

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 limiting which records a renter of a unit may inspect
13 and copy; revising requirements relating to the
14 posting of digital copies of certain documents by
15 certain condominium associations; amending s. 718.112,
16 F.S.; authorizing a condominium association to
17 extinguish discriminatory restrictions; revising the
18 calculation used in determining a board member's term
19 limit; providing requirements for certain notices;
20 revising the fees that an association may charge for
21 transfers; deleting a prohibition against employing or
22 contracting with certain service providers; amending
23 s. 718.113, F.S.; revising legislative findings;
24 defining the terms "natural gas fuel" and "natural gas
25 fuel vehicle"; revising requirements for electric

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46 | of certain escrow funds withdrawn by developers;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

51 certain fines; amending s. 718.405, F.S.; providing
52 clarifying language relating to certain
53 multicondominium declarations; providing
54 applicability; amending s. 718.501, F.S.; conforming
55 provisions to changes made by the act; amending s.
56 718.5014, F.S.; revising a requirement regarding the
57 location of the principal office of the Office of the
58 Condominium Ombudsman; amending s. 719.103, F.S.;
59 revising the definition of the term "unit" to specify
60 that an interest in a cooperative unit is an interest
61 in real property; amending s. 719.104, F.S.;
62 prohibiting an association from requiring certain
63 actions relating to the inspection of records;
64 amending s. 719.106, F.S.; revising provisions
65 relating to a quorum and voting rights for members
66 remotely participating in meetings; revising the
67 procedure to challenge a board member recall;
68 authorizing cooperative associations to extinguish
69 discriminatory restrictions; amending s. 719.128,
70 F.S.; revising emergency powers for cooperative
71 associations; prohibiting cooperative associations
72 from taking certain actions during a declared state of
73 emergency; amending s. 720.301, F.S.; revising the
74 definition of the term "governing documents"; amending
75 s. 720.303, F.S.; authorizing an association to adopt

76 | procedures for electronic meeting notices; revising
77 | the documents that constitute the official records of
78 | an association; revising the circumstances under which
79 | a specified statement must be included in an
80 | association's financial report; revising requirements
81 | for such statement; revising the circumstances under
82 | which an association is deemed to have provided for
83 | reserve accounts; revising the procedure to challenge
84 | a board member recall; amending s. 720.305, F.S.;
85 | providing requirements for certain fines levied by a
86 | board of administration; amending s. 720.306, F.S.;
87 | revising requirements for providing certain notices;
88 | providing limitations on associations when a parcel
89 | owner attempts to rent or lease his or her parcel;
90 | defining the term "affiliated entity"; revising the
91 | procedure for election disputes; amending s. 720.311,
92 | F.S.; revising the dispute resolution requirements for
93 | election disputes and recall disputes; amending s.
94 | 720.3075, F.S.; authorizing homeowners' associations
95 | to extinguish discriminatory restrictions; amending s.
96 | 720.316, F.S.; revising emergency powers of
97 | homeowners' associations; prohibiting homeowners'
98 | associations from taking certain actions during a
99 | declared state of emergency; providing an effective
100 | date.

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

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

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

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

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

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

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

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

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

128 718.111 The association.—

129 (12) OFFICIAL RECORDS.—

130 (a) From the inception of the association, the association
 131 shall maintain each of the following items, if applicable, which
 132 constitutes the official records of the association:

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

135 2. A photocopy of the recorded declaration of condominium
 136 of each condominium operated by the association and each
 137 amendment to each declaration.

138 3. A photocopy of the recorded bylaws of the association
 139 and each amendment to the bylaws.

140 4. A certified copy of the articles of incorporation of
 141 the association, or other documents creating the association,
 142 and each amendment thereto.

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

144 6. A book or books that contain the minutes of all
 145 meetings of the association, the board of administration, and
 146 the unit owners.

147 7. A current roster of all unit owners and their mailing
 148 addresses, unit identifications, voting certifications, and, if
 149 known, telephone numbers. The association shall also maintain
 150 the e-mail addresses and facsimile numbers of unit owners

151 consenting to receive notice by electronic transmission. The e-
152 mail addresses and facsimile numbers are not accessible to unit
153 owners if consent to receive notice by electronic transmission
154 is not provided in accordance with sub-subparagraph (c)3.e.
155 However, the association is not liable for an inadvertent
156 disclosure of the e-mail address or facsimile number for
157 receiving electronic transmission of notices.

158 8. All current insurance policies of the association and
159 condominiums operated by the association.

160 9. A current copy of any management agreement, lease, or
161 other contract to which the association is a party or under
162 which the association or the unit owners have an obligation or
163 responsibility.

164 10. Bills of sale or transfer for all property owned by
165 the association.

166 11. Accounting records for the association and separate
167 accounting records for each condominium that the association
168 operates. Any person who knowingly or intentionally defaces or
169 destroys such records, or who knowingly or intentionally fails
170 to create or maintain such records, with the intent of causing
171 harm to the association or one or more of its members, is
172 personally subject to a civil penalty under ~~pursuant to~~ s.
173 718.501(1)(d). The accounting records must include, but are not
174 limited to:

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

176 receipts and expenditures.

177 b. A current account and a monthly, bimonthly, or
 178 quarterly statement of the account for each unit designating the
 179 name of the unit owner, the due date and amount of each
 180 assessment, the amount paid on the account, and the balance due.

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

183 d. All contracts for work to be performed. Bids for work
 184 to be performed are also considered official records and must be
 185 maintained by the association for at least 1 year after receipt
 186 of the bid.

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

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

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

196 15. ~~All other written records of the association not~~
 197 ~~specifically included in the foregoing which are related to the~~
 198 ~~operation of the association.~~

199 ~~16.~~ A copy of the inspection report as described in s.
 200 718.301(4)(p).

201 ~~16.17.~~ Bids for materials, equipment, or services.

202 17. All other written records of the association not
203 specified in subparagraphs 1.-16. which are related to the
204 operation of the association.

205 (b) The official records specified in subparagraphs (a)1.-
206 6. must be permanently maintained from the inception of the
207 association. Bids for work to be performed or for materials,
208 equipment, or services must be maintained for at least 1 year
209 after receipt of the bid. All other official records must be
210 maintained within the state for at least 7 years, unless
211 otherwise provided by general law. The records of the
212 association shall be made available to a unit owner within 45
213 miles of the condominium property or within the county in which
214 the condominium property is located within 10 working days after
215 receipt of a written request by the board or its designee.
216 However, such distance requirement does not apply to an
217 association governing a timeshare condominium. This paragraph
218 may be complied with by having a copy of the official records of
219 the association available for inspection or copying on the
220 condominium property or association property, or the association
221 may offer the option of making the records available to a unit
222 owner electronically via the Internet or by allowing the records
223 to be viewed in electronic format on a computer screen and
224 printed upon request. The association is not responsible for the
225 use or misuse of the information provided to an association

226 member or his or her authorized representative in ~~pursuant to~~
227 ~~the~~ compliance with ~~requirements of~~ this chapter unless the
228 association has an affirmative duty not to disclose such
229 information under ~~pursuant to~~ this chapter.

230 (c)1. The official records of the association are open to
231 inspection by any association member or the authorized
232 representative of such member at all reasonable times. The right
233 to inspect the records includes the right to make or obtain
234 copies, at the reasonable expense, if any, of the member or
235 authorized representative of such member. A renter of a unit has
236 a right to inspect and copy only the declaration of condominium
237 and the association's bylaws and rules. The association may
238 adopt reasonable rules regarding the frequency, time, location,
239 notice, and manner of record inspections and copying, but may
240 not require a member to demonstrate any purpose or state any
241 reason for the inspection. The failure of an association to
242 provide the records within 10 working days after receipt of a
243 written request creates a rebuttable presumption that the
244 association willfully failed to comply with this paragraph. A
245 unit owner who is denied access to official records is entitled
246 to the actual damages or minimum damages for the association's
247 willful failure to comply. Minimum damages are \$50 per calendar
248 day for up to 10 days, beginning on the 11th working day after
249 receipt of the written request. The failure to permit inspection
250 entitles any person prevailing in an enforcement action to

251 recover reasonable attorney fees from the person in control of
 252 the records who, directly or indirectly, knowingly denied access
 253 to the records.

254 2. Any person who knowingly or intentionally defaces or
 255 destroys accounting records that are required by this chapter to
 256 be maintained during the period for which such records are
 257 required to be maintained, or who knowingly or intentionally
 258 fails to create or maintain accounting records that are required
 259 to be created or maintained, with the intent of causing harm to
 260 the association or one or more of its members, is personally
 261 subject to a civil penalty under ~~pursuant to~~ s. 718.501(1)(d).

262 3. The association shall maintain an adequate number of
 263 copies of the declaration, articles of incorporation, bylaws,
 264 and rules, and all amendments to each of the foregoing, as well
 265 as the question and answer sheet as described in s. 718.504 and
 266 year-end financial information required under this section, on
 267 the condominium property to ensure their availability to unit
 268 owners and prospective purchasers, and may charge its actual
 269 costs for preparing and furnishing these documents to those
 270 requesting the documents. An association shall allow a member or
 271 his or her authorized representative to use a portable device,
 272 including a smartphone, tablet, portable scanner, or any other
 273 technology capable of scanning or taking photographs, to make an
 274 electronic copy of the official records in lieu of the
 275 association's providing the member or his or her authorized

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

280 a. Any record protected by the lawyer-client privilege as
281 described in s. 90.502 and any record protected by the work-
282 product privilege, including a record prepared by an association
283 attorney or prepared at the attorney's express direction, which
284 reflects a mental impression, conclusion, litigation strategy,
285 or legal theory of the attorney or the association, and which
286 was prepared exclusively for civil or criminal litigation or for
287 adversarial administrative proceedings, or which was prepared in
288 anticipation of such litigation or proceedings until the
289 conclusion of the litigation or proceedings.

290 b. Information obtained by an association in connection
291 with the approval of the lease, sale, or other transfer of a
292 unit.

293 c. Personnel records of association or management company
294 employees, including, but not limited to, disciplinary, payroll,
295 health, and insurance records. For purposes of this sub-
296 subparagraph, the term "personnel records" does not include
297 written employment agreements with an association employee or
298 management company, or budgetary or financial records that
299 indicate the compensation paid to an association employee.

300 d. Medical records of unit owners.

301 e. Social security numbers, driver license numbers, credit
302 card numbers, e-mail addresses, telephone numbers, facsimile
303 numbers, emergency contact information, addresses of a unit
304 owner other than as provided to fulfill the association's notice
305 requirements, and other personal identifying information of any
306 person, excluding the person's name, unit designation, mailing
307 address, property address, and any address, e-mail address, or
308 facsimile number provided to the association to fulfill the
309 association's notice requirements. Notwithstanding the
310 restrictions in this sub-subparagraph, an association may print
311 and distribute to unit ~~parcel~~ owners a directory containing the
312 name, unit ~~parcel~~ address, and all telephone numbers of each
313 unit ~~parcel~~ owner. However, an owner may exclude his or her
314 telephone numbers from the directory by so requesting in writing
315 to the association. An owner may consent in writing to the
316 disclosure of other contact information described in this sub-
317 subparagraph. The association is not liable for the inadvertent
318 disclosure of information that is protected under this sub-
319 subparagraph if the information is included in an official
320 record of the association and is voluntarily provided by an
321 owner and not requested by the association.

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

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

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

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

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

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

337 (II) A website, application, or web portal operated by a
338 third-party provider with whom the association owns, leases,
339 rents, or otherwise obtains the right to operate a web page,
340 subpage, web portal, ~~or~~ collection of subpages or web portals,
341 or an application that is dedicated to the association's
342 activities and on which required notices, records, and documents
343 may be posted or made available by the association.

344 b. The association's website or application must be
345 accessible through the Internet and must contain a subpage, web
346 portal, or other protected electronic location that is
347 inaccessible to the general public and accessible only to unit
348 owners and employees of the association.

349 c. Upon a unit owner's written request, the association
350 must provide the unit owner with a username and password and

351 access to the protected sections of the association's website or
352 application that contain any notices, records, or documents that
353 must be electronically provided.

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

357 a. The recorded declaration of condominium of each
358 condominium operated by the association and each amendment to
359 each declaration.

360 b. The recorded bylaws of the association and each
361 amendment to the bylaws.

362 c. The articles of incorporation of the association, or
363 other documents creating the association, and each amendment to
364 the articles of incorporation or other documents ~~therein~~. The
365 copy posted pursuant to this sub-subparagraph must be a copy of
366 the articles of incorporation filed with the Department of
367 State.

368 d. The rules of the association.

369 e. A list of all executory contracts or documents to which
370 the association is a party or under which the association or the
371 unit owners have an obligation or responsibility and, after
372 bidding for the related materials, equipment, or services has
373 closed, a list of bids received by the association within the
374 past year. Summaries of bids for materials, equipment, or
375 services which exceed \$500 must be maintained on the website or

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

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

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

383 h. The certification of each director required by s.
384 718.112(2)(d)4.b.

385 i. All contracts or transactions between the association
386 and any director, officer, corporation, firm, or association
387 that is not an affiliated condominium association or any other
388 entity in which an association director is also a director or
389 officer and financially interested.

390 j. Any contract or document regarding a conflict of
391 interest or possible conflict of interest as provided in ss.
392 468.436(2)(b)6. and 718.3027(3).

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

401 meeting or any document listed on the agenda at least 7 days
402 before the meeting at which the document or the information
403 within the document will be considered.

404 1. Notice of any board meeting, the agenda, and any other
405 document required for the meeting as required by s.
406 718.112(2)(c), which must be posted no later than the date
407 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

408 3. The association shall ensure that the information and
409 records described in paragraph (c), which are not allowed to be
410 accessible to unit owners, are not posted on the association's
411 website or application. If protected information or information
412 restricted from being accessible to unit owners is included in
413 documents that are required to be posted on the association's
414 website or application, the association shall ensure the
415 information is redacted before posting the documents ~~online~~.
416 Notwithstanding the foregoing, the association or its agent is
417 not liable for disclosing information that is protected or
418 restricted under ~~pursuant to~~ this paragraph unless such
419 disclosure was made with a knowing or intentional disregard of
420 the protected or restricted nature of such information.

421 4. The failure of the association to post information
422 required under subparagraph 2. is not in and of itself
423 sufficient to invalidate any action or decision of the
424 association's board or its committees.

