

By the Committee on Regulated Industries; and Senators Bradley and Boyd

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A bill to be entitled

An act relating to community associations; amending s. 718.103, F.S.; revising the definition of the term "video conference"; amending s. 718.111, F.S.; revising conditions that constitute a violation of certain provisions related to certain records of a condominium association; requiring a condominium association to provide copies of certain records or otherwise make them available for inspection and copying within a specified timeframe if the association receives a subpoena or written request from a law enforcement agency or prosecuting agency; requiring the association to assist law enforcement or prosecuting agencies in their investigations; providing criminal penalties; amending s. 718.112, F.S.; revising a requirement that a developer, before turning over control of a condominium association to unit owners, have a turnover inspection report for all buildings on the condominium property, rather than only for buildings that are three stories or higher; revising the criteria for certain associations requiring a structural integrity reserve study; correcting a cross-reference; amending s. 718.128, F.S.; revising how associations that have not adopted electronic voting are required to receive electronically transmitted ballots; revising the methods a unit owner may use to transmit his or her ballot; conforming provisions to changes made by the act; amending s. 719.106, F.S.; revising a requirement

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that a developer, before turning over control of a cooperative association to unit owners, have a turnover inspection report for all buildings on the cooperative property, rather than only for buildings that are three stories or higher; revising the criteria for certain associations requiring a structural integrity reserve study; amending s. 720.301, F.S.; revising the definition for the terms "common area" and "governing documents"; amending s. 720.302, F.S.; revising applicability; amending s. 720.303, F.S.; providing that the official records of a homeowners' association are open to inspection by certain persons at all reasonable times; revising conditions that constitute a violation of certain provisions related to certain records of the homeowners' association; deleting the definition of the term "repeatedly"; revising a requirement for an association to provide copies of certain records within a specified timeframe if it receives a subpoena or written request for such records from a law enforcement agency or prosecuting agency; providing criminal penalties; amending s. 720.305, F.S.; revising the parties against whom an action may be brought at law or in equity, or both, for noncompliance with ch. 720, F.S., to include a developer or other owner of a common area; amending s. 720.307, F.S.; revising the documents a developer must deliver to the homeowners' association board of directors within a specified timeframe during the

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transition of association control from the developer to the board; amending s. 720.3075, F.S.; revising the types of prohibited clauses in homeowners' association documents; amending s. 720.308, F.S.; prohibiting assessments payable to the developer or other owner of a common area from exceeding a member's proportional share of the expenses set forth in the annual budget approved by the association; amending s. 720.3086, F.S.; requiring that a specified financial report conform to the financial report required by an association that serves the residential subdivision; requiring that the report be made available upon request at no charge; revising the manner in which the report is required to be delivered to each lot or parcel owner; providing an effective date.

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

Section 1. Subsection (33) of section 718.103, Florida Statutes, is amended to read:

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

(33) "Video conference" means a real-time audio- and video-based meeting between two or more people in different locations using video-enabled and audio-enabled devices. The notice for any meeting that is open to the unit owners and will be conducted by video conference must have a hyperlink and call-in conference telephone number for unit owners to attend the meeting and must have a physical location where unit owners can also attend the meeting in person. All meetings conducted by

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88 video conference which are open to the unit owners must be
89 recorded, and such recording must be maintained as an official
90 record of the association.

91 Section 2. Paragraph (c) of subsection (12) of section
92 718.111, Florida Statutes, is amended to read:

93 718.111 The association.—

94 (12) OFFICIAL RECORDS.—

95 (c)1.a. The official records of the association are open to
96 inspection by any association member and any person authorized
97 by an association member as a representative of such member at
98 all reasonable times. The right to inspect the records includes
99 the right to make or obtain copies, at the reasonable expense,
100 if any, of the member and of the person authorized by the
101 association member as a representative of such member. A renter
102 of a unit has a right to inspect and copy only the declaration
103 of condominium, the association's bylaws and rules, and the
104 inspection reports described in ss. 553.899 and 718.301(4)(p).
105 The association may adopt reasonable rules regarding the
106 frequency, time, location, notice, and manner of record
107 inspections and copying but may not require a member to
108 demonstrate any purpose or state any reason for the inspection.
109 The failure of an association to provide the records within 10
110 working days after receipt of a written request creates a
111 rebuttable presumption that the association willfully failed to
112 comply with this paragraph. A unit owner who is denied access to
113 official records is entitled to the actual damages or minimum
114 damages for the association's willful failure to comply. Minimum
115 damages are \$50 per calendar day for up to 10 days, beginning on
116 the 11th working day after receipt of the written request. The

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117 failure to permit inspection entitles any person prevailing in
118 an enforcement action to recover reasonable attorney fees from
119 the person in control of the records who, directly or
120 indirectly, knowingly denied access to the records. If the
121 requested records are posted on an association's website, or are
122 available for download through an application on a mobile
123 device, the association may fulfill its obligations under this
124 paragraph by directing to the website or the application all
125 persons authorized to request access.

