-business-day
2602 period. The review of a petition or action under this paragraph
2603 is limited to the sufficiency of service on the board and the
2604 facial validity of the written agreement or ballots filed.

2605 (k) A board member who has been recalled may file an action
2606 with a court of competent jurisdiction or a petition under
2607 ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules adopted
2608 challenging the validity of the recall. The petition or action
2609 must be filed within 60 days after the recall is deemed
2610 certified. The association and the parcel unit owner

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2611 representative shall be named as respondents.

2612 (1) The division or a court of competent jurisdiction may
2613 not accept for filing a recall petition or action, whether filed
2614 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2615 or paragraph (k) and regardless of whether the recall was
2616 certified, when there are 60 or fewer days until the scheduled
2617 reelection of the board member sought to be recalled or when 60
2618 or fewer days have not elapsed since the election of the board
2619 member sought to be recalled.

2620 Section 21. Subsection (2) of section 720.305, Florida
2621 Statutes, is amended to read:

2622 720.305 Obligations of members; remedies at law or in
2623 equity; levy of fines and suspension of use rights.—

2624 (2) An ~~The~~ association may levy reasonable fines. A fine
2625 may not exceed \$100 per violation against any member or any
2626 member's tenant, guest, or invitee for the failure of the owner
2627 of the parcel or its occupant, licensee, or invitee to comply
2628 with any provision of the declaration, the association bylaws,
2629 or reasonable rules of the association unless otherwise provided
2630 in the governing documents. A fine may be levied by the board
2631 for each day of a continuing violation, with a single notice and
2632 opportunity for hearing, except that the fine may not exceed
2633 \$1,000 in the aggregate unless otherwise provided in the
2634 governing documents. A fine of less than \$1,000 may not become a
2635 lien against a parcel. In any action to recover a fine, the
2636 prevailing party is entitled to reasonable attorney fees and
2637 costs from the nonprevailing party as determined by the court.

2638 (a) An association may suspend, for a reasonable period of
2639 time, the right of a member, or a member's tenant, guest, or

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2640 invitee, to use common areas and facilities for the failure of
2641 the owner of the parcel or its occupant, licensee, or invitee to
2642 comply with any provision of the declaration, the association
2643 bylaws, or reasonable rules of the association. This paragraph
2644 does not apply to that portion of common areas used to provide
2645 access or utility services to the parcel. A suspension may not
2646 prohibit an owner or tenant of a parcel from having vehicular
2647 and pedestrian ingress to and egress from the parcel, including,
2648 but not limited to, the right to park.

2649 (b) A fine or suspension levied by the board of
2650 administration may not be imposed unless the board first
2651 provides at least 14 days' notice to the parcel owner and, if
2652 applicable, any occupant, licensee, or invitee of the parcel
2653 owner, sought to be fined or suspended and an opportunity for a
2654 hearing before a committee of at least three members appointed
2655 by the board who are not officers, directors, or employees of
2656 the association, or the spouse, parent, child, brother, or
2657 sister of an officer, director, or employee. If the committee,
2658 by majority vote, does not approve a proposed fine or
2659 suspension, the proposed fine or suspension may not be imposed.
2660 The role of the committee is limited to determining whether to
2661 confirm or reject the fine or suspension levied by the board. If
2662 the proposed fine or suspension levied by the board is approved
2663 by the committee, the fine payment is due 5 days after notice of
2664 the approved fine is provided to the parcel owner and, if
2665 applicable, to any occupant, licensee, or invitee of the parcel
2666 owner ~~the date of the committee meeting at which the fine is~~
2667 ~~approved~~. The association must provide written notice of such
2668 fine or suspension by mail or hand delivery to the parcel owner

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2669 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
2670 of the parcel owner.