425 Section 4. Paragraphs (d), (i), (j), (k), and (p) of

426 subsection (2) of section 718.112, Florida Statutes, are
427 amended, and paragraph (c) is added to subsection (1) of that
428 section, to read:

429 718.112 Bylaws.—

430 (1) GENERALLY.—

431 (c) The association may extinguish a discriminatory
432 restriction as provided in s. 712.065.

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

436 (d) *Unit owner meetings.*—

437 1. An annual meeting of the unit owners must be held at
438 the location provided in the association bylaws and, if the
439 bylaws are silent as to the location, the meeting must be held
440 within 45 miles of the condominium property. However, such
441 distance requirement does not apply to an association governing
442 a timeshare condominium.

443 2. Unless the bylaws provide otherwise, a vacancy on the
444 board caused by the expiration of a director's term must be
445 filled by electing a new board member, and the election must be
446 by secret ballot. An election is not required if the number of
447 vacancies equals or exceeds the number of candidates. For
448 purposes of this paragraph, the term "candidate" means an
449 eligible person who has timely submitted the written notice, as
450 described in sub-subparagraph 4.a., of his or her intention to

451 become a candidate. Except in a timeshare or nonresidential
452 condominium, or if the staggered term of a board member does not
453 expire until a later annual meeting, or if all members' terms
454 would otherwise expire but there are no candidates, the terms of
455 all board members expire at the annual meeting, and such members
456 may stand for reelection unless prohibited by the bylaws. Board
457 members may serve terms longer than 1 year if permitted by the
458 bylaws or articles of incorporation. A board member may not
459 serve more than 8 consecutive years unless approved by an
460 affirmative vote of unit owners representing two-thirds of all
461 votes cast in the election or unless there are not enough
462 eligible candidates to fill the vacancies on the board at the
463 time of the vacancy. Only board service that occurs on or after
464 July 1, 2018, may be used when calculating a board member's term
465 limit. If the number of board members whose terms expire at the
466 annual meeting equals or exceeds the number of candidates, the
467 candidates become members of the board effective upon the
468 adjournment of the annual meeting. Unless the bylaws provide
469 otherwise, any remaining vacancies shall be filled by the
470 affirmative vote of the majority of the directors making up the
471 newly constituted board even if the directors constitute less
472 than a quorum or there is only one director. In a residential
473 condominium association of more than 10 units or in a
474 residential condominium association that does not include
475 timeshare units or timeshare interests, co-owners of a unit may

476 | not serve as members of the board of directors at the same time
477 | unless they own more than one unit or unless there are not
478 | enough eligible candidates to fill the vacancies on the board at
479 | the time of the vacancy. A unit owner in a residential
480 | condominium desiring to be a candidate for board membership must
481 | comply with sub-subparagraph 4.a. and must be eligible to be a
482 | candidate to serve on the board of directors at the time of the
483 | deadline for submitting a notice of intent to run in order to
484 | have his or her name listed as a proper candidate on the ballot
485 | or to serve on the board. A person who has been suspended or
486 | removed by the division under this chapter, or who is delinquent
487 | in the payment of any monetary obligation due to the
488 | association, is not eligible to be a candidate for board
489 | membership and may not be listed on the ballot. A person who has
490 | been convicted of any felony in this state or in a United States
491 | District or Territorial Court, or who has been convicted of any
492 | offense in another jurisdiction which would be considered a
493 | felony if committed in this state, is not eligible for board
494 | membership unless such felon's civil rights have been restored
495 | for at least 5 years as of the date such person seeks election
496 | to the board. The validity of an action by the board is not
497 | affected if it is later determined that a board member is
498 | ineligible for board membership due to having been convicted of
499 | a felony. This subparagraph does not limit the term of a member
500 | of the board of a nonresidential or timeshare condominium.

501 3. The bylaws must provide the method of calling meetings
502 of unit owners, including annual meetings. Written notice of an
503 annual meeting must include an agenda;~~;~~ ~~must~~ be mailed, hand
504 delivered, or electronically transmitted to each unit owner at
505 least 14 days before the annual meeting;~~;~~ and ~~must~~ be posted in
506 a conspicuous place on the condominium property or association
507 property at least 14 continuous days before the annual meeting.
508 Written notice of a meeting other than an annual meeting must
509 include an agenda; be mailed, hand delivered, or electronically
510 transmitted to each unit owner; and be posted in a conspicuous
511 place on the condominium property or association property within
512 the timeframe specified in the bylaws. If the bylaws do not
513 specify a timeframe for written notice of a meeting other than
514 an annual meeting, notice must be provided at least 14
515 continuous days before the meeting. Upon notice to the unit
516 owners, the board shall, by duly adopted rule, designate a
517 specific location on the condominium property or association
518 property where all notices of unit owner meetings must be
519 posted. This requirement does not apply if there is no
520 condominium property for posting notices. In lieu of, or in
521 addition to, the physical posting of meeting notices, the
522 association may, by reasonable rule, adopt a procedure for
523 conspicuously posting and repeatedly broadcasting the notice and
524 the agenda on a closed-circuit cable television system serving
525 the condominium association. However, if broadcast notice is

526 | used in lieu of a notice posted physically on the condominium
527 | property, the notice and agenda must be broadcast at least four
528 | times every broadcast hour of each day that a posted notice is
529 | otherwise required under this section. If broadcast notice is
530 | provided, the notice and agenda must be broadcast in a manner
531 | and for a sufficient continuous length of time so as to allow an
532 | average reader to observe the notice and read and comprehend the
533 | entire content of the notice and the agenda. In addition to any
534 | of the authorized means of providing notice of a meeting of the
535 | board, the association may, by rule, adopt a procedure for
536 | conspicuously posting the meeting notice and the agenda on a
537 | website serving the condominium association for at least the
538 | minimum period of time for which a notice of a meeting is also
539 | required to be physically posted on the condominium property.
540 | Any rule adopted shall, in addition to other matters, include a
541 | requirement that the association send an electronic notice in
542 | the same manner as a notice for a meeting of the members, which
543 | must include a hyperlink to the website where the notice is
544 | posted, to unit owners whose e-mail addresses are included in
545 | the association's official records. Unless a unit owner waives
546 | in writing the right to receive notice of the annual meeting,
547 | such notice must be hand delivered, mailed, or electronically
548 | transmitted to each unit owner. Notice for meetings and notice
549 | for all other purposes must be mailed to each unit owner at the
550 | address last furnished to the association by the unit owner, or

551 hand delivered to each unit owner. However, if a unit is owned
552 by more than one person, the association must provide notice to
553 the address that the developer identifies for that purpose and
554 thereafter as one or more of the owners of the unit advise the
555 association in writing, or if no address is given or the owners
556 of the unit do not agree, to the address provided on the deed of
557 record. An officer of the association, or the manager or other
558 person providing notice of the association meeting, must provide
559 an affidavit or United States Postal Service certificate of
560 mailing, to be included in the official records of the
561 association affirming that the notice was mailed or hand
562 delivered in accordance with this provision.

563 4. The members of the board of a residential condominium
564 shall be elected by written ballot or voting machine. Proxies
565 may not be used in electing the board in general elections or
566 elections to fill vacancies caused by recall, resignation, or
567 otherwise, unless otherwise provided in this chapter. This
568 subparagraph does not apply to an association governing a
569 timeshare condominium.

570 a. At least 60 days before a scheduled election, the
571 association shall mail, deliver, or electronically transmit, by
572 separate association mailing or included in another association
573 mailing, delivery, or transmission, including regularly
574 published newsletters, to each unit owner entitled to a vote, a
575 first notice of the date of the election. A unit owner or other

576 eligible person desiring to be a candidate for the board must
577 give written notice of his or her intent to be a candidate to
578 the association at least 40 days before a scheduled election.
579 Together with the written notice and agenda as set forth in
580 subparagraph 3., the association shall mail, deliver, or
581 electronically transmit a second notice of the election to all
582 unit owners entitled to vote, together with a ballot that lists
583 all candidates not less than 14 days or more than 34 days before
584 the date of the election. Upon request of a candidate, an
585 information sheet, no larger than 8 1/2 inches by 11 inches,
586 which must be furnished by the candidate at least 35 days before
587 the election, must be included with the mailing, delivery, or
588 transmission of the ballot, with the costs of mailing, delivery,
589 or electronic transmission and copying to be borne by the
590 association. The association is not liable for the contents of
591 the information sheets prepared by the candidates. In order to
592 reduce costs, the association may print or duplicate the
593 information sheets on both sides of the paper. The division
594 shall by rule establish voting procedures consistent with this
595 sub-subparagraph, including rules establishing procedures for
596 giving notice by electronic transmission and rules providing for
597 the secrecy of ballots. Elections shall be decided by a
598 plurality of ballots cast. There is no quorum requirement;
599 however, at least 20 percent of the eligible voters must cast a
600 ballot in order to have a valid election. A unit owner may not

601 authorize any other person to vote his or her ballot, and any
602 ballots improperly cast are invalid. A unit owner who violates
603 this provision may be fined by the association in accordance
604 with s. 718.303. A unit owner who needs assistance in casting
605 the ballot for the reasons stated in s. 101.051 may obtain such
606 assistance. The regular election must occur on the date of the
607 annual meeting. Notwithstanding this sub-subparagraph, an
608 election is not required unless more candidates file notices of
609 intent to run or are nominated than board vacancies exist.

610 b. Within 90 days after being elected or appointed to the
611 board of an association of a residential condominium, each newly
612 elected or appointed director shall certify in writing to the
613 secretary of the association that he or she has read the
614 association's declaration of condominium, articles of
615 incorporation, bylaws, and current written policies; that he or
616 she will work to uphold such documents and policies to the best
617 of his or her ability; and that he or she will faithfully
618 discharge his or her fiduciary responsibility to the
619 association's members. In lieu of this written certification,
620 within 90 days after being elected or appointed to the board,
621 the newly elected or appointed director may submit a certificate
622 of having satisfactorily completed the educational curriculum
623 administered by a division-approved condominium education
624 provider within 1 year before or 90 days after the date of
625 election or appointment. The written certification or

626 educational certificate is valid and does not have to be
627 resubmitted as long as the director serves on the board without
628 interruption. A director of an association of a residential
629 condominium who fails to timely file the written certification
630 or educational certificate is suspended from service on the
631 board until he or she complies with this sub-subparagraph. The
632 board may temporarily fill the vacancy during the period of
633 suspension. The secretary shall cause the association to retain
634 a director's written certification or educational certificate
635 for inspection by the members for 5 years after a director's
636 election or the duration of the director's uninterrupted tenure,
637 whichever is longer. Failure to have such written certification
638 or educational certificate on file does not affect the validity
639 of any board action.

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

642 5. Any approval by unit owners called for by this chapter
643 or the applicable declaration or bylaws, including, but not
644 limited to, the approval requirement in s. 718.111(8), must be
645 made at a duly noticed meeting of unit owners and is subject to
646 all requirements of this chapter or the applicable condominium
647 documents relating to unit owner decisionmaking, except that
648 unit owners may take action by written agreement, without
649 meetings, on matters for which action by written agreement
650 without meetings is expressly allowed by the applicable bylaws

651 or declaration or any law that provides for such action.

652 6. Unit owners may waive notice of specific meetings if
653 allowed by the applicable bylaws or declaration or any law.
654 Notice of meetings of the board of administration, unit owner
655 meetings, except unit owner meetings called to recall board
656 members under paragraph (j), and committee meetings may be given
657 by electronic transmission to unit owners who consent to receive
658 notice by electronic transmission. A unit owner who consents to
659 receiving notices by electronic transmission is solely
660 responsible for removing or bypassing filters that block receipt
661 of mass e-mails ~~emails~~ sent to members on behalf of the
662 association in the course of giving electronic notices.

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

667 8. A unit owner may tape record or videotape a meeting of
668 the unit owners subject to reasonable rules adopted by the
669 division.

670 9. Unless otherwise provided in the bylaws, any vacancy
671 occurring on the board before the expiration of a term may be
672 filled by the affirmative vote of the majority of the remaining
673 directors, even if the remaining directors constitute less than
674 a quorum, or by the sole remaining director. In the alternative,
675 a board may hold an election to fill the vacancy, in which case

676 the election procedures must conform to sub-subparagraph 4.a.
677 unless the association governs 10 units or fewer and has opted
678 out of the statutory election process, in which case the bylaws
679 of the association control. Unless otherwise provided in the
680 bylaws, a board member appointed or elected under this section
681 shall fill the vacancy for the unexpired term of the seat being
682 filled. Filling vacancies created by recall is governed by
683 paragraph (j) and rules adopted by the division.

684 10. This chapter does not limit the use of general or
685 limited proxies, require the use of general or limited proxies,
686 or require the use of a written ballot or voting machine for any
687 agenda item or election at any meeting of a timeshare
688 condominium association or nonresidential condominium
689 association.

690
691 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
692 association of 10 or fewer units may, by affirmative vote of a
693 majority of the total voting interests, provide for different
694 voting and election procedures in its bylaws, which may be by a
695 proxy specifically delineating the different voting and election
696 procedures. The different voting and election procedures may
697 provide for elections to be conducted by limited or general
698 proxy.

699 (i) *Transfer fees.*—An association may not ~~ne~~ charge a fee
700 ~~shall be made by the association or any body thereof in~~

701 connection with the sale, mortgage, lease, sublease, or other
702 transfer of a unit unless the association is required to approve
703 such transfer and a fee for such approval is provided for in the
704 declaration, articles, or bylaws. Any such fee may be preset,
705 but may not ~~in no event may such fee~~ exceed \$150 ~~\$100~~ per
706 applicant. For the purpose of calculating the fee, spouses or a
707 parent or parents and any dependent children ~~other than~~
708 ~~husband/wife or parent/dependent child, which~~ are considered one
709 applicant. However, if the lease or sublease is a renewal of a
710 lease or sublease with the same lessee or sublessee, a charge
711 may not ~~no charge shall~~ be made. Such fees must be adjusted
712 every 5 years in an amount equal to the total of the annual
713 increases occurring in the Consumer Price Index for All Urban
714 Consumers, U.S. City Average, All Items during that 5-year
715 period. The Department of Business and Professional Regulation
716 shall periodically calculate the fees, rounded to the nearest
717 dollar, and publish the amounts, as adjusted, on its website.
718 The foregoing notwithstanding, ~~an association may,~~ if the
719 authority to do so appears in the declaration, articles, or
720 bylaws, an association may require that a prospective lessee
721 place a security deposit, in an amount not to exceed the
722 equivalent of 1 month's rent, into an escrow account maintained
723 by the association. The security deposit shall protect against
724 damages to the common elements or association property. Payment
725 of interest, claims against the deposit, refunds, and disputes

726 | under this paragraph shall be handled in the same fashion as
727 | provided in part II of chapter 83.