126 b. In response to a written request to inspect records, the
127 association must simultaneously provide to the requestor a
128 checklist of all records made available for inspection and
129 copying. The checklist must also identify any of the
130 association's official records that were not made available to
131 the requestor. An association must maintain a checklist provided
132 under this sub-subparagraph for 7 years. An association
133 delivering a checklist pursuant to this sub-subparagraph creates
134 a rebuttable presumption that the association has complied with
135 this paragraph.

136 2. A director or member of the board or association or a
137 community association manager who willfully and knowingly ~~or~~
138 ~~intentionally~~ violates subparagraph 1. commits a misdemeanor of
139 the second degree, punishable as provided in s. 775.082 or s.
140 775.083, and must be removed from office and a vacancy declared.

141 3. A person who willfully and knowingly or intentionally
142 defaces or destroys accounting records that are required by this
143 chapter to be maintained during the period for which such
144 records are required to be maintained, or who willfully and
145 knowingly or intentionally fails to create or maintain

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146 accounting records that are required to be created or
147 maintained, with the intent of causing harm to the association
148 or one or more of its members, commits a misdemeanor of the
149 first degree, punishable as provided in s. 775.082 or s.
150 775.083; is personally subject to a civil penalty pursuant to s.
151 718.501(1)(e); and must be removed from office and a vacancy
152 declared.

153 4. A person who willfully and knowingly ~~or intentionally~~
154 refuses to release or otherwise produce association records with
155 the intent to avoid or escape detection, arrest, trial, or
156 punishment for the commission of a crime, or to assist another
157 person with such avoidance or escape, commits a felony of the
158 third degree, punishable as provided in s. 775.082, s. 775.083,
159 or s. 775.084, and must be removed from office and a vacancy
160 declared.

161 5. The association shall maintain an adequate number of
162 copies of the declaration, articles of incorporation, bylaws,
163 and rules, and all amendments to each of the foregoing, as well
164 as the question and answer sheet as described in s. 718.504 and
165 the most recent annual financial statement and annual budget
166 required under this section, on the condominium property to
167 ensure their availability to unit owners and prospective
168 purchasers, and may charge its actual costs for preparing and
169 furnishing these documents to those requesting the documents. An
170 association shall allow a member or his or her authorized
171 representative to use a portable device, including a smartphone,
172 tablet, portable scanner, or any other technology capable of
173 scanning or taking photographs, to make an electronic copy of
174 the official records in lieu of the association's providing the

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175 member or his or her authorized representative with a copy of
176 such records. The association may not charge a member or his or
177 her authorized representative for the use of a portable device.
178 Notwithstanding this paragraph, the following records are not
179 accessible to unit owners:

180 a. Any record protected by the lawyer-client privilege as
181 described in s. 90.502 and any record protected by the work-
182 product privilege, including a record prepared by an association
183 attorney or prepared at the attorney's express direction, which
184 reflects a mental impression, conclusion, litigation strategy,
185 or legal theory of the attorney or the association, and which
186 was prepared exclusively for civil or criminal litigation or for
187 adversarial administrative proceedings, or which was prepared in
188 anticipation of such litigation or proceedings until the
189 conclusion of the litigation or proceedings.

190 b. Information obtained by an association in connection
191 with the approval of the lease, sale, or other transfer of a
192 unit.

193 c. Personnel records of association or management company
194 employees, including, but not limited to, disciplinary, payroll,
195 health, and insurance records. For purposes of this sub-
196 subparagraph, the term "personnel records" does not include
197 written employment agreements with an association employee or
198 management company, or budgetary or financial records that
199 indicate the compensation paid to an association employee.

200 d. Medical records of unit owners.

201 e. Social security numbers, driver license numbers, credit
202 card numbers, e-mail addresses, telephone numbers, facsimile
203 numbers, emergency contact information, addresses of a unit

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owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit owners a directory containing the name, unit address, and all telephone numbers of each unit owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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

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

h. All affirmative acknowledgments made pursuant to s. 718.121(4) (c).