2671 Section 22. Paragraph (g) of subsection (1) and paragraph
2672 (c) of subsection (9) of section 720.306, Florida Statutes, are
2673 amended, and paragraph (h) is added to subsection (1) of that
2674 section, to read:

2675 720.306 Meetings of members; voting and election
2676 procedures; amendments.—

2677 (1) QUORUM; AMENDMENTS.—

2678 (g) A notice required under this section must be mailed or
2679 delivered to the address identified as the parcel owner's
2680 mailing address in the official records of the association as
2681 required under s. 720.303(4) ~~on the property appraiser's website~~
2682 ~~for the county in which the parcel is located~~, or electronically
2683 transmitted in a manner authorized by the association if the
2684 parcel owner has consented, in writing, to receive notice by
2685 electronic transmission.

2686 (h)1. Except as otherwise provided in this paragraph, any
2687 governing document, or amendment to a governing document, that
2688 is enacted after July 1, 2021, and that prohibits or regulates
2689 rental agreements applies only to a parcel owner who acquires
2690 title to the parcel after the effective date of the governing
2691 document or amendment, or to a parcel owner who consents,
2692 individually or through a representative, to the governing
2693 document or amendment.

2694 2. Notwithstanding subparagraph 1., an association may
2695 amend its governing documents to prohibit or regulate rental
2696 agreements for a term of less than 6 months and may prohibit the
2697 rental of a parcel for more than three times in a calendar year,

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2698 and such amendments shall apply to all parcel owners.

2699 3. This paragraph does not affect the amendment
2700 restrictions for associations of 15 or fewer parcel owners under
2701 s. 720.303(1).

2702 4. For purposes of this paragraph, a change of ownership
2703 does not occur when a parcel owner conveys the parcel to an
2704 affiliated entity, when beneficial ownership of the parcel does
2705 not change, or when an heir becomes the parcel owner. For
2706 purposes of this subparagraph, the term "affiliated entity"
2707 means an entity that controls, is controlled by, or is under
2708 common control with the parcel owner or that becomes a parent or
2709 successor entity by reason of transfer, merger, consolidation,
2710 public offering, reorganization, dissolution or sale of stock,
2711 or transfer of membership partnership interests. For a
2712 conveyance to be recognized as one made to an affiliated entity,
2713 the entity must furnish to the association a document certifying
2714 that this subparagraph applies and provide any organizational
2715 documents for the parcel owner and the affiliated entity which
2716 support the representations in the certificate, as requested by
2717 the association.

2718 5. For purposes of this paragraph, a change of ownership
2719 does occur when, with respect to a parcel owner that is a
2720 business entity, every person that owned an interest in the real
2721 property at the time of the enactment of the amendment or rule
2722 conveys their interest in the real property to an unaffiliated
2723 entity.

2724 (9) ELECTIONS AND BOARD VACANCIES.—

2725 (c) Any election dispute between a member and an
2726 association must be submitted to ~~mandatory~~ binding arbitration

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2727 with the division or filed with a court of competent
2728 jurisdiction. Such proceedings that are submitted to binding
2729 arbitration with the division must be conducted in the manner
2730 provided by s. 718.1255 and the procedural rules adopted by the
2731 division. Unless otherwise provided in the bylaws, any vacancy
2732 occurring on the board before the expiration of a term may be
2733 filled by an affirmative vote of the majority of the remaining
2734 directors, even if the remaining directors constitute less than
2735 a quorum, or by the sole remaining director. In the alternative,
2736 a board may hold an election to fill the vacancy, in which case
2737 the election procedures must conform to the requirements of the
2738 governing documents. Unless otherwise provided in the bylaws, a
2739 board member appointed or elected under this section is
2740 appointed for the unexpired term of the seat being filled.
2741 Filling vacancies created by recall is governed by s.
2742 720.303(10) and rules adopted by the division.