728 | (j) *Recall of board members.*—Subject to s. 718.301, any
729 | member of the board of administration may be recalled and
730 | removed from office with or without cause by the vote or
731 | agreement in writing by a majority of all the voting interests.
732 | A special meeting of the unit owners to recall a member or
733 | members of the board of administration may be called by 10
734 | percent of the voting interests giving notice of the meeting as
735 | required for a meeting of unit owners, and the notice shall
736 | state the purpose of the meeting. Electronic transmission may
737 | not be used as a method of giving notice of a meeting called in
738 | whole or in part for this purpose.

739 | 1. If the recall is approved by a majority of all voting
740 | interests by a vote at a meeting, the recall will be effective
741 | as provided in this paragraph. The board shall duly notice and
742 | hold a board meeting within 5 full business days after the
743 | adjournment of the unit owner meeting to recall one or more
744 | board members. Such member or members shall be recalled
745 | effective immediately upon conclusion of the board meeting,
746 | provided that the recall is facially valid. A recalled member
747 | must turn over to the board, within 10 full business days after
748 | the vote, any and all records and property of the association in
749 | their possession.

750 | 2. If the proposed recall is by an agreement in writing by

751 a majority of all voting interests, the agreement in writing or
752 a copy thereof shall be served on the association by certified
753 mail or by personal service in the manner authorized by chapter
754 48 and the Florida Rules of Civil Procedure. The board of
755 administration shall duly notice and hold a meeting of the board
756 within 5 full business days after receipt of the agreement in
757 writing. Such member or members shall be recalled effective
758 immediately upon the conclusion of the board meeting, provided
759 that the recall is facially valid. A recalled member must turn
760 over to the board, within 10 full business days, any and all
761 records and property of the association in their possession.

762 3. If the board fails to duly notice and hold a board
763 meeting within 5 full business days after service of an
764 agreement in writing or within 5 full business days after the
765 adjournment of the unit owner recall meeting, the recall is
766 ~~shall be~~ deemed effective and the board members so recalled
767 shall turn over to the board within 10 full business days after
768 the vote any and all records and property of the association.

769 4. If the board fails to duly notice and hold the required
770 meeting or at the conclusion of the meeting determines that the
771 recall is not facially valid, the unit owner representative may
772 file a petition or court action under ~~pursuant to~~ s. 718.1255
773 challenging the board's failure to act or challenging the
774 board's determination on facial validity. The petition or action
775 must be filed within 60 days after the expiration of the

776 applicable 5-full-business-day period. The review of a petition
777 or action under this subparagraph is limited to the sufficiency
778 of service on the board and the facial validity of the written
779 agreement or ballots filed.

780 5. If a vacancy occurs on the board as a result of a
781 recall or removal and less than a majority of the board members
782 are removed, the vacancy may be filled by the affirmative vote
783 of a majority of the remaining directors, notwithstanding any
784 provision to the contrary contained in this subsection. If
785 vacancies occur on the board as a result of a recall and a
786 majority or more of the board members are removed, the vacancies
787 shall be filled in accordance with procedural rules to be
788 adopted by the division, which rules need not be consistent with
789 this subsection. The rules must provide procedures governing the
790 conduct of the recall election as well as the operation of the
791 association during the period after a recall but before the
792 recall election.

793 6. A board member who has been recalled may file a
794 petition or court action under ~~pursuant to~~ s. 718.1255
795 challenging the validity of the recall. The petition or action
796 must be filed within 60 days after the recall. The association
797 and the unit owner representative shall be named as the
798 respondents. The petition or action may challenge the facial
799 validity of the written agreement or ballots filed or the
800 substantial compliance with the procedural requirements for the

801 recall. If the arbitrator or court determines the recall was
802 invalid, the petitioning board member shall immediately be
803 reinstated and the recall is null and void. A board member who
804 is successful in challenging a recall is entitled to recover
805 reasonable attorney fees and costs from the respondents. The
806 arbitrator or court may award reasonable attorney fees and costs
807 to the respondents if they prevail, if the arbitrator or court
808 makes a finding that the petitioner's claim is frivolous.

809 7. The division or a court of competent jurisdiction may
810 not accept for filing a recall petition or court action, whether
811 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
812 subparagraph 4., or subparagraph 6., when there are 60 or fewer
813 days until the scheduled reelection of the board member sought
814 to be recalled or when 60 or fewer days have elapsed since the
815 election of the board member sought to be recalled.

816 (k) Alternative dispute resolution Arbitration.—There must
817 ~~shall~~ be a provision for alternative dispute resolution
818 ~~mandatory nonbinding arbitration~~ as provided for in s. 718.1255
819 for any residential condominium.

820 ~~(p) Service providers; conflicts of interest. An~~
821 ~~association, which is not a timeshare condominium association,~~
822 ~~may not employ or contract with any service provider that is~~
823 ~~owned or operated by a board member or with any person who has a~~
824 ~~financial relationship with a board member or officer, or a~~
825 ~~relative within the third degree of consanguinity by blood or~~

826 ~~marriage of a board member or officer. This paragraph does not~~
827 ~~apply to a service provider in which a board member or officer,~~
828 ~~or a relative within the third degree of consanguinity by blood~~
829 ~~or marriage of a board member or officer, owns less than 1~~
830 ~~percent of the equity shares.~~

831 Section 5. Subsection (8) of section 718.113, Florida
832 Statutes, is amended to read:

833 718.113 Maintenance; limitation upon improvement; display
834 of flag; hurricane shutters and protection; display of religious
835 decorations.—

836 (8) The Legislature finds that the use of electric and
837 natural gas fuel vehicles conserves and protects the state's
838 environmental resources, provides significant economic savings
839 to drivers, and serves an important public interest. The
840 participation of condominium associations is essential to the
841 state's efforts to conserve and protect the state's
842 environmental resources and provide economic savings to drivers.
843 For purposes of this subsection, the term "natural gas fuel" has
844 the same meaning as in s. 206.9951, and the term "natural gas
845 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
846 that is powered by natural gas fuel. Therefore, the installation
847 of an electric vehicle charging station or a natural gas fuel
848 station shall be governed as follows:

849 (a) A declaration of condominium or restrictive covenant
850 may not prohibit or be enforced so as to prohibit any unit owner

851 from installing an electric vehicle charging station or a
852 natural gas fuel station within the boundaries of the unit
853 owner's limited common element or exclusively designated parking
854 area. The board of administration of a condominium association
855 may not prohibit a unit owner from installing an electric
856 vehicle charging station for an electric vehicle, as defined in
857 s. 320.01, or a natural gas fuel station for a natural gas fuel
858 vehicle within the boundaries of his or her limited common
859 element or exclusively designated parking area. The installation
860 of such charging or fuel stations are subject to the provisions
861 of this subsection.

862 (b) The installation may not cause irreparable damage to
863 the condominium property.

864 (c) The electricity for the electric vehicle charging
865 station or natural gas fuel station must be separately metered
866 or metered by an embedded meter and payable by the unit owner
867 installing such charging or fuel station or by his or her
868 successor.

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

872 (e) ~~(d)~~ The unit owner who is installing an electric
873 vehicle charging station or a natural gas fuel station is
874 responsible for the costs of installation, operation,
875 maintenance, and repair, including, but not limited to, hazard

876 and liability insurance. The association may enforce payment of
877 such costs under ~~pursuant to~~ s. 718.116.

878 (f)-(e) If the unit owner or his or her successor decides
879 there is no longer a need for the electric ~~electronic~~ vehicle
880 charging station or natural gas fuel station, such person is
881 responsible for the cost of removal of such ~~the electronic~~
882 ~~vehicle~~ charging or fuel station. The association may enforce
883 payment of such costs under ~~pursuant to~~ s. 718.116.

884 (g) The unit owner installing, maintaining, or removing
885 the electric vehicle charging station or natural gas fuel
886 station is responsible for complying with all federal, state, or
887 local laws and regulations applicable to such installation,
888 maintenance, or removal.

889 (h)-(f) The association may require the unit owner to:

890 1. Comply with bona fide safety requirements, consistent
891 with applicable building codes or recognized safety standards,
892 for the protection of persons and property.

893 2. Comply with reasonable architectural standards adopted
894 by the association that govern the dimensions, placement, or
895 external appearance of the electric vehicle charging station or
896 natural gas fuel station, provided that such standards may not
897 prohibit the installation of such charging or fuel station or
898 substantially increase the cost thereof.

899 3. Engage the services of a licensed and registered firm
900 ~~electrical contractor or engineer~~ familiar with the installation

901 or removal and core requirements of an electric vehicle charging
 902 station or a natural gas fuel station.

903 4. Provide a certificate of insurance naming the
 904 association as an additional insured on the owner's insurance
 905 policy for any claim related to the installation, maintenance,
 906 or use of the electric vehicle charging station or natural gas
 907 fuel station within 14 days after receiving the association's
 908 approval to install such charging or fuel station or notice to
 909 provide such a certificate.

910 5. Reimburse the association for the actual cost of any
 911 increased insurance premium amount attributable to the electric
 912 vehicle charging station or natural gas fuel station within 14
 913 days after receiving the association's insurance premium
 914 invoice.

915 (i)~~(g)~~ The association provides an implied easement across
 916 the common elements of the condominium property to the unit
 917 owner for purposes of ~~the installation of the~~ electric vehicle
 918 charging station or natural gas fuel station installation, and
 919 the furnishing of electrical power or natural gas fuel supply,
 920 including any necessary equipment, to such charging or fuel
 921 station, subject to the requirements of this subsection.

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

924 718.117 Termination of condominium.—

925 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest

926 | a plan of termination by initiating a petition in accordance
 927 | with ~~for mandatory nonbinding arbitration pursuant to s.~~
 928 | 718.1255 within 90 days after the date the plan is recorded. A
 929 | unit owner or lienor may only contest the fairness and
 930 | reasonableness of the apportionment of the proceeds from the
 931 | sale among the unit owners, that the liens of the first
 932 | mortgages of unit owners other than the bulk owner have not or
 933 | will not be satisfied to the extent required by subsection (3),
 934 | or that the required vote to approve the plan was not obtained.
 935 | A unit owner or lienor who does not contest the plan within the
 936 | 90-day period is barred from asserting or prosecuting a claim
 937 | against the association, the termination trustee, any unit
 938 | owner, or any successor in interest to the condominium property.
 939 | In an action contesting a plan of termination, the person
 940 | contesting the plan has the burden of pleading and proving that
 941 | the apportionment of the proceeds from the sale among the unit
 942 | owners was not fair and reasonable or that the required vote was
 943 | not obtained. The apportionment of sale proceeds is presumed
 944 | fair and reasonable if it was determined pursuant to the methods
 945 | prescribed in subsection (12). If the petition is filed with the
 946 | division for arbitration, the arbitrator shall determine the
 947 | rights and interests of the parties in the apportionment of the
 948 | sale proceeds. If the arbitrator determines that the
 949 | apportionment of sales proceeds is not fair and reasonable, the
 950 | arbitrator may void the plan or may modify the plan to apportion

951 the proceeds in a fair and reasonable manner pursuant to this
 952 section based upon the proceedings and order the modified plan
 953 of termination to be implemented. If the arbitrator determines
 954 that the plan was not properly approved, or that the procedures
 955 to adopt the plan were not properly followed, the arbitrator may
 956 void the plan or grant other relief it deems just and proper.
 957 The arbitrator shall automatically void the plan upon a finding
 958 that any of the disclosures required in subparagraph (3)(c)5.
 959 are omitted, misleading, incomplete, or inaccurate. Any
 960 challenge to a plan, other than a challenge that the required
 961 vote was not obtained, does not affect title to the condominium
 962 property or the vesting of the condominium property in the
 963 trustee, but shall only be a claim against the proceeds of the
 964 plan. In any such action, the prevailing party shall recover
 965 reasonable attorney fees and costs.

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

968 718.121 Liens.—

969 (2) Labor performed on or materials furnished to a unit
 970 may ~~shall~~ not be the basis for the filing of a lien under
 971 ~~pursuant to~~ part I of chapter 713, the Construction Lien Law,
 972 against the unit or condominium parcel of any unit owner not
 973 expressly consenting to or requesting the labor or materials.
 974 Labor performed on or materials furnished for the installation
 975 of a natural gas fuel station or an electric electronic vehicle

976 charging station under ~~pursuant to~~ s. 718.113(8) may not be the
977 basis for filing a lien under part I of chapter 713 against the
978 association, but such a lien may be filed against the unit
979 owner. Labor performed on or materials furnished to the common
980 elements are not the basis for a lien on the common elements,
981 but if authorized by the association, the labor or materials are
982 deemed to be performed or furnished with the express consent of
983 each unit owner and may be the basis for the filing of a lien
984 against all condominium parcels in the proportions for which the
985 owners are liable for common expenses.

986 (4) Except as otherwise provided in this chapter, no lien
987 may be filed by the association against a condominium unit until
988 30 days after the date on which a notice of intent to file a
989 lien has been delivered to the owner by registered or certified
990 mail, return receipt requested, and by first-class United States
991 mail to the owner at his or her last address as reflected in the
992 records of the association, if the address is within the United
993 States, and delivered to the owner at the address of the unit if
994 the owner's address as reflected in the records of the
995 association is not the unit address. If the address reflected in
996 the records is outside the United States, sending the notice to
997 that address and to the unit address by first-class United
998 States mail is sufficient. ~~Delivery of the Notice is shall be~~
999 deemed to have been delivered ~~given~~ upon mailing as required by
1000 this subsection, provided that it is. ~~The notice must be in~~

1001 substantially the following form:

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NOTICE OF INTENT
TO RECORD A CLAIM OF LIEN

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

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

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

*Interest accrues at the rate of percent per annum.
Section 8. Section 718.1255, Florida Statutes, is amended

1026 to read:

1027 718.1255 Alternative dispute resolution; ~~voluntary~~
 1028 mediation; ~~mandatory~~ nonbinding arbitration; legislative
 1029 findings.—

1030 (1) DEFINITIONS.—As used in this section, the term
 1031 "dispute" means any disagreement between two or more parties
 1032 that involves:

1033 (a) The authority of the board of directors, under this
 1034 chapter or association document, to:

1035 1. Require any owner to take any action, or not to take
 1036 any action, involving that owner's unit or the appurtenances
 1037 thereto.