6.a. If an association receives a subpoena or written request for records from a law enforcement agency or prosecuting agency as defined in 112.531, the association must provide a

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233 copy of such records or otherwise make the records available for
234 inspection and copying to the law enforcement agency or
235 prosecuting agency within 5 business days after receipt of the
236 subpoena or written request, unless otherwise specified by the
237 law enforcement agency, prosecuting agency, or subpoena or
238 written request. An association must assist a law enforcement
239 agency and a prosecuting agency in an investigation to the extent
240 permissible by law.

241 b. A director or member of the board or association or a
242 community association manager who willfully and knowingly fails
243 to provide a copy of records, or otherwise fails to make the
244 records available for inspection and copying, to a law
245 enforcement agency or prosecuting agency as required by sub-
246 paragraph a. commits a misdemeanor of the second degree,
247 punishable as provided in s. 775.082 or s. 775.083.

248 Section 3. Paragraph (g) of subsection (2) of section
249 718.112, Florida Statutes, is amended to read:

250 718.112 Bylaws.—

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

254 (g) *Structural integrity reserve study.*—

255 1. A residential condominium association must have a
256 structural integrity reserve study completed at least every 10
257 years after the condominium's creation for each building on the
258 condominium property that is three habitable stories or higher
259 in height, as determined by the Florida Building Code, which
260 includes, at a minimum, a study of the following items as
261 related to the structural integrity and safety of the building:

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a. Roof.

b. Structure, including load-bearing walls and other primary structural members and primary structural systems as those terms are defined in s. 627.706.

c. Fireproofing and fire protection systems.

d. Plumbing.

e. Electrical systems.

f. Waterproofing and exterior painting.

g. Windows and exterior doors.

h. Any other item that has a deferred maintenance expense or replacement cost that exceeds \$25,000 or the inflation-adjusted amount determined by the division under subparagraph (f)6., whichever is greater, and the failure to replace or maintain such item negatively affects the items listed in subparagraphs a.-g., as determined by the visual inspection portion of the structural integrity reserve study.

2. A structural integrity reserve study is based on a visual inspection of the condominium property.

3.a. A structural integrity reserve study, including the visual inspection portion of the structural integrity reserve study, must be performed or verified by an engineer licensed under chapter 471, an architect licensed under chapter 481, or a person certified as a reserve specialist or professional reserve analyst by the Community Associations Institute or the Association of Professional Reserve Analysts.

b. Any design professional as defined in s. 558.002 or any contractor licensed under chapter 489 who bids to perform a structural integrity reserve study must disclose in writing to the association his or her intent to bid on any services related

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291 to any maintenance, repair, or replacement that may be
292 recommended by the structural integrity reserve study. Any
293 design professional as defined in s. 558.002 or contractor
294 licensed under chapter 489 who submits a bid to the association
295 for performing any services recommended by the structural
296 integrity reserve study may not have an interest, directly or
297 indirectly, in the firm or entity providing the association's
298 structural integrity reserve study or be a relative of any
299 person having a direct or indirect interest in such firm, unless
300 such relationship is disclosed to the association in writing. As
301 used in this section, the term "relative" means a relative
302 within the third degree of consanguinity by blood or marriage. A
303 contract for services is voidable and terminates upon the
304 association filing a written notice terminating the contract if
305 the design professional or licensed contractor failed to provide
306 the written disclosure of the interests or relationships
307 required under this paragraph. A design professional or licensed
308 contractor may be subject to discipline under the applicable
309 practice act for his or her profession for failure to provide
310 the written disclosure of the interests or relationships
311 required under this paragraph.

312 4.a. At a minimum, a structural integrity reserve study
313 must identify each item of the condominium property being
314 visually inspected, state the estimated remaining useful life
315 and the estimated replacement cost or deferred maintenance
316 expense of each item of the condominium property being visually
317 inspected, and provide a reserve funding plan or schedule with a
318 recommended annual reserve amount that achieves the estimated
319 replacement cost or deferred maintenance expense of each item of

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condominium property being visually inspected by the end of the estimated remaining useful life of the item. At a minimum, the structural integrity reserve study must include a recommendation for a reserve funding schedule based on a baseline funding plan that provides a reserve funding goal in which the reserve funding for each budget year is sufficient to maintain the reserve cash balance above zero. The study may recommend other types of reserve funding schedules, provided that each recommended schedule is sufficient to meet the association's maintenance obligation.

b. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a deferred maintenance expense amount for such item. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a deferred maintenance expense amount for such item. If the structural integrity reserve study recommends reserves for any item for which reserves are not required under this paragraph, the amount of the recommended reserves for such item must be separately identified in the structural integrity reserve study as an item for which reserves are not required under this paragraph.

c. The structural integrity reserve study must take into consideration the funding method or methods used by the association to fund its maintenance and reserve funding obligations through regular assessments, special assessments,

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349 lines of credit, or loans. If the structural integrity reserve
350 study is performed before the association has approved a special
351 assessment or secured a line of credit or a loan, the structural
352 integrity reserve study must be updated to reflect the funding
353 method selected by the association and its effect on the reserve
354 funding schedule, including any anticipated change in the amount
355 of regular assessments. The structural integrity reserve study
356 may be updated to reflect any changes to the useful life of the
357 reserve items after such items are repaired or replaced and the
358 effect such repair or replacement will have on the reserve
359 funding schedule. The association must obtain an updated
360 structural integrity reserve study before adopting any budget in
361 which the reserve funding from regular assessments, special
362 assessments, lines of credit, or loans does not align with the
363 funding plan from the most recent version of the structural
364 integrity reserve study.

365 5. This paragraph does not apply to buildings less than
366 three stories in height; single-family, two-family, three-
367 family, or four-family dwellings with three or fewer habitable
368 stories above ground; any portion or component of a building
369 that has not been submitted to the condominium form of
370 ownership; or any portion or component of a building that is
371 maintained by a party other than the association.

372 6. Before a developer turns over control of an association
373 to unit owners other than the developer, the developer must have
374 a turnover inspection report in compliance with s. 718.301(4)(p)
375 and (q) for each building on the condominium property ~~that is~~
376 ~~three stories or higher in height.~~

377 7. Associations existing on or before July 1, 2022, which

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are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2025, for each building on the condominium property that is three habitable stories or higher in height. An association that is required to complete a milestone inspection in accordance with s. 553.899 on or before December 31, 2026, may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

8. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

9. If the association completes a milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, the association may delay performance of a required structural integrity reserve study for no more than the 2 consecutive budget years immediately following the milestone inspection in order to allow the association to focus its financial resources on completing the repair and maintenance recommendations of the milestone inspection.

10. If the officers or directors of an association willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's or a director's fiduciary relationship to the unit owners under s. 718.111(1). An officer or a director of an association must sign an affidavit acknowledging receipt of

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the completed structural integrity reserve study.

11. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery to the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

12. Within 45 days after receiving the structural integrity reserve study, the association must provide the division with a statement indicating that the study was completed and that the association provided or made available such study to each unit owner in accordance with this section. The statement must be provided to the division in the manner established by the division using a form posted on the division's website.

13. The division shall adopt by rule the form for the structural integrity reserve study in coordination with the Florida Building Commission.

Section 4. Subsection (7) of section 718.128, Florida Statutes, is amended to read:

718.128 Electronic voting.—The association may conduct elections and other unit owner votes through an Internet-based online voting system if a unit owner consents, electronically or

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in writing, to online voting and if the following requirements are met:

(7)(a) Unless the association has adopted electronic voting in accordance with subsections (1)-(6), the association must designate an e-mail address, independent website, application, or Internet web portal for receipt of electronically transmitted ballots. Electronically transmitted ballots must meet all the requirements of this subsection.

(b) A unit owner may electronically transmit a ballot to the e-mail address, independent website, application, or Internet web portal designated by the association without complying with s. 718.112(2)(d)3. ~~s. 718.112(2)(d)4.~~ or the rules providing for the secrecy of ballots adopted by the division. The association must count completed ballots that are electronically transmitted to the designated e-mail address, independent website, application, or Internet web portal provided the completed ballots comply with the requirements of this subsection.

(c) A ballot that is electronically transmitted to the association must include all of the following:

1. A space for the unit owner to type in his or her unit number.

2. A space for the unit owner to type in his or her first and last name, which also functions as the signature of the unit owner for purposes of signing the ballot.