2743 Section 23. Subsections (1) and (2) of section 720.307,
2744 Florida Statutes, are amended to read:

2745 720.307 Transition of association control in a community.—
2746 With respect to homeowners' associations:

2747 (1) Members other than the developer are entitled to elect
2748 at least a majority of the members of the board of directors of
2749 the homeowners' association when the earlier of the following
2750 events occurs:

2751 (a) Three months after 90 percent of the parcels in all
2752 phases of the community that will ultimately be operated by the
2753 homeowners' association have been conveyed to members other than
2754 the developer;

2755 (b) Such other percentage of the parcels has been conveyed

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2756 to members, or such other date or event has occurred, as is set
2757 forth in the governing documents in order to comply with the
2758 requirements of any governmentally chartered entity with regard
2759 to the mortgage financing of parcels;

2760 (c) Upon the developer abandoning or deserting its
2761 responsibility to maintain and complete the amenities or
2762 infrastructure as disclosed in the governing documents. There is
2763 a rebuttable presumption that the developer has abandoned and
2764 deserted the property if the developer has unpaid assessments or
2765 guaranteed amounts under s. 720.308 for a period of more than 2
2766 years;

2767 (d) Upon the developer filing a petition seeking protection
2768 under chapter 7 of the federal Bankruptcy Code;

2769 (e) Upon the developer losing title to the property through
2770 a foreclosure action or the transfer of a deed in lieu of
2771 foreclosure, unless the successor owner has accepted an
2772 assignment of developer rights and responsibilities first
2773 arising after the date of such assignment; or

2774 (f) Upon a receiver for the developer being appointed by a
2775 circuit court and not being discharged within 30 days after such
2776 appointment, unless the court determines within 30 days after
2777 such appointment that transfer of control would be detrimental
2778 to the association or its members.

2779
2780 For purposes of this section, the term "members other than the
2781 developer" shall not include builders, contractors, or others
2782 who purchase a parcel for the purpose of constructing
2783 improvements thereon for resale.

2784 (2) Members other than the developer are entitled to elect

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2785 at least one member of the board of directors of the homeowners'
2786 association if 50 percent of the parcels in all phases of the
2787 community which will ultimately be operated by the association
2788 have been conveyed to members other than the developer.

2789 Section 24. Subsection (1) of section 720.311, Florida
2790 Statutes, is amended to read:

2791 720.311 Dispute resolution.—

2792 (1) The Legislature finds that alternative dispute
2793 resolution has made progress in reducing court dockets and
2794 trials and in offering a more efficient, cost-effective option
2795 to litigation. The filing of any petition for arbitration or the
2796 serving of a demand for presuit mediation as provided for in
2797 this section shall toll the applicable statute of limitations.
2798 Any recall dispute filed with the department under ~~pursuant to~~
2799 s. 720.303(10) shall be conducted by the department in
2800 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
2801 and the rules adopted by the division. In addition, the
2802 department shall conduct ~~mandatory~~ binding arbitration of
2803 election disputes between a member and an association in
2804 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
2805 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
2806 not eligible for presuit mediation; these disputes must ~~shall~~ be
2807 arbitrated by the department or filed in a court of competent
2808 jurisdiction. At the conclusion of an arbitration ~~the~~
2809 proceeding, the department shall charge the parties a fee in an
2810 amount adequate to cover all costs and expenses incurred by the
2811 department in conducting the proceeding. Initially, the
2812 petitioner shall remit a filing fee of at least \$200 to the
2813 department. The fees paid to the department shall become a

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2814 recoverable cost in the arbitration proceeding, and the
2815 prevailing party in an arbitration proceeding shall recover its
2816 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2817 reasonable by the arbitrator. The department shall adopt rules
2818 to effectuate the purposes of this section.

2819 Section 25. Subsection (6) is added to section 720.3075,
2820 Florida Statutes, to read:

2821 720.3075 Prohibited clauses in association documents.—

2822 (6) An association may extinguish a discriminatory
2823 restriction as provided in s. 712.065.

2824 Section 26. Section 720.316, Florida Statutes, is amended
2825 to read:

2826 720.316 Association emergency powers.—

2827 (1) To the extent allowed by law, unless specifically
2828 prohibited by the declaration or other recorded governing
2829 documents, and consistent with s. 617.0830, the board of
2830 directors, in response to damage or injury caused by or
2831 anticipated in connection with an emergency, as defined in s.
2832 252.34(4), ~~event~~ for which a state of emergency is declared
2833 pursuant to s. 252.36 in the area encompassed by the
2834 association, may exercise the following powers:

2835 (a) Conduct board meetings, committee meetings, elections,
2836 or membership meetings, in whole or in part, by telephone, real-
2837 time videoconferencing, or similar real-time electronic or video
2838 communication after notice of the meetings and board decisions
2839 is provided in as practicable a manner as possible, including
2840 via publication, radio, United States mail, the Internet,
2841 electronic transmission, public service announcements,
2842 conspicuous posting on the common area ~~association property~~, or

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2843 any other means the board deems appropriate under the
2844 circumstances. Notice of decisions may also be communicated as
2845 provided in this paragraph.