1038 2. Alter or add to a common area or element.

1039 (b) The failure of a governing body, when required by this
 1040 chapter or an association document, to:

1041 1. Properly conduct elections.

1042 2. Give adequate notice of meetings or other actions.

1043 3. Properly conduct meetings.

1044 4. Allow inspection of books and records.

1045 (c) A plan of termination pursuant to s. 718.117.

1046
 1047 "Dispute" does not include any disagreement that primarily
 1048 involves: title to any unit or common element; the
 1049 interpretation or enforcement of any warranty; the levy of a fee
 1050 or assessment, or the collection of an assessment levied against

1051 a party; the eviction or other removal of a tenant from a unit;
 1052 alleged breaches of fiduciary duty by one or more directors; or
 1053 claims for damages to a unit based upon the alleged failure of
 1054 the association to maintain the common elements or condominium
 1055 property.

1056 (2) ~~VOLUNTARY~~ MEDIATION.—Voluntary Mediation through
 1057 Citizen Dispute Settlement Centers as provided for in s. 44.201
 1058 is encouraged.

1059 (3) LEGISLATIVE FINDINGS.—

1060 (a) The Legislature finds that unit owners are frequently
 1061 at a disadvantage when litigating against an association.
 1062 Specifically, a condominium association, with its statutory
 1063 assessment authority, is often more able to bear the costs and
 1064 expenses of litigation than the unit owner who must rely on his
 1065 or her own financial resources to satisfy the costs of
 1066 litigation against the association.

1067 (b) The Legislature finds that alternative dispute
 1068 resolution has been making progress in reducing court dockets
 1069 and trials and in offering a more efficient, cost-effective
 1070 option to court litigation. However, the Legislature also finds
 1071 that alternative dispute resolution should not be used as a
 1072 mechanism to encourage the filing of frivolous or nuisance
 1073 suits.

1074 (c) There exists a need to develop a flexible means of
 1075 alternative dispute resolution that directs disputes to the most

1076 efficient means of resolution.

1077 (d) The high cost and significant delay of circuit court
 1078 litigation faced by unit owners in the state can be alleviated
 1079 by requiring nonbinding arbitration and mediation in appropriate
 1080 cases, thereby reducing delay and attorney ~~attorney's~~ fees while
 1081 preserving the right of either party to have its case heard by a
 1082 jury, if applicable, in a court of law.

1083 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
 1084 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
 1085 Mobile Homes of the Department of Business and Professional
 1086 Regulation may employ full-time attorneys to act as arbitrators
 1087 to conduct the arbitration hearings provided by this chapter.
 1088 The division may also certify attorneys who are not employed by
 1089 the division to act as arbitrators to conduct the arbitration
 1090 hearings provided by this chapter. A ~~No~~ person may not be
 1091 employed by the department as a full-time arbitrator unless he
 1092 or she is a member in good standing of The Florida Bar. A person
 1093 may only be certified by the division to act as an arbitrator if
 1094 he or she has been a member in good standing of The Florida Bar
 1095 for at least 5 years and has mediated or arbitrated at least 10
 1096 disputes involving condominiums in this state during the 3 years
 1097 immediately preceding the date of application, mediated or
 1098 arbitrated at least 30 disputes in any subject area in this
 1099 state during the 3 years immediately preceding the date of
 1100 application, or attained board certification in real estate law

1101 or condominium and planned development law from The Florida Bar.
1102 Arbitrator certification is valid for 1 year. An arbitrator who
1103 does not maintain the minimum qualifications for initial
1104 certification may not have his or her certification renewed. The
1105 department may not enter into a legal services contract for an
1106 arbitration hearing under this chapter with an attorney who is
1107 not a certified arbitrator unless a certified arbitrator is not
1108 available within 50 miles of the dispute. The department shall
1109 adopt rules of procedure to govern such arbitration hearings
1110 including mediation incident thereto. The decision of an
1111 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1112 ~~be~~ deemed final agency action. Nothing in this provision shall
1113 be construed to foreclose parties from proceeding in a trial de
1114 novo unless the parties have agreed that the arbitration is
1115 binding. If judicial proceedings are initiated, the final
1116 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1117 the trial de novo.

1118 (a) Before ~~Prior to~~ the institution of court litigation, a
1119 party to a dispute, other than an election or recall dispute,
1120 shall either petition the division for nonbinding arbitration or
1121 initiate presuit mediation as provided in subsection (5).
1122 Arbitration is binding on the parties if all parties in
1123 arbitration agree to be bound in a writing filed in arbitration.
1124 The petition must be accompanied by a filing fee in the amount
1125 of \$50. Filing fees collected under this section must be used to

1126 | defray the expenses of the alternative dispute resolution
 1127 | program.

1128 | (b) The petition must recite, and have attached thereto,
 1129 | supporting proof that the petitioner gave the respondents:

1130 | 1. Advance written notice of the specific nature of the
 1131 | dispute;

1132 | 2. A demand for relief, and a reasonable opportunity to
 1133 | comply or to provide the relief; and

1134 | 3. Notice of the intention to file an arbitration petition
 1135 | or other legal action in the absence of a resolution of the
 1136 | dispute.

1137 |
 1138 | Failure to include the allegations or proof of compliance with
 1139 | these prerequisites requires dismissal of the petition without
 1140 | prejudice.

1141 | (c) Upon receipt, the petition shall be promptly reviewed
 1142 | by the division to determine the existence of a dispute and
 1143 | compliance with the requirements of paragraphs (a) and (b). If
 1144 | emergency relief is required and is not available through
 1145 | arbitration, a motion to stay the arbitration may be filed. The
 1146 | motion must be accompanied by a verified petition alleging facts
 1147 | that, if proven, would support entry of a temporary injunction,
 1148 | and if an appropriate motion and supporting papers are filed,
 1149 | the division may abate the arbitration pending a court hearing
 1150 | and disposition of a motion for temporary injunction.

1151 (d) Upon determination by the division that a dispute
1152 exists and that the petition substantially meets the
1153 requirements of paragraphs (a) and (b) and any other applicable
1154 rules, the division shall assign or enter into a contract with
1155 an arbitrator and serve a copy of the petition upon all
1156 respondents. The arbitrator shall conduct a hearing within 30
1157 days after being assigned or entering into a contract unless the
1158 petition is withdrawn or a continuance is granted for good cause
1159 shown.

1160 (e) Before or after the filing of the respondents' answer
1161 to the petition, any party may request that the arbitrator refer
1162 the case to mediation under this section and any rules adopted
1163 by the division. Upon receipt of a request for mediation, the
1164 division shall promptly contact the parties to determine if
1165 there is agreement that mediation would be appropriate. If all
1166 parties agree, the dispute must be referred to mediation.
1167 Notwithstanding a lack of an agreement by all parties, the
1168 arbitrator may refer a dispute to mediation at any time.

1169 (f) Upon referral of a case to mediation, the parties must
1170 select a mutually acceptable mediator. To assist in the
1171 selection, the arbitrator shall provide the parties with a list
1172 of both volunteer and paid mediators that have been certified by
1173 the division under s. 718.501. If the parties are unable to
1174 agree on a mediator within the time allowed by the arbitrator,
1175 the arbitrator shall appoint a mediator from the list of

1176 certified mediators. If a case is referred to mediation, the
1177 parties shall attend a mediation conference, as scheduled by the
1178 parties and the mediator. If any party fails to attend a duly
1179 noticed mediation conference, without the permission or approval
1180 of the arbitrator or mediator, the arbitrator must impose
1181 sanctions against the party, including the striking of any
1182 pleadings filed, the entry of an order of dismissal or default
1183 if appropriate, and the award of costs and attorney fees
1184 incurred by the other parties. Unless otherwise agreed to by the
1185 parties or as provided by order of the arbitrator, a party is
1186 deemed to have appeared at a mediation conference by the
1187 physical presence of the party or its representative having full
1188 authority to settle without further consultation, provided that
1189 an association may comply by having one or more representatives
1190 present with full authority to negotiate a settlement and
1191 recommend that the board of administration ratify and approve
1192 such a settlement within 5 days from the date of the mediation
1193 conference. The parties shall share equally the expense of
1194 mediation, unless they agree otherwise.

1195 (g) The purpose of mediation as provided for by this
1196 section is to present the parties with an opportunity to resolve
1197 the underlying dispute in good faith, and with a minimum
1198 expenditure of time and resources.

1199 (h) Mediation proceedings must generally be conducted in
1200 accordance with the Florida Rules of Civil Procedure, and these

1201 proceedings are privileged and confidential to the same extent
1202 as court-ordered mediation. Persons who are not parties to the
1203 dispute are not allowed to attend the mediation conference
1204 without the consent of all parties, with the exception of
1205 counsel for the parties and corporate representatives designated
1206 to appear for a party. If the mediator declares an impasse after
1207 a mediation conference has been held, the arbitration proceeding
1208 terminates, unless all parties agree in writing to continue the
1209 arbitration proceeding, in which case the arbitrator's decision
1210 shall be binding or nonbinding, as agreed upon by the parties;
1211 in the arbitration proceeding, the arbitrator shall not consider
1212 any evidence relating to the unsuccessful mediation except in a
1213 proceeding to impose sanctions for failure to appear at the
1214 mediation conference. If the parties do not agree to continue
1215 arbitration, the arbitrator shall enter an order of dismissal,
1216 and either party may institute a suit in a court of competent
1217 jurisdiction. The parties may seek to recover any costs and
1218 attorney fees incurred in connection with arbitration and
1219 mediation proceedings under this section as part of the costs
1220 and fees that may be recovered by the prevailing party in any
1221 subsequent litigation.

1222 (i) Arbitration shall be conducted according to rules
1223 adopted by the division. The filing of a petition for
1224 arbitration shall toll the applicable statute of limitations.

1225 (j) At the request of any party to the arbitration, the

1226 arbitrator shall issue subpoenas for the attendance of witnesses
1227 and the production of books, records, documents, and other
1228 evidence and any party on whose behalf a subpoena is issued may
1229 apply to the court for orders compelling such attendance and
1230 production. Subpoenas shall be served and shall be enforceable
1231 in the manner provided by the Florida Rules of Civil Procedure.
1232 Discovery may, in the discretion of the arbitrator, be permitted
1233 in the manner provided by the Florida Rules of Civil Procedure.
1234 Rules adopted by the division may authorize any reasonable
1235 sanctions except contempt for a violation of the arbitration
1236 procedural rules of the division or for the failure of a party
1237 to comply with a reasonable nonfinal order issued by an
1238 arbitrator which is not under judicial review.

1239 (k) The arbitration decision shall be rendered within 30
1240 days after the hearing and presented to the parties in writing.
1241 An arbitration decision is final in those disputes in which the
1242 parties have agreed to be bound. An arbitration decision is also
1243 final if a complaint for a trial de novo is not filed in a court
1244 of competent jurisdiction in which the condominium is located
1245 within 30 days. The right to file for a trial de novo entitles
1246 the parties to file a complaint in the appropriate trial court
1247 for a judicial resolution of the dispute. The prevailing party
1248 in an arbitration proceeding shall be awarded the costs of the
1249 arbitration and reasonable attorney fees in an amount determined
1250 by the arbitrator. Such an award shall include the costs and

1251 reasonable attorney fees incurred in the arbitration proceeding
1252 as well as the costs and reasonable attorney fees incurred in
1253 preparing for and attending any scheduled mediation. An
1254 arbitrator's failure to render a written decision within 30 days
1255 after the hearing may result in the cancellation of his or her
1256 arbitration certification.

1257 (l) The party who files a complaint for a trial de novo
1258 shall be assessed the other party's arbitration costs, court
1259 costs, and other reasonable costs, including attorney fees,
1260 investigation expenses, and expenses for expert or other
1261 testimony or evidence incurred after the arbitration hearing if
1262 the judgment upon the trial de novo is not more favorable than
1263 the arbitration decision. If the judgment is more favorable, the
1264 party who filed a complaint for trial de novo shall be awarded
1265 reasonable court costs and attorney fees.

1266 (m) Any party to an arbitration proceeding may enforce an
1267 arbitration award by filing a petition in a court of competent
1268 jurisdiction in which the condominium is located. A petition may
1269 not be granted unless the time for appeal by the filing of a
1270 complaint for trial de novo has expired. If a complaint for a
1271 trial de novo has been filed, a petition may not be granted with
1272 respect to an arbitration award that has been stayed. If the
1273 petition for enforcement is granted, the petitioner shall
1274 recover reasonable attorney fees and costs incurred in enforcing
1275 the arbitration award. A mediation settlement may also be

1276 | enforced through the county or circuit court, as applicable, and
 1277 | any costs and fees incurred in the enforcement of a settlement
 1278 | agreement reached at mediation must be awarded to the prevailing
 1279 | party in any enforcement action.

1280 | (5) PRESUIT MEDIATION.—In lieu of the initiation of
 1281 | nonbinding arbitration as provided in subsections (1)-(4), a
 1282 | party may submit a dispute to presuit mediation in accordance
 1283 | with s. 720.311; however, election and recall disputes are not
 1284 | eligible for mediation and such disputes must be arbitrated by
 1285 | the division or filed in a court of competent jurisdiction.

1286 | (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
 1287 | arbitration petition received by the division and required to be
 1288 | filed under this section challenging the legality of the
 1289 | election of any director of the board of administration must be
 1290 | handled on an expedited basis in the manner provided by the
 1291 | division's rules for recall arbitration disputes.

1292 | ~~(7)~~ (6) APPLICABILITY.—This section does not apply to a
 1293 | nonresidential condominium unless otherwise specifically
 1294 | provided for in the declaration of the nonresidential
 1295 | condominium.