3. The following statement in capitalized letters and in a font size larger than any other font size used in the electronic transmission ~~e-mail~~ from the association to the unit owner:

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465 WAIVING THE SECRECY OF YOUR BALLOT IS YOUR CHOICE. YOU
466 DO NOT HAVE TO WAIVE THE SECRECY OF YOUR BALLOT IN
467 ORDER TO VOTE. BY TRANSMITTING YOUR COMPLETED BALLOT
468 THROUGH ELECTRONIC MEANS ~~E-MAIL~~ TO THE ASSOCIATION,
469 YOU WAIVE THE SECRECY OF YOUR COMPLETED BALLOT. IF YOU
470 DO NOT WISH TO WAIVE YOUR SECRECY BUT WISH TO
471 PARTICIPATE IN THE VOTE THAT IS THE SUBJECT OF THIS
472 BALLOT, PLEASE ATTEND THE IN-PERSON MEETING DURING
473 WHICH THE MATTER WILL BE VOTED ON.
474

475 (d) A unit owner must transmit his or her completed ballot
476 to the e-mail address, independent website, application, or
477 Internet web portal designated by the association no later than
478 the scheduled date and time of the meeting during which the
479 matter is being voted on.

480 (e) There is a rebuttable presumption that an association
481 has reviewed all folders associated with the e-mail address,
482 independent website, application, or Internet web portal
483 designated by the association to receive ballots if a board
484 member, an officer, or an agent of the association, or a manager
485 licensed under part VIII of chapter 468, provides a sworn
486 affidavit attesting to such review.

487 Section 5. Paragraph (k) of subsection (1) of section
488 719.106, Florida Statutes, is amended to read:

489 719.106 Bylaws; cooperative ownership.—

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

493 (k) *Structural integrity reserve study.*—

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494 1. A residential cooperative association must have a
495 structural integrity reserve study completed at least every 10
496 years for each building on the cooperative property that is
497 three habitable stories or higher in height, as determined by
498 the Florida Building Code, that includes, at a minimum, a study
499 of the following items as related to the structural integrity
500 and safety of the building:

501 a. Roof.

502 b. Structure, including load-bearing walls and other
503 primary structural members and primary structural systems as
504 those terms are defined in s. 627.706.

505 c. Fireproofing and fire protection systems.

506 d. Plumbing.

507 e. Electrical systems.

508 f. Waterproofing and exterior painting.

509 g. Windows and exterior doors.

510 h. Any other item that has a deferred maintenance expense
511 or replacement cost that exceeds \$25,000 or the inflation-
512 adjusted amount determined by the division under subparagraph
513 (j)6., whichever is greater, and the failure to replace or
514 maintain such item negatively affects the items listed in sub-
515 subparagraphs a.-g., as determined by the visual inspection
516 portion of the structural integrity reserve study.

517 2. A structural integrity reserve study is based on a
518 visual inspection of the cooperative property.

519 3.a. A structural integrity reserve study, including the
520 visual inspection portion of the structural integrity reserve
521 study, must be performed or verified by an engineer licensed
522 under chapter 471, an architect licensed under chapter 481, or a

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523 person certified as a reserve specialist or professional reserve
524 analyst by the Community Associations Institute or the
525 Association of Professional Reserve Analysts.

526 b. Any design professional as defined in s. 558.002(7) or
527 contractor licensed under chapter 489 who bids to perform a
528 structural integrity reserve study must disclose in writing to
529 the association his or her intent to bid on any services related
530 to any maintenance, repair, or replacement that may be
531 recommended by the structural integrity reserve study. Any
532 design professional as defined in s. 558.002 or contractor
533 licensed under chapter 489 who submits a bid to the association
534 for performing any services recommended by the structural
535 integrity reserve study may not have an interest, directly or
536 indirectly, in the firm or entity providing the association's
537 structural integrity reserve study or be a relative of any
538 person having a direct or indirect interest in such firm, unless
539 such relationship is disclosed to the association in writing. As
540 used in this section, the term "relative" means a relative
541 within the third degree of consanguinity by blood or marriage. A
542 contract for services is voidable and terminates upon the
543 association filing a written notice terminating the contract if
544 the design professional or licensed contractor failed to provide
545 the written disclosure of the relationship required under this
546 paragraph. A design professional or licensed contractor may be
547 subject to discipline under the applicable practice act for his
548 or her profession for failure to provide the written disclosure
549 of the relationship required under this subparagraph.