2846 (b) Cancel and reschedule an association meeting.

2847 (c) Designate assistant officers who are not directors. If
2848 the executive officer is incapacitated or unavailable, the
2849 assistant officer has the same authority during the state of
2850 emergency as the executive officer he or she assists.

2851 (d) Relocate the association's principal office or
2852 designate an alternative principal office.

2853 (e) Enter into agreements with counties and municipalities
2854 to assist counties and municipalities with debris removal.

2855 (f) Implement a disaster or an emergency plan before,
2856 during, or ~~immediately~~ following the event for which a state of
2857 emergency is declared, which may include, but is not limited to,
2858 turning on or shutting off elevators; electricity; water, sewer,
2859 or security systems; or air conditioners for association
2860 buildings.

2861 (g) Based upon the advice of emergency management officials
2862 or public health officials, or upon the advice of licensed
2863 professionals retained by or otherwise available to the board,
2864 determine any portion of the common areas or facilities
2865 ~~association property~~ unavailable for entry or occupancy by
2866 owners or their family members, tenants, guests, agents, or
2867 invitees to protect their health, safety, or welfare.

2868 (h) Based upon the advice of emergency management officials
2869 or public health officials or upon the advice of licensed
2870 professionals retained by or otherwise available to the board,
2871 determine whether the common areas or facilities ~~association~~

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2872 ~~property~~ can be safely inhabited, accessed, or occupied.

2873 However, such determination is not conclusive as to any
2874 determination of habitability pursuant to the declaration.

2875 (i) Mitigate further damage, injury, or contagion,
2876 including taking action to contract for the removal of debris
2877 and to prevent or mitigate the spread of fungus, including mold
2878 or mildew, by removing and disposing of wet drywall, insulation,
2879 carpet, cabinetry, or other fixtures on or within the common
2880 areas or facilities or sanitizing the common areas or facilities
2881 ~~association property~~.

2882 (j) Notwithstanding a provision to the contrary, and
2883 regardless of whether such authority does not specifically
2884 appear in the declaration or other recorded governing documents,
2885 levy special assessments without a vote of the owners.

2886 (k) Without owners' approval, borrow money and pledge
2887 association assets as collateral to fund emergency repairs and
2888 carry out the duties of the association if operating funds are
2889 insufficient. This paragraph does not limit the general
2890 authority of the association to borrow money, subject to such
2891 restrictions contained in the declaration or other recorded
2892 governing documents.

2893 (2) The authority granted under subsection (1) is limited
2894 to that time reasonably necessary to protect the health, safety,
2895 and welfare of the association and the parcel owners and their
2896 family members, tenants, guests, agents, or invitees, and to
2897 mitigate further damage, injury, or contagion and make emergency
2898 repairs.

2899 (3) Notwithstanding paragraphs (1) (f)-(i), during a state
2900 of emergency declared by executive order or proclamation of the

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2901 Governor pursuant to s. 252.36, an association may not prohibit
2902 parcel owners, tenants, guests, agents, or invitees of a parcel
2903 owner from accessing the common areas and facilities for the
2904 purposes of ingress to and egress from the parcel when access is
2905 necessary in connection with:

2906 (a) The sale, lease, or other transfer of title of a
2907 parcel; or

2908 (b) The habitability of the parcel or for the health and
2909 safety of such person unless a governmental order or
2910 determination, or a public health directive from the Centers for
2911 Disease Control and Prevention, has been issued prohibiting such
2912 access to the parcel. Any such access is subject to reasonable
2913 restrictions adopted by the association.

2914 Section 27. This act shall take effect July 1, 2021.