1296 | Section 9. Section 718.1265, Florida Statutes, is amended
 1297 | to read:

1298 | 718.1265 Association emergency powers.—

1299 | (1) To the extent allowed by law, ~~and~~ unless specifically
 1300 | prohibited by the declaration of condominium, the articles, or

1301 the bylaws of an association, and consistent with ~~the provisions~~
1302 ~~of~~ s. 617.0830, the board of administration, in response to
1303 damage or injury caused by or anticipated in connection with an
1304 emergency, as defined in s. 252.34(4), ~~event~~ for which a state
1305 of emergency is declared pursuant to s. 252.36 in the locale in
1306 which the condominium is located, ~~may, but is not required to,~~
1307 exercise the following powers:

1308 (a) Conduct board meetings, committee meetings, elections,
1309 and membership meetings, in whole or in part, by telephone,
1310 real-time videoconferencing, or similar real-time electronic or
1311 video communication with notice given as is practicable. Such
1312 notice may be given in any practicable manner, including
1313 publication, radio, United States mail, the Internet, electronic
1314 transmission, public service announcements, and conspicuous
1315 posting on the condominium property or association property or
1316 any other means the board deems reasonable under the
1317 circumstances. Notice of ~~board~~ decisions also may be
1318 communicated as provided in this paragraph.

1319 (b) Cancel and reschedule any association meeting.

1320 (c) Name as assistant officers persons who are not
1321 directors, which assistant officers shall have the same
1322 authority as the executive officers to whom they are assistants
1323 during the state of emergency to accommodate the incapacity or
1324 unavailability of any officer of the association.

1325 (d) Relocate the association's principal office or

1326 designate alternative principal offices.

1327 (e) Enter into agreements with local counties and
 1328 municipalities to assist counties and municipalities with debris
 1329 removal.

1330 (f) Implement a disaster plan or an emergency plan before,
 1331 during, or ~~immediately~~ following the event for which a state of
 1332 emergency is declared which may include, but is not limited to,
 1333 shutting down or off elevators; electricity; water, sewer, or
 1334 security systems; or air conditioners.

1335 (g) Based upon advice of emergency management officials or
 1336 public health officials, or upon the advice of licensed
 1337 professionals retained by or otherwise available to the board,
 1338 determine any portion of the condominium property or association
 1339 property unavailable for entry or occupancy by unit owners,
 1340 family members, tenants, guests, agents, or invitees to protect
 1341 the health, safety, or welfare of such persons.

1342 (h) Require the evacuation of the condominium property in
 1343 the event of a mandatory evacuation order in the locale in which
 1344 the condominium is located. Should any unit owner or other
 1345 occupant of a condominium fail or refuse to evacuate the
 1346 condominium property or association property where the board has
 1347 required evacuation, the association shall be immune from
 1348 liability or injury to persons or property arising from such
 1349 failure or refusal.

1350 (i) Based upon advice of emergency management officials or

1351 public health officials, or upon the advice of licensed
1352 professionals retained by or otherwise available to the board,
1353 determine whether the condominium property, association
1354 property, or any portion thereof can be safely inhabited,
1355 accessed, or occupied. However, such determination is not
1356 conclusive as to any determination of habitability pursuant to
1357 the declaration.

1358 (j) Mitigate further damage, injury, or contagion,
1359 including taking action to contract for the removal of debris
1360 and to prevent or mitigate the spread of fungus or contagion,
1361 including, but not limited to, mold or mildew, by removing and
1362 disposing of wet drywall, insulation, carpet, cabinetry, or
1363 other fixtures on or within the condominium property, even if
1364 the unit owner is obligated by the declaration or law to insure
1365 or replace those fixtures and to remove personal property from a
1366 unit.

1367 (k) Contract, on behalf of any unit owner or owners, for
1368 items or services for which the owners are otherwise
1369 individually responsible, but which are necessary to prevent
1370 further injury, contagion, or damage to the condominium property
1371 or association property. In such event, the unit owner or owners
1372 on whose behalf the board has contracted are responsible for
1373 reimbursing the association for the actual costs of the items or
1374 services, and the association may use its lien authority
1375 provided by s. 718.116 to enforce collection of the charges.

1376 Without limitation, such items or services may include the
1377 drying of units, the boarding of broken windows or doors, ~~and~~
1378 the replacement of damaged air conditioners or air handlers to
1379 provide climate control in the units or other portions of the
1380 property, and the sanitizing of the condominium property or
1381 association property, as applicable.

1382 (1) Regardless of any provision to the contrary and even
1383 if such authority does not specifically appear in the
1384 declaration of condominium, articles, or bylaws of the
1385 association, levy special assessments without a vote of the
1386 owners.

1387 (m) Without unit owners' approval, borrow money and pledge
1388 association assets as collateral to fund emergency repairs and
1389 carry out the duties of the association when operating funds are
1390 insufficient. This paragraph does not limit the general
1391 authority of the association to borrow money, subject to such
1392 restrictions as are contained in the declaration of condominium,
1393 articles, or bylaws of the association.

1394 (2) The special powers authorized under subsection (1)
1395 shall be limited to that time reasonably necessary to protect
1396 the health, safety, and welfare of the association and the unit
1397 owners and the unit owners' family members, tenants, guests,
1398 agents, or invitees and shall be reasonably necessary to
1399 mitigate further damage, injury, or contagion and make emergency
1400 repairs.

1401 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
1402 of emergency declared by executive order or proclamation of the
1403 Governor pursuant to s. 252.36, an association may not prohibit
1404 unit owners, tenants, guests, agents, or invitees of a unit
1405 owner from accessing the unit and the common elements and
1406 limited common elements appurtenant thereto for the purposes of
1407 ingress to and egress from the unit and when access is necessary
1408 in connection with:

1409 (a) The sale, lease, or other transfer of title of a unit;

1410 or

1411 (b) The habitability of the unit or for the health and
1412 safety of such person unless a governmental order or
1413 determination, or a public health directive from the Centers for
1414 Disease Control and Prevention, has been issued prohibiting such
1415 access to the unit. Any such access is subject to reasonable
1416 restrictions adopted by the association.

1417 Section 10. Subsection (3) of section 718.202, Florida
1418 Statutes, is amended to read:

1419 718.202 Sales or reservation deposits prior to closing.—

1420 (3) If the contract for sale of the condominium unit so
1421 provides, the developer may withdraw escrow funds in excess of
1422 10 percent of the purchase price from the special account
1423 required by subsection (2) when the construction of improvements
1424 has begun. He or she may use the funds for the actual costs
1425 incurred by the developer in the ~~actual~~ construction and

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1426 development of the condominium property in which the unit to be
1427 sold is located. For purposes of this subsection, the term
1428 "actual costs" includes, but is not limited to, expenditures for
1429 demolition, site clearing, permit fees, impact fees, and utility
1430 reservation fees, as well as architectural, engineering, and
1431 surveying fees that directly relate to construction and
1432 development of the condominium property. However, no part of
1433 these funds may be used for salaries, commissions, or expenses
1434 of salespersons; ~~or~~ for advertising, marketing, or promotional
1435 purposes; or for loan fees and costs, principal and interest on
1436 loans, attorney fees, accounting fees, or insurance costs. A
1437 contract which permits use of the advance payments for these
1438 purposes shall include the following legend conspicuously
1439 printed or stamped in boldfaced type on the first page of the
1440 contract and immediately above the place for the signature of
1441 the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE
1442 PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS
1443 CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

1444 Section 11. Subsection (1) and paragraph (b) of subsection
1445 (3) of section 718.303, Florida Statutes, are amended to read:

1446 718.303 Obligations of owners and occupants; remedies.—

1447 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1448 ~~each~~ association is governed by, and must comply with the
1449 provisions of, this chapter, the declaration, the documents
1450 creating the association, and the association bylaws which are

1451 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1452 Actions at law or in equity ~~for damages or for injunctive~~
1453 ~~relief~~, or both, for failure to comply with these provisions may
1454 be brought by the association or by a unit owner against:

1455 (a) The association.

1456 (b) A unit owner.

1457 (c) Directors designated by the developer, for actions
1458 taken by them before control of the association is assumed by
1459 unit owners other than the developer.

1460 (d) Any director who willfully and knowingly fails to
1461 comply with these provisions.

1462 (e) Any tenant leasing a unit, and any other invitee
1463 occupying a unit.

1464

1465 The prevailing party in any such action or in any action in
1466 which the purchaser claims a right of voidability based upon
1467 contractual provisions as required in s. 718.503(1)(a) is
1468 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1469 owner prevailing in an action between the association and the
1470 unit owner under this subsection ~~section~~, in addition to
1471 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1472 recover additional amounts as determined by the court to be
1473 necessary to reimburse the unit owner for his or her share of
1474 assessments levied by the association to fund its expenses of
1475 the litigation. This relief does not exclude other remedies

1476 provided by law. Actions arising under this subsection are not
1477 considered ~~may not be deemed to be~~ actions for specific
1478 performance.

1479 (3) The association may levy reasonable fines for the
1480 failure of the owner of the unit or its tenant ~~occupant~~,
1481 licensee, or invitee to comply with any provision of the
1482 declaration, the association bylaws, or reasonable rules of the
1483 association. A fine may not become a lien against a unit. A fine
1484 may be levied by the board on the basis of each day of a
1485 continuing violation, with a single notice and opportunity for
1486 hearing before a committee as provided in paragraph (b).
1487 However, the fine may not exceed \$100 per violation, or \$1,000
1488 in the aggregate.

1489 (b) A fine or suspension levied by the board of
1490 administration may not be imposed unless the board first
1491 provides at least 14 days' written notice to the unit owner and,
1492 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1493 unit owner sought to be fined or suspended, and an opportunity
1494 for a hearing before a committee of at least three members
1495 appointed by the board who are not officers, directors, or
1496 employees of the association, or the spouse, parent, child,
1497 brother, or sister of an officer, director, or employee. The
1498 role of the committee is limited to determining whether to
1499 confirm or reject the fine or suspension levied by the board. If
1500 the committee does not approve the proposed fine or suspension

1501 by majority vote, the fine or suspension may not be imposed. If
 1502 the proposed fine or suspension is approved by the committee,
 1503 the fine payment is due 5 days after notice of the approved fine
 1504 is provided to the unit owner and, if applicable, to any tenant,
 1505 licensee, or invitee of the unit owner ~~the date of the committee~~
 1506 ~~meeting at which the fine is approved~~. The association must
 1507 provide written notice of such fine or suspension by mail or
 1508 hand delivery to the unit owner and, if applicable, to any
 1509 tenant, licensee, or invitee of the unit owner.

1510 Section 12. Subsection (5) is added to section 718.405,
 1511 Florida Statutes, to read:

1512 718.405 Multicondominiums; multicondominium associations.—

1513 (5) This section does not prevent or restrict a
 1514 multicondominium association from adopting a consolidated or
 1515 combined declaration of condominium if such declaration complies
 1516 with s. 718.104 and does not serve to merge the condominiums or
 1517 change the legal descriptions of the condominium parcels as set
 1518 forth in s. 718.109, unless accomplished in accordance with law.
 1519 This subsection is intended to clarify existing law and applies
 1520 to associations existing on July 1, 2021.

1521 Section 13. Paragraph (1) of subsection (1) of section
 1522 718.501, Florida Statutes, is amended to read:

1523 718.501 Authority, responsibility, and duties of Division
 1524 of Florida Condominiums, Timeshares, and Mobile Homes.—

1525 (1) The division may enforce and ensure compliance with

1526 ~~the provisions of~~ this chapter and rules relating to the
 1527 development, construction, sale, lease, ownership, operation,
 1528 and management of residential condominium units. In performing
 1529 its duties, the division has complete jurisdiction to
 1530 investigate complaints and enforce compliance with respect to
 1531 associations that are still under developer control or the
 1532 control of a bulk assignee or bulk buyer pursuant to part VII of
 1533 this chapter and complaints against developers, bulk assignees,
 1534 or bulk buyers involving improper turnover or failure to
 1535 turnover, pursuant to s. 718.301. However, after turnover has
 1536 occurred, the division has jurisdiction to investigate
 1537 complaints related only to financial issues, elections, and the
 1538 maintenance of and unit owner access to association records
 1539 under ~~pursuant to~~ s. 718.111(12).

1540 (1) The division shall develop a program to certify both
 1541 volunteer and paid mediators to provide mediation of condominium
 1542 disputes. The division shall provide, upon request, a list of
 1543 such mediators to any association, unit owner, or other
 1544 participant in alternative dispute resolution ~~arbitration~~
 1545 proceedings under s. 718.1255 requesting a copy of the list. The
 1546 division shall include on the list of volunteer mediators only
 1547 the names of persons who have received at least 20 hours of
 1548 training in mediation techniques or who have mediated at least
 1549 20 disputes. In order to become initially certified by the
 1550 division, paid mediators must be certified by the Supreme Court

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1551 to mediate court cases in county or circuit courts. However, the
1552 division may adopt, by rule, additional factors for the
1553 certification of paid mediators, which must be related to
1554 experience, education, or background. Any person initially
1555 certified as a paid mediator by the division must, in order to
1556 continue to be certified, comply with the factors or
1557 requirements adopted by rule.

1558 Section 14. Section 718.5014, Florida Statutes, is amended
1559 to read:

1560 718.5014 Ombudsman location.—The ombudsman shall maintain
1561 his or her principal office in a Leon County on the premises of
1562 ~~the division or, if suitable space cannot be provided there, at~~
1563 ~~another~~ place convenient to the offices of the division which
1564 will enable the ombudsman to expeditiously carry out the duties
1565 and functions of his or her office. The ombudsman may establish
1566 branch offices elsewhere in the state upon the concurrence of
1567 the Governor.

1568 Section 15. Subsection (25) of section 719.103, Florida
1569 Statutes, is amended to read:

1570 719.103 Definitions.—As used in this chapter:

1571 (25) "Unit" means a part of the cooperative property which
1572 is subject to exclusive use and possession. A unit may be
1573 improvements, land, or land and improvements together, as
1574 specified in the cooperative documents. An interest in a unit is
1575 an interest in real property.

