A bill to be entitled
An act relating to residential associations; amending
ss. 718.112, 719.106, and 720.3033, F.S.; revising
certification and education requirements for board
directors of residential condominium associations,
cooperative associations, and homeowners’
associations, respectively; conforming provisions to
changes made by the act; providing an effective date.

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

Section 1. Paragraph (d) of subsection (2) of section
718.112, Florida Statutes, is amended to read:
718.112 Bylaws.—
(2) REQUIRED PROVISIONS.—The bylaws shall provide for the
following and, if they do not do so, shall be deemed to include
the following:
(d) Unit owner meetings.—
1. An annual meeting of the unit owners must be held at the
location provided in the association bylaws and, if the bylaws
are silent as to the location, the meeting must be held within
45 miles of the condominium property. However, such distance
requirement does not apply to an association governing a
timeshare condominium.
2. Unless the bylaws provide otherwise, a vacancy on the
board caused by the expiration of a director’s term must be
filled by electing a new board member, and the election must be
by secret ballot. An election is not required if the number of
vacancies equals or exceeds the number of candidates. For
purposes of this paragraph, the term "candidate" means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members' terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member’s term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time.
unless they own more than one unit or unless there are not
enough eligible candidates to fill the vacancies on the board at
the time of the vacancy. A unit owner in a residential
condominium desiring to be a candidate for board membership must
comply with sub-subparagraph 4.a. and must be eligible to be a
candidate to serve on the board of directors at the time of the
deadline for submitting a notice of intent to run in order to
have his or her name listed as a proper candidate on the ballot
or to serve on the board. A person who has been suspended or
removed by the division under this chapter, or who is delinquent
in the payment of any assessment due to the association, is not
eligible to be a candidate for board membership and may not be
listed on the ballot. For purposes of this paragraph, a person
is delinquent if a payment is not made by the due date as
specifically identified in the declaration of condominium,
bylaws, or articles of incorporation. If a due date is not
specifically identified in the declaration of condominium,
bylaws, or articles of incorporation, the due date is the first
day of the assessment period. A person who has been convicted of
any felony in this state or in a United States District or
Territorial Court, or who has been convicted of any offense in
another jurisdiction which would be considered a felony if
committed in this state, is not eligible for board membership
unless such felon’s civil rights have been restored for at least
5 years as of the date such person seeks election to the board.
The validity of an action by the board is not affected if it is
later determined that a board member is ineligible for board
membership due to having been convicted of a felony. This
subparagraph does not limit the term of a member of the board of
3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is.
otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other
person providing notice of the association meeting, must provide
an affidavit or United States Postal Service certificate of
mailing, to be included in the official records of the
association affirming that the notice was mailed or hand
delivered in accordance with this provision.

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

   a. At least 60 days before a scheduled election, the
association shall mail, deliver, or electronically transmit, by
separate association mailing or included in another association
mailing, delivery, or transmission, including regularly
published newsletters, to each unit owner entitled to a vote, a
first notice of the date of the election. A unit owner or other
eligible person desiring to be a candidate for the board must
give written notice of his or her intent to be a candidate to
the association at least 40 days before a scheduled election.
Together with the written notice and agenda as set forth in
subparagraph 3., the association shall mail, deliver, or
electronically transmit a second notice of the election to all
unit owners entitled to vote, together with a ballot that lists
all candidates not less than 14 days or more than 34 days before
the date of the election. Upon request of a candidate, an
information sheet, no larger than 8 1/2 inches by 11 inches,
which must be furnished by the candidate at least 35 days before
the election, must be included with the mailing, delivery, or
transmission of the ballot, with the costs of mailing, delivery,
or electronic transmission and copying to be borne by the
association. The association is not liable for the contents of
the information sheets prepared by the candidates. In order to
reduce costs, the association may print or duplicate the
information sheets on both sides of the paper. The division
shall by rule establish voting procedures consistent with this
sub-subparagraph, including rules establishing procedures for
giving notice by electronic transmission and rules providing for
the secrecy of ballots. Elections shall be decided by a
plurality of ballots cast. There is no quorum requirement;
however, at least 20 percent of the eligible voters must cast a
ballot in order to have a valid election. A unit owner may not
authorize any other person to vote his or her ballot, and any
ballots improperly cast are invalid. A unit owner who violates
this provision may be fined by the association in accordance
with s. 718.303. A unit owner who needs assistance in casting
the ballot for the reasons stated in s. 101.051 may obtain such
assistance. The regular election must occur on the date of the
annual meeting. Notwithstanding this sub-subparagraph, an
election is not required unless more candidates file notices of
intent to run or are nominated than board vacancies exist.