550 4.a. At a minimum, a structural integrity reserve study
551 must identify each item of the cooperative property being

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visually inspected, state the estimated remaining useful life and the estimated replacement cost or deferred maintenance expense of each item of the cooperative property being visually inspected, and provide a reserve funding schedule with a recommended annual reserve amount that achieves the estimated replacement cost or deferred maintenance expense of each item of cooperative property being visually inspected by the end of the estimated remaining useful life of the item. The structural integrity reserve study may recommend that reserves do not need to be maintained for any item for which an estimate of useful life and an estimate of replacement cost cannot be determined, or the study may recommend a deferred maintenance expense amount for such item. At a minimum, the structural integrity reserve study must include a recommendation for a reserve funding schedule based on a baseline funding plan that provides a reserve funding goal in which the reserve funding for each budget year is sufficient to maintain the reserve cash balance above zero. The study may recommend other types of reserve funding schedules, provided that each recommended schedule is sufficient to meet the association's maintenance obligation.

b. The structural integrity reserve study may recommend that reserves for replacement costs do not need to be maintained for any item with an estimated remaining useful life of greater than 25 years, but the study may recommend a deferred maintenance expense amount for such item. If the structural integrity reserve study recommends reserves for any item for which reserves are not required under this paragraph, the amount of the recommended reserves for such item must be separately identified in the structural integrity reserve study as an item

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581 for which reserves are not required under this paragraph.

582 c. The structural integrity reserve study must take into
583 consideration the funding method or methods used by the
584 association to fund its maintenance and reserve funding
585 obligations through regular assessments, special assessments,
586 lines of credit, or loans. If the structural integrity reserve
587 study is performed before the association has approved a special
588 assessment or secured a line of credit or a loan, the structural
589 integrity reserve study must be updated to reflect the funding
590 method selected by the association and its effect on the reserve
591 funding schedule, including any anticipated change in the amount
592 of regular assessments. The structural integrity reserve study
593 may be updated to reflect any changes to the useful life of the
594 reserve items after such items are repaired or replaced, and the
595 effect such repair or replacement will have on the reserve
596 funding schedule. The association must obtain an updated
597 structural integrity reserve study before adopting any budget in
598 which the reserve funding from regular assessments, special
599 assessments, lines of credit, or loans does not align with the
600 funding plan from the most recent version of the structural
601 integrity reserve study.

602 5. This paragraph does not apply to buildings less than
603 three stories in height; single-family, two-family, three-
604 family, or four-family dwellings with three or fewer habitable
605 stories above ground; any portion or component of a building
606 that has not been submitted to the cooperative form of
607 ownership; or any portion or component of a building that is
608 maintained by a party other than the association.

609 6. Before a developer turns over control of an association

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to unit owners other than the developer, the developer must have a turnover inspection report in compliance with s. 719.301(4)(p) and (q) for each building on the cooperative property ~~that is three stories or higher in height.~~

7. Associations existing on or before July 1, 2022, which are controlled by unit owners other than the developer, must have a structural integrity reserve study completed by December 31, 2024, for each building on the cooperative property that is three habitable stories or higher in height. An association that is required to complete a milestone inspection on or before December 31, 2026, in accordance with s. 553.899 may complete the structural integrity reserve study simultaneously with the milestone inspection. In no event may the structural integrity reserve study be completed after December 31, 2026.

8. If the milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, was performed within the past 5 years and meets the requirements of this paragraph, such inspection may be used in place of the visual inspection portion of the structural integrity reserve study.

9. If the association completes a milestone inspection required by s. 553.899, or an inspection completed for a similar local requirement, the association may delay performance of a required structural integrity reserve study for no more than the 2 consecutive budget years immediately following the milestone inspection in order to allow the association to focus its financial resources on completing the repair and maintenance recommendations of the milestone inspection.

10. If the officers or directors of an association

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willfully and knowingly fail to complete a structural integrity reserve study pursuant to this paragraph, such failure is a breach of an officer's and director's fiduciary relationship to the unit owners under s. 719.104(9). An officer or a director of the association must sign an affidavit acknowledging receipt of the completed structural integrity reserve study.

11. Within 45 days after receiving the structural integrity reserve study, the association must distribute a copy of the study to each unit owner or deliver to each unit owner a notice that the completed study is available for inspection and copying upon a written request. Distribution of a copy of the study or notice must be made by United States mail or personal delivery at the mailing address, property address, or any other address of the owner provided to fulfill the association's notice requirements under this chapter, or by electronic transmission to the e-mail address or facsimile number provided to fulfill the association's notice requirements to unit owners who previously consented to receive notice by electronic transmission.