1576 Section 16. Paragraph (c) of subsection (2) of section
 1577 719.104, Florida Statutes, is amended to read:
 1578 719.104 Cooperatives; access to units; records; financial
 1579 reports; assessments; purchase of leases.—
 1580 (2) OFFICIAL RECORDS.—
 1581 (c) The official records of the association are open to
 1582 inspection by any association member or the authorized
 1583 representative of such member at all reasonable times. The right
 1584 to inspect the records includes the right to make or obtain
 1585 copies, at the reasonable expense, if any, of the association
 1586 member. The association may adopt reasonable rules regarding the
 1587 frequency, time, location, notice, and manner of record
 1588 inspections and copying, but may not require a member to
 1589 demonstrate any purpose or state any reason for the inspection.
 1590 The failure of an association to provide the records within 10
 1591 working days after receipt of a written request creates a
 1592 rebuttable presumption that the association willfully failed to
 1593 comply with this paragraph. A member ~~unit owner~~ who is denied
 1594 access to official records is entitled to the actual damages or
 1595 minimum damages for the association's willful failure to comply.
 1596 The minimum damages are \$50 per calendar day for up to 10 days,
 1597 beginning on the 11th working day after receipt of the written
 1598 request. The failure to permit inspection entitles any person
 1599 prevailing in an enforcement action to recover reasonable
 1600 attorney fees from the person in control of the records who,

1601 directly or indirectly, knowingly denied access to the records.
1602 Any person who knowingly or intentionally defaces or destroys
1603 accounting records that are required by this chapter to be
1604 maintained during the period for which such records are required
1605 to be maintained, or who knowingly or intentionally fails to
1606 create or maintain accounting records that are required to be
1607 created or maintained, with the intent of causing harm to the
1608 association or one or more of its members, is personally subject
1609 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1610 association shall maintain an adequate number of copies of the
1611 declaration, articles of incorporation, bylaws, and rules, and
1612 all amendments to each of the foregoing, as well as the question
1613 and answer sheet as described in s. 719.504 and year-end
1614 financial information required by the department, on the
1615 cooperative property to ensure their availability to members
1616 ~~unit owners~~ and prospective purchasers, and may charge its
1617 actual costs for preparing and furnishing these documents to
1618 those requesting the same. An association shall allow a member
1619 or his or her authorized representative to use a portable
1620 device, including a smartphone, tablet, portable scanner, or any
1621 other technology capable of scanning or taking photographs, to
1622 make an electronic copy of the official records in lieu of the
1623 association providing the member or his or her authorized
1624 representative with a copy of such records. The association may
1625 not charge a member or his or her authorized representative for

1626 the use of a portable device. Notwithstanding this paragraph,
1627 the following records shall not be accessible to members ~~unit~~
1628 ~~owners~~:

1629 1. Any record protected by the lawyer-client privilege as
1630 described in s. 90.502 and any record protected by the work-
1631 product privilege, including any record prepared by an
1632 association attorney or prepared at the attorney's express
1633 direction which reflects a mental impression, conclusion,
1634 litigation strategy, or legal theory of the attorney or the
1635 association, and which was prepared exclusively for civil or
1636 criminal litigation or for adversarial administrative
1637 proceedings, or which was prepared in anticipation of such
1638 litigation or proceedings until the conclusion of the litigation
1639 or proceedings.

1640 2. Information obtained by an association in connection
1641 with the approval of the lease, sale, or other transfer of a
1642 unit.

1643 3. Personnel records of association or management company
1644 employees, including, but not limited to, disciplinary, payroll,
1645 health, and insurance records. For purposes of this
1646 subparagraph, the term "personnel records" does not include
1647 written employment agreements with an association employee or
1648 management company, or budgetary or financial records that
1649 indicate the compensation paid to an association employee.

1650 4. Medical records of unit owners.

1651 5. Social security numbers, driver license numbers, credit
1652 card numbers, e-mail addresses, telephone numbers, facsimile
1653 numbers, emergency contact information, addresses of a unit
1654 owner other than as provided to fulfill the association's notice
1655 requirements, and other personal identifying information of any
1656 person, excluding the person's name, unit designation, mailing
1657 address, property address, and any address, e-mail address, or
1658 facsimile number provided to the association to fulfill the
1659 association's notice requirements. Notwithstanding the
1660 restrictions in this subparagraph, an association may print and
1661 distribute to unit ~~parcel~~ owners a directory containing the
1662 name, unit ~~parcel~~ address, and all telephone numbers of each
1663 unit ~~parcel~~ owner. However, an owner may exclude his or her
1664 telephone numbers from the directory by so requesting in writing
1665 to the association. An owner may consent in writing to the
1666 disclosure of other contact information described in this
1667 subparagraph. The association is not liable for the inadvertent
1668 disclosure of information that is protected under this
1669 subparagraph if the information is included in an official
1670 record of the association and is voluntarily provided by an
1671 owner and not requested by the association.

1672 6. Electronic security measures that are used by the
1673 association to safeguard data, including passwords.

1674 7. The software and operating system used by the
1675 association which allow the manipulation of data, even if the

1676 owner owns a copy of the same software used by the association.
 1677 The data is part of the official records of the association.

1678 Section 17. Paragraphs (b), (f), and (l) of subsection (1)
 1679 of section 719.106, Florida Statutes, are amended, and
 1680 subsection (3) is added to that section, to read:

1681 719.106 Bylaws; cooperative ownership.—

1682 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1683 documents shall provide for the following, and if they do not,
 1684 they shall be deemed to include the following:

1685 (b) *Quorum; voting requirements; proxies.*—

1686 1. Unless otherwise provided in the bylaws, the percentage
 1687 of voting interests required to constitute a quorum at a meeting
 1688 of the members shall be a majority of voting interests, and
 1689 decisions shall be made by owners of a majority of the voting
 1690 interests. Unless otherwise provided in this chapter, or in the
 1691 articles of incorporation, bylaws, or other cooperative
 1692 documents, and except as provided in subparagraph (d)1.,
 1693 decisions shall be made by owners of a majority of the voting
 1694 interests represented at a meeting at which a quorum is present.

1695 2. Except as specifically otherwise provided herein, after
 1696 January 1, 1992, unit owners may not vote by general proxy, but
 1697 may vote by limited proxies substantially conforming to a
 1698 limited proxy form adopted by the division. Limited proxies and
 1699 general proxies may be used to establish a quorum. Limited
 1700 proxies shall be used for votes taken to waive or reduce

1701 reserves in accordance with subparagraph (j)2., for votes taken
1702 to waive the financial reporting requirements of s.
1703 719.104(4)(b), for votes taken to amend the articles of
1704 incorporation or bylaws pursuant to this section, and for any
1705 other matter for which this chapter requires or permits a vote
1706 of the unit owners. Except as provided in paragraph (d), after
1707 January 1, 1992, no proxy, limited or general, shall be used in
1708 the election of board members. General proxies may be used for
1709 other matters for which limited proxies are not required, and
1710 may also be used in voting for nonsubstantive changes to items
1711 for which a limited proxy is required and given. Notwithstanding
1712 the provisions of this section, unit owners may vote in person
1713 at unit owner meetings. Nothing contained herein shall limit the
1714 use of general proxies or require the use of limited proxies or
1715 require the use of limited proxies for any agenda item or
1716 election at any meeting of a timeshare cooperative.

1717 3. Any proxy given shall be effective only for the
1718 specific meeting for which originally given and any lawfully
1719 adjourned meetings thereof. In no event shall any proxy be valid
1720 for a period longer than 90 days after the date of the first
1721 meeting for which it was given. Every proxy shall be revocable
1722 at any time at the pleasure of the unit owner executing it.

1723 4. A member of the board of administration or a committee
1724 may submit in writing his or her agreement or disagreement with
1725 any action taken at a meeting that the member did not attend.

1726 This agreement or disagreement may not be used as a vote for or
1727 against the action taken and may not be used for the purposes of
1728 creating a quorum.

1729 5. A board member or committee member participating in a
1730 meeting via telephone, real-time videoconferencing, or similar
1731 real-time electronic or video communication counts toward a
1732 quorum, and such member may vote as if physically present ~~When~~
1733 ~~some or all of the board or committee members meet by telephone~~
1734 ~~conference, those board or committee members attending by~~
1735 ~~telephone conference may be counted toward obtaining a quorum~~
1736 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1737 used ~~utilized~~ so that the conversation of such ~~those board or~~
1738 ~~committee members attending by telephone~~ may be heard by the
1739 board or committee members attending in person, as well as by
1740 any unit owners present at a meeting.

1741 (f) *Recall of board members.*—Subject to s. 719.301, any
1742 member of the board of administration may be recalled and
1743 removed from office with or without cause by the vote or
1744 agreement in writing by a majority of all the voting interests.
1745 A special meeting of the voting interests to recall any member
1746 of the board of administration may be called by 10 percent of
1747 the unit owners giving notice of the meeting as required for a
1748 meeting of unit owners, and the notice shall state the purpose
1749 of the meeting. Electronic transmission may not be used as a
1750 method of giving notice of a meeting called in whole or in part

1751 for this purpose.

1752 1. If the recall is approved by a majority of all voting
1753 interests by a vote at a meeting, the recall shall be effective
1754 as provided in this paragraph. The board shall duly notice and
1755 hold a board meeting within 5 full business days after the
1756 adjournment of the unit owner meeting to recall one or more
1757 board members. At the meeting, the board shall either certify
1758 the recall, in which case such member or members shall be
1759 recalled effective immediately and shall turn over to the board
1760 within 5 full business days any and all records and property of
1761 the association in their possession, or shall proceed as set
1762 forth in subparagraph 3.

1763 2. If the proposed recall is by an agreement in writing by
1764 a majority of all voting interests, the agreement in writing or
1765 a copy thereof shall be served on the association by certified
1766 mail or by personal service in the manner authorized by chapter
1767 48 and the Florida Rules of Civil Procedure. The board of
1768 administration shall duly notice and hold a meeting of the board
1769 within 5 full business days after receipt of the agreement in
1770 writing. At the meeting, the board shall either certify the
1771 written agreement to recall members of the board, in which case
1772 such members shall be recalled effective immediately and shall
1773 turn over to the board, within 5 full business days, any and all
1774 records and property of the association in their possession, or
1775 proceed as described in subparagraph 3.

1776 3. If the board determines not to certify the written
 1777 agreement to recall members of the board, or does not certify
 1778 the recall by a vote at a meeting, the board shall, within 5
 1779 full business days after the board meeting, file with the
 1780 division a petition for binding arbitration under ~~pursuant to~~
 1781 ~~the procedures of~~ s. 719.1255 or file an action with a court of
 1782 competent jurisdiction. For purposes of this paragraph, the unit
 1783 owners who voted at the meeting or who executed the agreement in
 1784 writing shall constitute one party under the petition for
 1785 arbitration or in a court action. If the arbitrator or court
 1786 certifies the recall as to any member of the board, the recall
 1787 is ~~shall be~~ effective upon the mailing of the final order of
 1788 arbitration to the association or the final order of the court.
 1789 If the association fails to comply with the order of the court
 1790 or the arbitrator, the division may take action under ~~pursuant~~
 1791 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
 1792 any and all records and property of the association in the
 1793 member's possession within 5 full business days after the
 1794 effective date of the recall.

1795 4. If the board fails to duly notice and hold a board
 1796 meeting within 5 full business days after service of an
 1797 agreement in writing or within 5 full business days after the
 1798 adjournment of the unit owner recall meeting, the recall is
 1799 ~~shall be~~ deemed effective and the board members so recalled
 1800 shall immediately turn over to the board any and all records and

1801 property of the association.

1802 5. If the board fails to duly notice and hold the required
1803 meeting or fails to file the required petition or action, the
1804 unit owner representative may file a petition under ~~pursuant to~~
1805 s. 719.1255 or file an action in a court of competent
1806 jurisdiction challenging the board's failure to act. The
1807 petition or action must be filed within 60 days after the
1808 expiration of the applicable 5-full-business-day period. The
1809 review of a petition or action under this subparagraph is
1810 limited to the sufficiency of service on the board and the
1811 facial validity of the written agreement or ballots filed.

1812 6. If a vacancy occurs on the board as a result of a
1813 recall and less than a majority of the board members are
1814 removed, the vacancy may be filled by the affirmative vote of a
1815 majority of the remaining directors, notwithstanding any
1816 provision to the contrary contained in this chapter. If
1817 vacancies occur on the board as a result of a recall and a
1818 majority or more of the board members are removed, the vacancies
1819 shall be filled in accordance with procedural rules to be
1820 adopted by the division, which rules need not be consistent with
1821 this chapter. The rules must provide procedures governing the
1822 conduct of the recall election as well as the operation of the
1823 association during the period after a recall but before the
1824 recall election.

1825 7. A board member who has been recalled may file a

1826 petition under ~~pursuant to~~ s. 719.1255 or file an action in a
 1827 court of competent jurisdiction challenging the validity of the
 1828 recall. The petition or action must be filed within 60 days
 1829 after the recall is deemed certified. The association and the
 1830 unit owner representative shall be named as the respondents.

1831 8. The division or court may not accept for filing a
 1832 recall petition or action, whether filed under ~~pursuant to~~
 1833 subparagraph 1., subparagraph 2., subparagraph 5., or
 1834 subparagraph 7. and regardless of whether the recall was
 1835 certified, when there are 60 or fewer days until the scheduled
 1836 reelection of the board member sought to be recalled or when 60
 1837 or fewer days have not elapsed since the election of the board
 1838 member sought to be recalled.

1839 (1) Alternative dispute resolution ~~Arbitration~~.—There
 1840 shall be a provision for alternative dispute resolution
 1841 ~~mandatory nonbinding arbitration~~ of internal disputes arising
 1842 from the operation of the cooperative in accordance with s.
 1843 719.1255.

1844 (3) GENERALLY.—The association may extinguish a
 1845 discriminatory restriction as provided under s. 712.065.

1846 Section 18. Section 719.128, Florida Statutes, is amended
 1847 to read:

1848 719.128 Association emergency powers.—

1849 (1) To the extent allowed by law, unless specifically
 1850 prohibited by the cooperative documents, and consistent with s.

1851 617.0830, the board of administration, in response to damage or
1852 injury caused by or anticipated in connection with an emergency,
1853 as defined in s. 252.34(4), ~~event~~ for which a state of emergency
1854 is declared pursuant to s. 252.36 in the area encompassed by the
1855 cooperative, may exercise the following powers:

1856 (a) Conduct board meetings, committee meetings, elections,
1857 or membership meetings, in whole or in part, by telephone, real-
1858 time videoconferencing, or similar real-time electronic or video
1859 communication after notice of the meetings and board decisions
1860 is provided in as practicable a manner as possible, including
1861 via publication, radio, United States mail, the Internet,
1862 electronic transmission, public service announcements,
1863 conspicuous posting on the cooperative property, or any other
1864 means the board deems appropriate under the circumstances.
1865 Notice of decisions may also be communicated as provided in this
1866 paragraph.

1867 (b) Cancel and reschedule an association meeting.

1868 (c) Designate assistant officers who are not directors. If
1869 the executive officer is incapacitated or unavailable, the
1870 assistant officer has the same authority during the state of
1871 emergency as the executive officer he or she assists.

1872 (d) Relocate the association's principal office or
1873 designate an alternative principal office.