b. Within 90 days after being elected or appointed to the
board of an association of a residential condominium, each newly
elected or appointed director shall do both of the following:

(I) Certify by affidavit in writing to the secretary of the
association that he or she has read the association’s
declaration of condominium, articles of incorporation, bylaws,
and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association’s members. In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may

(II) Submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved condominium education provider within 1 year before or 90 days after the date of election or appointment. The affidavit and written certification or educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption.

A director of an association of a residential condominium who fails to timely file the affidavit and written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary shall require cause the association to retain a director’s affidavit and written certification or educational certificate for inspection by the members for 5 years after a director’s election or the duration of the director’s uninterrupted tenure, whichever is longer. Failure to have such affidavit and written certification or educational certificate on file does not affect the validity of any board action.

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

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

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

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

8. A unit owner may tape record or videotape a meeting of the unit owners subject to reasonable rules adopted by the division.
9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (j) and rules adopted by the division.

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

Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may, by affirmative vote of a majority of the total voting interests, provide for different voting and election procedures in its bylaws, which may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.
Section 2. Paragraph (d) of subsection (1) of section 719.106, Florida Statutes, is amended to read:

719.106 Bylaws; cooperative ownership.—

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

(d) Shareholder meetings.—There shall be an annual meeting of the shareholders. All members of the board of administration shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. Any unit owner desiring to be a candidate for board membership must comply with subparagraph 1. The bylaws must provide the method for calling meetings, including annual meetings. Written notice, which must incorporate an identification of agenda items, shall be given to each unit owner at least 14 days before the annual meeting and posted in a conspicuous place on the cooperative property at least 14 continuous days preceding the annual meeting. Upon notice to the unit owners, the board must by duly adopted rule designate a specific location on the cooperative property upon which all notice of unit owner meetings are posted. In lieu of or in addition to the physical posting of the meeting notice, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the cooperative association. However, if broadcast notice is used in lieu of a posted notice, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section.
If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the shareholders, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the cooperative association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the cooperative property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association’s official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, the notice of the annual meeting must be sent by mail, hand delivered, or electronically transmitted to each unit owner. An officer of the association must provide an affidavit or United States Postal Service certificate of mailing, to be included in the official records of the association, affirming that notices of the association meeting were mailed, hand delivered, or electronically transmitted, in accordance with this provision, to each unit owner at the address last furnished to the association.

1. The board of administration shall be elected by written ballot or voting machine. A proxy may not be used in electing the board of administration in general elections or elections to
fill vacancies caused by recall, resignation, or otherwise unless otherwise provided in this chapter.

a. At least 60 days before a scheduled election, the association shall mail, deliver, or transmit, whether by separate association mailing, delivery, or electronic transmission or included in another association mailing, delivery, or electronic transmission, including regularly published newsletters, to each unit owner entitled to vote, a first notice of the date of the election. Any unit owner or other eligible person desiring to be a candidate for the board of administration must give written notice to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in this section, the association shall mail, deliver, or electronically transmit a second notice of election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request of a candidate, the association shall include an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, to be included with the mailing, delivery, or electronic transmission of the ballot, with the costs of mailing, delivery, or transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets provided by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots.
Elections shall be decided by a plurality of those ballots cast. There is no quorum requirement. However, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not permit any other person to vote his or her ballot, and any such ballots improperly cast are invalid. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain assistance in casting the ballot. Any unit owner violating this provision may be fined by the association in accordance with s. 719.303. The regular election must occur on the date of the annual meeting. This subparagraph does not apply to timeshare cooperatives. Notwithstanding this subparagraph, an election and balloting are not required unless more candidates file a notice of intent to run or are nominated than vacancies exist on the board. Any challenge to the election process must be commenced within 60 days after the election results are announced.