12. Within 45 days after receiving the structural integrity reserve study, the association must provide the division with a statement indicating that the study was completed and that the association provided or made available such study to each unit owner in accordance with this section. Such statement must be provided to the division in the manner established by the division using a form posted on the division's website.

13. The division shall adopt by rule the form for the structural integrity reserve study in coordination with the Florida Building Commission.

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Section 6. Subsections (2) and (8) of section 720.301, Florida Statutes, are amended to read:

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

(2) "Common area" means all real property within a community which is owned or leased by an association or dedicated for use or maintenance by the association or its members, including, regardless of whether title has been conveyed to the association:

(a) Real property the use of which is dedicated to the association or its members by a recorded plat; ~~or~~

(b) Real property committed by a declaration of covenants to be leased or conveyed to the association;

(c) Real property for which the developer or other owner of common areas has required, in the governing documents or otherwise, the association or its members to pay assessments or amenity fees for use or maintenance; or

(d) Recreational facilities and other properties serving the parcels which the governing documents allow the owner of a parcel to access, use, or enjoy as a benefit of parcel ownership.

(8) "Governing documents" means:

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

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

(c) All covenants running with the land which are binding on the association or its members.

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697 Section 7. Subsection (3) of section 720.302, Florida
698 Statutes, is amended to read:

699 720.302 Purposes, scope, and application.—

700 (3) This chapter does not apply to:

701 (a) A community that is composed of property primarily
702 intended for commercial, industrial, or other nonresidential
703 use; or

704 (b) The commercial or industrial parcels in a community
705 that contains both residential parcels and parcels intended for
706 commercial or industrial use, provided that this paragraph does
707 not affect the applicability of this chapter to any residential
708 parcel, common area, or the developer or other owner of a common
709 area.

710 Section 8. Paragraphs (a), (d), and (i) of subsection (5)
711 of section 720.303, Florida Statutes, are amended to read:

712 720.303 Association powers and duties; meetings of board;
713 official records; budgets; financial reporting; association
714 funds; recalls.—

715 (5) INSPECTION AND COPYING OF RECORDS.—

716 (a) The official records of the association are open to
717 inspection by any association member and any person authorized
718 by an association member as a representative of such member at
719 all reasonable times. Unless otherwise provided by law or the
720 governing documents of the association, the official records
721 must be maintained within this state for at least 7 years and be
722 made available to a parcel owner for inspection or photocopying
723 within 45 miles of the community or within the county in which
724 the association is located within 10 business days after receipt
725 by the board or its designee of a written request from the

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726 parcel owner. This subsection may be complied with by having a
727 copy of the official records available for inspection or copying
728 in the community or by making the records available to a parcel
729 owner electronically via the Internet or by allowing the records
730 to be viewed in electronic format on a computer screen and
731 printed upon request. If the association has a photocopy machine
732 available where the records are maintained, it must provide
733 parcel owners with copies on request during the inspection if
734 the entire request is limited to no more than 25 pages. An
735 association shall allow a member or his or her authorized
736 representative to use a portable device, including a smartphone,
737 tablet, portable scanner, or any other technology capable of
738 scanning or taking photographs, to make an electronic copy of
739 the official records in lieu of the association's providing the
740 member or his or her authorized representative with a copy of
741 such records. The association may not charge a fee to a member
742 or his or her authorized representative for the use of a
743 portable device.

744 (d) Any director or member of the board or association or a
745 community association manager who knowingly and, willfully, ~~and~~
746 ~~repeatedly~~ violates paragraph (a), ~~with the intent of causing~~
747 ~~harm to the association or one or more of its members~~, commits a
748 misdemeanor of the second degree, punishable as provided in s.
749 775.082 or s. 775.083. ~~For purposes of this paragraph, the term~~
750 ~~"repeatedly" means two or more violations within a 12-month~~
751 ~~period.~~

752 (i) 1. If an association receives a subpoena or written
753 request for records from a law enforcement agency or prosecuting
754 agency as defined in 112.531, the association must provide a

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copy of such records or otherwise make the records available for inspection and copying to a law enforcement agency or prosecuting agency within 5 business days after receipt of the subpoena or written request, unless otherwise specified by the law enforcement agency, prosecuting agency, or subpoena or written request. An association must assist a law enforcement agency in its investigation to the extent permissible by law.