1874 (e) Enter into agreements with counties and municipalities
1875 to assist counties and municipalities with debris removal.

1876 (f) Implement a disaster or an emergency plan before,
 1877 during, or ~~immediately~~ following the event for which a state of
 1878 emergency is declared, which may include turning on or shutting
 1879 off elevators; electricity; water, sewer, or security systems;
 1880 or air conditioners for association buildings.

1881 (g) Based upon the advice of emergency management
 1882 officials or public health officials, or upon the advice of
 1883 licensed professionals retained by or otherwise available to the
 1884 board of administration, determine any portion of the
 1885 cooperative property unavailable for entry or occupancy by unit
 1886 owners or their family members, tenants, guests, agents, or
 1887 invitees to protect their health, safety, or welfare.

1888 (h) Based upon the advice of emergency management
 1889 officials or public health officials, or upon the advice of
 1890 licensed professionals retained by or otherwise available to the
 1891 board of administration, determine whether the cooperative
 1892 property or any portion thereof can be safely inhabited or
 1893 occupied. However, such determination is not conclusive as to
 1894 any determination of habitability pursuant to the cooperative
 1895 documents ~~declaration~~.

1896 (i) Require the evacuation of the cooperative property in
 1897 the event of a mandatory evacuation order in the area where the
 1898 cooperative is located or prohibit or restrict access to the
 1899 cooperative property in the event of a public health threat. If
 1900 a unit owner or other occupant of a cooperative fails to

1901 evacuate the cooperative property for which the board has
 1902 required evacuation, the association is immune from liability
 1903 for injury to persons or property arising from such failure.

1904 (j) Mitigate further damage, injury, or contagion,
 1905 including taking action to contract for the removal of debris
 1906 and to prevent or mitigate the spread of fungus, including mold
 1907 or mildew, by removing and disposing of wet drywall, insulation,
 1908 carpet, cabinetry, or other fixtures on or within the
 1909 cooperative property, regardless of whether the unit owner is
 1910 obligated by the cooperative documents ~~declaration~~ or law to
 1911 insure or replace those fixtures and to remove personal property
 1912 from a unit or to sanitize the cooperative property.

1913 (k) Contract, on behalf of a unit owner, for items or
 1914 services for which the owner is otherwise individually
 1915 responsible, but which are necessary to prevent further injury,
 1916 contagion, or damage to the cooperative property. In such event,
 1917 the unit owner on whose behalf the board has contracted is
 1918 responsible for reimbursing the association for the actual costs
 1919 of the items or services, and the association may use its lien
 1920 authority provided by s. 719.108 to enforce collection of the
 1921 charges. Such items or services may include the drying of the
 1922 unit, the boarding of broken windows or doors, ~~and~~ the
 1923 replacement of a damaged air conditioner or air handler to
 1924 provide climate control in the unit or other portions of the
 1925 property, and the sanitizing of the cooperative property.

1926 (1) Notwithstanding a provision to the contrary, and
 1927 regardless of whether such authority does not specifically
 1928 appear in the cooperative documents, levy special assessments
 1929 without a vote of the owners.

1930 (m) Without unit owners' approval, borrow money and pledge
 1931 association assets as collateral to fund emergency repairs and
 1932 carry out the duties of the association if operating funds are
 1933 insufficient. This paragraph does not limit the general
 1934 authority of the association to borrow money, subject to such
 1935 restrictions contained in the cooperative documents.

1936 (2) The authority granted under subsection (1) is limited
 1937 to that time reasonably necessary to protect the health, safety,
 1938 and welfare of the association and the unit owners and their
 1939 family members, tenants, guests, agents, or invitees, and to
 1940 mitigate further damage, injury, or contagion and make emergency
 1941 repairs.

1942 (3) Notwithstanding paragraphs (1) (f)-(i), during a state
 1943 of emergency declared by executive order or proclamation of the
 1944 Governor pursuant to s. 252.36, an association may not prohibit
 1945 unit owners, tenants, guests, agents, or invitees of a unit
 1946 owner from accessing the common elements and limited common
 1947 elements appurtenant thereto for the purposes of ingress to and
 1948 egress from the unit when access is necessary in connection
 1949 with:

1950 (a) The sale, lease, or other transfer of title of a unit;

1951 or
 1952 (b) The habitability of the unit or for the health and
 1953 safety of such person unless a governmental order or
 1954 determination, or a public health directive from the Centers for
 1955 Disease Control and Prevention, has been issued prohibiting such
 1956 access to the unit. Any such access is subject to reasonable
 1957 restrictions adopted by the association.

1958 Section 19. Subsection (8) of section 720.301, Florida
 1959 Statutes, is amended to read:

1960 720.301 Definitions.—As used in this chapter, the term:

1961 (8) "Governing documents" means:

1962 (a) The recorded declaration of covenants for a community
 1963 and all duly adopted and recorded amendments, supplements, and
 1964 recorded exhibits thereto.;

1965 (b) The articles of incorporation and bylaws of the
 1966 homeowners' association and any duly adopted amendments
 1967 thereto.; and

1968 ~~(c) Rules and regulations adopted under the authority of~~
 1969 ~~the recorded declaration, articles of incorporation, or bylaws~~
 1970 ~~and duly adopted amendments thereto.~~

1971 Section 20. Paragraph (1) of subsection (4) of section
 1972 720.303, Florida Statutes, is redesignated as paragraph (m) and
 1973 amended, paragraph (c) of subsection (2), paragraphs (c) and (d)
 1974 of subsection (6), and paragraphs (b), (d), (g), (k), and (l) of
 1975 subsection (10) are amended, and a new paragraph (1) is added to

1976 subsection (4) of that section, to read:

1977 720.303 Association powers and duties; meetings of board;
 1978 official records; budgets; financial reporting; association
 1979 funds; recalls.—

1980 (2) BOARD MEETINGS.—

1981 (c) The bylaws shall provide the following for giving
 1982 notice to parcel owners and members of all board meetings and,
 1983 if they do not do so, shall be deemed to include the following:

1984 1. Notices of all board meetings must be posted in a
 1985 conspicuous place in the community at least 48 hours in advance
 1986 of a meeting, except in an emergency. In the alternative, if
 1987 notice is not posted in a conspicuous place in the community,
 1988 notice of each board meeting must be mailed or delivered to each
 1989 member at least 7 days before the meeting, except in an
 1990 emergency. Notwithstanding this general notice requirement, for
 1991 communities with more than 100 members, the association bylaws
 1992 may provide for a reasonable alternative to posting or mailing
 1993 of notice for each board meeting, including publication of
 1994 notice, provision of a schedule of board meetings, or the
 1995 conspicuous posting and repeated broadcasting of the notice on a
 1996 closed-circuit cable television system serving the homeowners'
 1997 association. However, if broadcast notice is used in lieu of a
 1998 notice posted physically in the community, the notice must be
 1999 broadcast at least four times every broadcast hour of each day
 2000 that a posted notice is otherwise required. When broadcast

2001 notice is provided, the notice and agenda must be broadcast in a
2002 manner and for a sufficient continuous length of time so as to
2003 allow an average reader to observe the notice and read and
2004 comprehend the entire content of the notice and the agenda. In
2005 addition to any of the authorized means of providing notice of a
2006 meeting of the board, the association may, by rule, adopt a
2007 procedure for conspicuously posting the meeting notice and the
2008 agenda on the association's website or an application that can
2009 be downloaded on a mobile device for at least the minimum period
2010 of time for which a notice of a meeting is also required to be
2011 physically posted on the association property. Any rule adopted
2012 must, in addition to other matters, include a requirement that
2013 the association send an electronic notice to members whose e-
2014 mail addresses are included in the association's official
2015 records in the same manner as is required for a notice of a
2016 meeting of the members. Such notice must include a hyperlink to
2017 the website or such mobile application on which the meeting
2018 notice is posted. The association may provide notice by
2019 electronic transmission in a manner authorized by law for
2020 meetings of the board of directors, committee meetings requiring
2021 notice under this section, and annual and special meetings of
2022 the members to any member who has provided a facsimile number or
2023 e-mail address to the association to be used for such purposes;
2024 however, a member must consent in writing to receiving notice by
2025 electronic transmission.

2026 2. An assessment may not be levied at a board meeting
 2027 unless the notice of the meeting includes a statement that
 2028 assessments will be considered and the nature of the
 2029 assessments. Written notice of any meeting at which special
 2030 assessments will be considered or at which amendments to rules
 2031 regarding parcel use will be considered must be mailed,
 2032 delivered, or electronically transmitted to the members and
 2033 parcel owners and posted conspicuously on the property or
 2034 broadcast on closed-circuit cable television not less than 14
 2035 days before the meeting.

2036 3. Directors may not vote by proxy or by secret ballot at
 2037 board meetings, except that secret ballots may be used in the
 2038 election of officers. This subsection also applies to the
 2039 meetings of any committee or other similar body, when a final
 2040 decision will be made regarding the expenditure of association
 2041 funds, and to any body vested with the power to approve or
 2042 disapprove architectural decisions with respect to a specific
 2043 parcel of residential property owned by a member of the
 2044 community.

2045 (4) OFFICIAL RECORDS.—The association shall maintain each
 2046 of the following items, when applicable, which constitute the
 2047 official records of the association:

2048 (1) Ballots, sign-in sheets, voting proxies, and all other
 2049 papers and electronic records relating to voting by parcel
 2050 owners, which must be maintained for at least 1 year after the

2051 date of the election, vote, or meeting.

2052 (m)~~(l)~~ All other written records of the association not
 2053 specifically included in this subsection ~~the foregoing~~ which are
 2054 related to the operation of the association.

2055 (6) BUDGETS.—

2056 (c)1. If the budget of the association does not provide
 2057 for reserve accounts under ~~pursuant to~~ paragraph (d), or the
 2058 declaration of covenants, articles, or bylaws do not obligate
 2059 the developer to create reserves, and the association is
 2060 responsible for the repair and maintenance of capital
 2061 improvements that may result in a special assessment if reserves
 2062 are not provided or not fully funded, each financial report for
 2063 the preceding fiscal year required by subsection (7) must
 2064 contain the following statement in conspicuous type:

2065
 2066 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
 2067 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
 2068 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
 2069 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
 2070 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
 2071 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
 2072 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
 2073 MEETING OR BY WRITTEN CONSENT.

2074 2. If the budget of the association does provide for
 2075 funding accounts for deferred expenditures, including, but not

2076 | limited to, funds for capital expenditures and deferred
2077 | maintenance, but such accounts are not created or established
2078 | under ~~pursuant to~~ paragraph (d), each financial report for the
2079 | preceding fiscal year required under subsection (7) must also
2080 | contain the following statement in conspicuous type:
2081 | THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
2082 | DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
2083 | AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
2084 | IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
2085 | TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION
2086 | 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
2087 | RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
2088 | ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.
2089 | (d) An association is deemed to have provided for reserve
2090 | accounts ~~if reserve accounts have been initially established by~~
2091 | ~~the developer or if the membership of the association~~
2092 | ~~affirmatively elects to provide for reserves. If reserve~~
2093 | ~~accounts are established by the developer, the budget must~~
2094 | ~~designate the components for which the reserve accounts may be~~
2095 | ~~used. If reserve accounts are not initially provided by the~~
2096 | ~~developer, the membership of the association may elect to do so~~
2097 | upon the affirmative approval of a majority of the total voting
2098 | interests of the association. Such approval may be obtained by
2099 | vote of the members at a duly called meeting of the membership
2100 | or by the written consent of a majority of the total voting

2101 interests of the association. The approval action of the
 2102 membership must state that reserve accounts shall be provided
 2103 for in the budget and must designate the components for which
 2104 the reserve accounts are to be established. Upon approval by the
 2105 membership, the board of directors shall include the required
 2106 reserve accounts in the budget in the next fiscal year following
 2107 the approval and each year thereafter. Once established as
 2108 provided in this subsection, the reserve accounts must be funded
 2109 or maintained or have their funding waived in the manner
 2110 provided in paragraph (f).

2111 (10) RECALL OF DIRECTORS.—

2112 (b)1. Board directors may be recalled by an agreement in
 2113 writing or by written ballot without a membership meeting. The
 2114 agreement in writing or the written ballots, or a copy thereof,
 2115 shall be served on the association by certified mail or by
 2116 personal service in the manner authorized by chapter 48 and the
 2117 Florida Rules of Civil Procedure.

2118 2. The board shall duly notice and hold a meeting of the
 2119 board within 5 full business days after receipt of the agreement
 2120 in writing or written ballots. At the meeting, the board shall
 2121 either certify the written ballots or written agreement to
 2122 recall a director or directors of the board, in which case such
 2123 director or directors shall be recalled effective immediately
 2124 and shall turn over to the board within 5 full business days any
 2125 and all records and property of the association in their

2126 possession, or proceed as described in paragraph (d).

2127 3. When it is determined by the department pursuant to
2128 binding arbitration proceedings or the court in an action filed
2129 in a court of competent jurisdiction that an initial recall
2130 effort was defective, written recall agreements or written
2131 ballots used in the first recall effort and not found to be
2132 defective may be reused in one subsequent recall effort.
2133 However, in no event is a written agreement or written ballot
2134 valid for more than 120 days after it has been signed by the
2135 member.

2136 4. Any rescission or revocation of a member's written
2137 recall ballot or agreement must be in writing and, in order to
2138 be effective, must be delivered to the association before the
2139 association is served with the written recall agreements or
2140 ballots.

2141 5. The agreement in writing or ballot shall list at least
2142 as many possible replacement directors as there are directors
2143 subject to the recall, when at least a majority of the board is
2144 sought to be recalled; the person executing the recall
2145 instrument may vote for as many replacement candidates as there
2146 are directors subject to the recall.

2147 (d) If the board determines not to certify the written
2148 agreement or written ballots to recall a director or directors
2149 of the board or does not certify the recall by a vote at a
2150 meeting, the board shall, within 5 full business days after the

2151 meeting, file an action with a court of competent jurisdiction
2152 or file with the department a petition for binding arbitration
2153 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2154 and 718.1255 and the rules adopted thereunder. For the purposes
2155 of this section, the members who voted at the meeting or who
2156 executed the agreement in writing shall constitute one party
2157 under the petition for arbitration or in a court action. If the
2158 arbitrator or court certifies the recall as to any director or
2159 directors of the board, the recall will be effective upon the
2160 final order of the court or the mailing of the final order of
2161 arbitration to the association. The director or directors so
2162 recalled shall deliver to the board any and all records of the
2163 association in their possession within 5 full business days
2164 after the effective date of the recall.