b. Within 90 days after being elected or appointed to the board, each new director shall do both of the following:

(I) Certify by affidavit in writing to the secretary of the association that he or she has read the association’s bylaws, articles of incorporation, proprietary lease, and current written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association’s members. Within 90 days after being elected or appointed to the board, in lieu of this written certification, the newly elected or appointed director may

(II) Submit a certificate of having satisfactorily
completed the educational curriculum administered by an education provider as approved by the division pursuant to the requirements established in chapter 718 within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption.

A director who fails to timely file the affidavit and written certification or educational certificate is suspended from service on the board until he or she complies with this sub-subparagraph. The board may temporarily fill the vacancy during the period of suspension. The secretary of the association shall require cause the association to retain a director’s affidavit and written certification or educational certificate for inspection by the members for 5 years after a director’s election or the duration of the director’s uninterrupted tenure, whichever is longer. Failure to have such affidavit and written certification or educational certificate on file does not affect the validity of any board action.

2. Any approval by unit owners called for by this chapter, or the applicable cooperative documents, must be made at a duly noticed meeting of unit owners and is subject to this chapter or the applicable cooperative documents relating to unit owner decisionmaking, except that unit owners may take action by written agreement, without meetings, on matters for which action by written agreement without meetings is expressly allowed by the applicable cooperative documents or law which provides for the unit owner action.
3. Unit owners may waive notice of specific meetings if allowed by the applicable cooperative documents or law. Notice of meetings of the board of administration, shareholder meetings, except shareholder meetings called to recall board members under paragraph (f), and committee meetings may be given by electronic transmission to unit owners who consent to receive notice by electronic transmission. A unit owner who consents to receiving notices by electronic transmission is solely responsible for removing or bypassing filters that may block receipt of mass emails sent to members on behalf of the association in the course of giving electronic notices.

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

5. Any unit owner may tape record or videotape meetings of the unit owners subject to reasonable rules adopted by the division.

6. Unless otherwise provided in the bylaws, a vacancy occurring on the board before the expiration of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative, a board may hold an election to fill the vacancy, in which case the election procedures must conform to the requirements of subparagraph 1. unless the association has opted out of the statutory election process, in which case the bylaws of the association control. Unless otherwise provided in the bylaws, a board member appointed or elected under this subparagraph shall
fill the vacancy for the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph (f) and rules adopted by the division.

Notwithstanding subparagraphs (b)2. and (d)1., an association may, by the affirmative vote of a majority of the total voting interests, provide for a different voting and election procedure in its bylaws, which vote may be by a proxy specifically delineating the different voting and election procedures. The different voting and election procedures may provide for elections to be conducted by limited or general proxy.

Section 3. Subsection (1) of section 720.3033, Florida Statutes, is amended to read:

720.3033 Officers and directors.—

(1) (a) Within 90 days after being elected or appointed to the board of a homeowners’ association with at least 10 units, each director shall do both of the following:

1. Certify by affidavit in writing to the secretary of the association that he or she has read the association’s declaration of covenants, articles of incorporation, bylaws, and current written rules and policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association’s members. Within 90 days after being elected or appointed to the board, in lieu of such written certification, the newly elected or appointed director may

2. Submit a certificate of having satisfactorily completed the educational curriculum administered by a division-approved
education provider within 1 year before or 90 days after the
date of election or appointment.

(b) The **affidavit and written certification or educational**
certificate **are** is valid for the uninterrupted tenure of the
director on the board. A director who does not timely file the
**affidavit and written certification or educational certificate**
**is shall be suspended from the board until he or she complies**
with the requirement. The board may temporarily fill the vacancy
during the period of suspension.

(c) The association shall retain each director’s **affidavit**
**and written certification or educational certificate for**
inspection by the members for 5 years after the director’s
election. However, the failure to have the **affidavit and written**
certification or educational certificate on file does not affect
the validity of any board action.

Section 4. This act shall take effect July 1, 2022.