2. A director or member of the board or association or a community association manager who willfully and knowingly fails to provide a copy of records to a law enforcement agency or prosecuting agency, or otherwise fails to make the records available for inspection and copying, as required by subparagraph 1. commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 9. Subsection (1) of section 720.305, Florida Statutes, is amended to read:

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

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

(a) The association;

(b) A member;

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

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(d) Any tenants, guests, or invitees occupying a parcel or using the common areas; and

(e) The developer or other owner of a common area, regardless of whether the developer or other owner of common areas is a member of the association.

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

Section 10. Paragraphs (a), (k), and (t) of subsection (4) of section 720.307, Florida Statutes, are amended to read:

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

(4) At the time the members are entitled to elect at least a majority of the board of directors of the homeowners' association, the developer shall, at the developer's expense, within no more than 90 days deliver the following documents to the board:

(a) All deeds to common areas ~~property~~ owned by the association, and for any common area not already titled in the association's name, the developer or other owner of common areas shall convey title to the association.

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(k) All tangible property for which ~~of~~ the association or its members, through assessments or other mandatory payments under the governing documents, are responsible for the cost of operation and maintenance.

(t) The financial records, including financial statements of the association and common areas, and source documents from the incorporation of the association through the date of turnover. The records shall be audited by an independent certified public accountant for the period from the incorporation of the association or from the period covered by the last audit, if an audit has been performed for each fiscal year since incorporation. All financial statements shall be prepared in accordance with generally accepted accounting principles and shall be audited in accordance with generally accepted auditing standards, as prescribed by the Board of Accountancy, pursuant to chapter 473. The certified public accountant performing the audit shall examine to the extent necessary supporting documents and records, including the cash disbursements and related paid invoices to determine if expenditures were for association purposes and the billings, cash receipts, and related records of the association to determine that the developer was charged and paid the proper amounts of assessments. This paragraph applies to associations with a date of incorporation after December 31, 2007.

Section 11. Paragraphs (d) and (e) are added to subsection (1) of section 720.3075, Florida Statutes, to read:

720.3075 Prohibited clauses in association documents.—

(1) It is declared that the public policy of this state prohibits the inclusion or enforcement of certain types of

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clauses in homeowners' association documents, including declaration of covenants, articles of incorporation, bylaws, or any other document of the association which binds members of the association, which either have the effect of or provide that:

(d) An association or its members are required to pay an assessment for mandatory membership in a club under the control and ownership of the developer or any person other than the association, and nonpayment of such mandatory fee is enforceable by the developer, or any person other than the association, by a lien on any individual parcel.

(e) An association or any of its members are prohibited or restricted from filing or prospectively waiving the ability to protest or seek any remedy for a violation of this chapter.

Such clauses are declared null and void as against the public policy of this state.

Section 12. Paragraph (e) is added to subsection (1) of section 720.308, Florida Statutes, to read:

720.308 Assessments and charges.—

(1) ASSESSMENTS.—For any community created after October 1, 1995, the governing documents must describe the manner in which expenses are shared and specify the member's proportional share thereof.

(e) Assessments payable to the developer or other owner of a common area may not exceed the member's proportional share of the expenses set forth in the annual budget approved by the association.

Section 13. Section 720.3086, Florida Statutes, is amended to read:

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871 720.3086 Financial report.—In a residential subdivision in
872 which the owners of lots or parcels must pay mandatory
873 maintenance or amenity fees to the subdivision developer or to
874 the owners of the common areas, recreational facilities, and
875 other properties serving the lots or parcels, the developer or
876 owner of such areas, facilities, or properties shall make
877 public, within 60 days following the end of each fiscal year, a
878 complete financial report of the actual, total receipts of
879 mandatory maintenance or amenity fees received by it, and an
880 itemized listing of the expenditures made by it from such fees,
881 for that year. A financial report required by this section must
882 conform to the same type of financial statement that the
883 association serving the residential subdivision is required to
884 prepare or cause to be prepared under s. 720.303(7)(a). Such
885 report and a written notice that a copy of the financial report
886 is available upon request at no charge to the parcel owner shall
887 be made public by mailing it to each lot or parcel owner in the
888 subdivision, by publishing it in a publication regularly
889 distributed within the subdivision, and ~~or~~ by posting it in
890 prominent locations in the subdivision. This section does not
891 apply to amounts paid to homeowner associations pursuant to
892 chapter 617, chapter 718, chapter 719, chapter 721, or chapter
893 723, or to amounts paid to local governmental entities,
894 including special districts.

895 Section 14. This act shall take effect July 1, 2026.