2165 (g) If the board fails to duly notice and hold the
2166 required meeting or fails to file the required petition or
2167 action, the parcel unit owner representative may file a petition
2168 or a court action under ~~pursuant to~~ s. 718.1255 challenging the
2169 board's failure to act. The petition or action must be filed
2170 within 60 days after the expiration of the applicable 5-full-
2171 business-day period. The review of a petition or action under
2172 this paragraph is limited to the sufficiency of service on the
2173 board and the facial validity of the written agreement or
2174 ballots filed.

2175 (k) A board member who has been recalled may file an

2176 action with a court of competent jurisdiction or a petition
 2177 under ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules
 2178 adopted challenging the validity of the recall. The petition or
 2179 action must be filed within 60 days after the recall is deemed
 2180 certified. The association and the parcel ~~unit~~ owner
 2181 representative shall be named as respondents.

2182 (1) The division or a court of competent jurisdiction may
 2183 not accept for filing a recall petition or action, whether filed
 2184 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
 2185 or paragraph (k) and regardless of whether the recall was
 2186 certified, when there are 60 or fewer days until the scheduled
 2187 reelection of the board member sought to be recalled or when 60
 2188 or fewer days have not elapsed since the election of the board
 2189 member sought to be recalled.

2190 Section 21. Subsection (2) of section 720.305, Florida
 2191 Statutes, is amended to read:

2192 720.305 Obligations of members; remedies at law or in
 2193 equity; levy of fines and suspension of use rights.—

2194 (2) An ~~The~~ association may levy reasonable fines. A fine
 2195 may not exceed \$100 per violation against any member or any
 2196 member's tenant, guest, or invitee for the failure of the owner
 2197 of the parcel or its occupant, licensee, or invitee to comply
 2198 with any provision of the declaration, the association bylaws,
 2199 or reasonable rules of the association unless otherwise provided
 2200 in the governing documents. A fine may be levied by the board

2201 for each day of a continuing violation, with a single notice and
2202 opportunity for hearing, except that the fine may not exceed
2203 \$1,000 in the aggregate unless otherwise provided in the
2204 governing documents. A fine of less than \$1,000 may not become a
2205 lien against a parcel. In any action to recover a fine, the
2206 prevailing party is entitled to reasonable attorney fees and
2207 costs from the nonprevailing party as determined by the court.

2208 (a) An association may suspend, for a reasonable period of
2209 time, the right of a member, or a member's tenant, guest, or
2210 invitee, to use common areas and facilities for the failure of
2211 the owner of the parcel or its occupant, licensee, or invitee to
2212 comply with any provision of the declaration, the association
2213 bylaws, or reasonable rules of the association. This paragraph
2214 does not apply to that portion of common areas used to provide
2215 access or utility services to the parcel. A suspension may not
2216 prohibit an owner or tenant of a parcel from having vehicular
2217 and pedestrian ingress to and egress from the parcel, including,
2218 but not limited to, the right to park.

2219 (b) A fine or suspension levied by the board of
2220 administration may not be imposed unless the board first
2221 provides at least 14 days' notice to the parcel owner and, if
2222 applicable, any occupant, licensee, or invitee of the parcel
2223 owner, sought to be fined or suspended and an opportunity for a
2224 hearing before a committee of at least three members appointed
2225 by the board who are not officers, directors, or employees of

2226 the association, or the spouse, parent, child, brother, or
 2227 sister of an officer, director, or employee. If the committee,
 2228 by majority vote, does not approve a proposed fine or
 2229 suspension, the proposed fine or suspension may not be imposed.
 2230 The role of the committee is limited to determining whether to
 2231 confirm or reject the fine or suspension levied by the board. If
 2232 the proposed fine or suspension levied by the board is approved
 2233 by the committee, the fine payment is due 5 days after notice of
 2234 the approved fine is provided to the parcel owner and, if
 2235 applicable, to any occupant, licensee, or invitee of the parcel
 2236 owner ~~the date of the committee meeting at which the fine is~~
 2237 ~~approved~~. The association must provide written notice of such
 2238 fine or suspension by mail or hand delivery to the parcel owner
 2239 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
 2240 of the parcel owner.

2241 Section 22. Paragraph (g) of subsection (1) and paragraph
 2242 (c) of subsection (9) of section 720.306, Florida Statutes, are
 2243 amended, and paragraph (h) is added to subsection (1) of that
 2244 section, to read:

2245 720.306 Meetings of members; voting and election
 2246 procedures; amendments.—

2247 (1) QUORUM; AMENDMENTS.—

2248 (g) A notice required under this section must be mailed or
 2249 delivered to the address identified as the parcel owner's
 2250 mailing address in the official records of the association as

2251 required under s. 720.303(4) on the property appraiser's website
2252 for the county in which the parcel is located, or electronically
2253 transmitted in a manner authorized by the association if the
2254 parcel owner has consented, in writing, to receive notice by
2255 electronic transmission.

2256 (h)1. Except as provided herein, an amendment to a
2257 governing document, rule, or regulation enacted after July 1,
2258 2021, which prohibits a parcel owner from renting his or her
2259 parcel, alters the authorized duration of a rental term, or
2260 specifies or limits the number of times that a parcel owner may
2261 rent his or her parcel during a specified period, applies only
2262 to a parcel owner who consents, individually or through a
2263 representative, to the amendment, and to parcel owners who
2264 acquire title to a parcel after the effective date of the
2265 amendment.

2266 2. Notwithstanding subparagraph 1., an association may
2267 amend its governing documents to prohibit or regulate rental
2268 durations that are for terms of less than 6 months and to
2269 prohibit a parcel owner from renting his or parcel more than
2270 three times in a calendar year. Such amendments apply to all
2271 parcel owners.

2272 3. This paragraph does not affect the enforcement
2273 restrictions for associations of 15 or fewer parcel owners as
2274 provided in s. 720.303(1).

2275 4. For purposes of this paragraph, a change of ownership

2276 does not occur when a parcel owner conveys the parcel to an
2277 affiliated entity, when beneficial ownership of the parcel does
2278 not change, or when an heir becomes the parcel owner. For
2279 purposes of this paragraph, the term "affiliated entity" means
2280 an entity that controls, is controlled by, or is under common
2281 control with the parcel owner or that becomes a parent or
2282 successor entity by reason of transfer, merger, consolidation,
2283 public offering, reorganization, dissolution or sale of stock,
2284 or transfer of membership partnership interests. For a
2285 conveyance to be recognized as one made to an affiliated entity,
2286 the entity must furnish the association a document certifying
2287 that this paragraph applies, as well as providing any
2288 organizational documents for the parcel owner and the affiliated
2289 entity that support the representations in the certificate, as
2290 requested by the association.

2291 (9) ELECTIONS AND BOARD VACANCIES.—

2292 (c) Any election dispute between a member and an
2293 association must be submitted to ~~mandatory~~ binding arbitration
2294 with the division or filed with a court of competent
2295 jurisdiction. Such proceedings that are submitted to binding
2296 arbitration with the division must be conducted in the manner
2297 provided by s. 718.1255 and the procedural rules adopted by the
2298 division. Unless otherwise provided in the bylaws, any vacancy
2299 occurring on the board before the expiration of a term may be
2300 filled by an affirmative vote of the majority of the remaining

2301 directors, even if the remaining directors constitute less than
 2302 a quorum, or by the sole remaining director. In the alternative,
 2303 a board may hold an election to fill the vacancy, in which case
 2304 the election procedures must conform to the requirements of the
 2305 governing documents. Unless otherwise provided in the bylaws, a
 2306 board member appointed or elected under this section is
 2307 appointed for the unexpired term of the seat being filled.
 2308 Filling vacancies created by recall is governed by s.
 2309 720.303(10) and rules adopted by the division.

2310 Section 23. Subsection (1) of section 720.311, Florida
 2311 Statutes, is amended to read:

2312 720.311 Dispute resolution.—

2313 (1) The Legislature finds that alternative dispute
 2314 resolution has made progress in reducing court dockets and
 2315 trials and in offering a more efficient, cost-effective option
 2316 to litigation. The filing of any petition for arbitration or the
 2317 serving of a demand for presuit mediation as provided for in
 2318 this section shall toll the applicable statute of limitations.
 2319 Any recall dispute filed with the department under ~~pursuant to~~
 2320 s. 720.303(10) shall be conducted by the department in
 2321 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
 2322 and the rules adopted by the division. In addition, the
 2323 department shall conduct ~~mandatory~~ binding arbitration of
 2324 election disputes between a member and an association in
 2325 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the

2326 | division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
 2327 | not eligible for presuit mediation; these disputes must ~~shall~~ be
 2328 | arbitrated by the department or filed in a court of competent
 2329 | jurisdiction. At the conclusion of an arbitration ~~the~~
 2330 | proceeding, the department shall charge the parties a fee in an
 2331 | amount adequate to cover all costs and expenses incurred by the
 2332 | department in conducting the proceeding. Initially, the
 2333 | petitioner shall remit a filing fee of at least \$200 to the
 2334 | department. The fees paid to the department shall become a
 2335 | recoverable cost in the arbitration proceeding, and the
 2336 | prevailing party in an arbitration proceeding shall recover its
 2337 | reasonable costs and attorney ~~attorney's~~ fees in an amount found
 2338 | reasonable by the arbitrator. The department shall adopt rules
 2339 | to effectuate the purposes of this section.

2340 | Section 24. Subsection (6) is added to section 720.3075,
 2341 | Florida Statutes, to read:

2342 | 720.3075 Prohibited clauses in association documents.—
 2343 | (6) An association may extinguish a discriminatory
 2344 | restriction as provided in s. 712.065.

2345 | Section 25. Section 720.316, Florida Statutes, is amended
 2346 | to read:

2347 | 720.316 Association emergency powers.—

2348 | (1) To the extent allowed by law, unless specifically
 2349 | prohibited by the declaration or other recorded governing
 2350 | documents, and consistent with s. 617.0830, the board of

2351 directors, in response to damage or injury caused by or
2352 anticipated in connection with an emergency, as defined in s.
2353 252.34(4), ~~event~~ for which a state of emergency is declared
2354 pursuant to s. 252.36 in the area encompassed by the
2355 association, may exercise the following powers:

2356 (a) Conduct board meetings, committee meetings, elections,
2357 or membership meetings, in whole or in part, by telephone, real-
2358 time videoconferencing, or similar real-time electronic or video
2359 communication after notice of the meetings and board decisions
2360 is provided in as practicable a manner as possible, including
2361 via publication, radio, United States mail, the Internet,
2362 electronic transmission, public service announcements,
2363 conspicuous posting on the common area ~~association property,~~ or
2364 any other means the board deems appropriate under the
2365 circumstances. Notice of decisions may also be communicated as
2366 provided in this paragraph.

2367 (b) Cancel and reschedule an association meeting.

2368 (c) Designate assistant officers who are not directors. If
2369 the executive officer is incapacitated or unavailable, the
2370 assistant officer has the same authority during the state of
2371 emergency as the executive officer he or she assists.

2372 (d) Relocate the association's principal office or
2373 designate an alternative principal office.

2374 (e) Enter into agreements with counties and municipalities
2375 to assist counties and municipalities with debris removal.

2376 (f) Implement a disaster or an emergency plan before,
2377 during, or ~~immediately~~ following the event for which a state of
2378 emergency is declared, which may include, but is not limited to,
2379 turning on or shutting off elevators; electricity; water, sewer,
2380 or security systems; or air conditioners for association
2381 buildings.

2382 (g) Based upon the advice of emergency management
2383 officials or public health officials, or upon the advice of
2384 licensed professionals retained by or otherwise available to the
2385 board, determine any portion of the common areas or facilities
2386 ~~association property~~ unavailable for entry or occupancy by
2387 owners or their family members, tenants, guests, agents, or
2388 invitees to protect their health, safety, or welfare.

2389 (h) Based upon the advice of emergency management
2390 officials or public health officials or upon the advice of
2391 licensed professionals retained by or otherwise available to the
2392 board, determine whether the common areas or facilities
2393 ~~association property~~ can be safely inhabited, accessed, or
2394 occupied. However, such determination is not conclusive as to
2395 any determination of habitability pursuant to the declaration.

2396 (i) Mitigate further damage, injury, or contagion,
2397 including taking action to contract for the removal of debris
2398 and to prevent or mitigate the spread of fungus, including mold
2399 or mildew, by removing and disposing of wet drywall, insulation,
2400 carpet, cabinetry, or other fixtures on or within the common

2401 areas or facilities or sanitizing the common areas or facilities
 2402 association property.

2403 (j) Notwithstanding a provision to the contrary, and
 2404 regardless of whether such authority does not specifically
 2405 appear in the declaration or other recorded governing documents,
 2406 levy special assessments without a vote of the owners.

2407 (k) Without owners' approval, borrow money and pledge
 2408 association assets as collateral to fund emergency repairs and
 2409 carry out the duties of the association if operating funds are
 2410 insufficient. This paragraph does not limit the general
 2411 authority of the association to borrow money, subject to such
 2412 restrictions contained in the declaration or other recorded
 2413 governing documents.

2414 (2) The authority granted under subsection (1) is limited
 2415 to that time reasonably necessary to protect the health, safety,
 2416 and welfare of the association and the parcel owners and their
 2417 family members, tenants, guests, agents, or invitees, and to
 2418 mitigate further damage, injury, or contagion and make emergency
 2419 repairs.

2420 (3) Notwithstanding paragraphs (1) (f)-(i), during a state
 2421 of emergency declared by executive order or proclamation of the
 2422 Governor pursuant to s. 252.36, an association may not prohibit
 2423 parcel owners, tenants, guests, agents, or invitees of a parcel
 2424 owner from accessing the common areas and facilities for the
 2425 purposes of ingress to and egress from the parcel when access is

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2426 necessary in connection with:

2427 (a) The sale, lease, or other transfer of title of a
 2428 parcel; or

2429 (b) The habitability of the parcel or for the health and
 2430 safety of such person unless a governmental order or
 2431 determination, or a public health directive from the Centers for
 2432 Disease Control and Prevention, has been issued prohibiting such
 2433 access to the parcel. Any such access is subject to reasonable
 2434 restrictions adopted by the association.

2435 Section 26. This act shall take effect July 1, 2021.