

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative La Rosa offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 128 and 129, insert:

5 Section 1. Subsection (12) of section 718.111, Florida  
6 Statutes is amended to read:

7 718.111 The association.—

8 (12) OFFICIAL RECORDS.—

9 (a) From the inception of the association, the association  
10 shall maintain each of the following items, if applicable, which  
11 constitutes the official records of the association:

12 1. A copy of the plans, specifications, permits, and  
13 warranties related to improvements to the common elements or  
14 other property that the association is obligated to maintain,

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15 repair, or replace, and other items provided by the developer  
16 pursuant to s. 718.301(4).

17 2. A photocopy of the recorded declaration of condominium  
18 of each condominium operated by the association and each  
19 amendment to each declaration.

20 3. A photocopy of the recorded bylaws of the association  
21 and each amendment to the bylaws.

22 4. A certified copy of the articles of incorporation of  
23 the association, or other documents creating the association,  
24 and each amendment thereto.

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

26 6. A book or books that contain the minutes of all  
27 meetings of the association, the board of administration, and  
28 the unit owners, which minutes must be retained for at least 7  
29 years.

30 7. A current roster of all unit owners and their mailing  
31 addresses, unit identifications, voting certifications, and, if  
32 known, telephone numbers. The association shall also maintain  
33 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of  
34 unit owners consenting to receive notice by electronic  
35 transmission. The e-mail ~~electronic mailing~~ addresses and  
36 facsimile numbers are not accessible to unit owners if consent  
37 to receive notice by electronic transmission is not provided in  
38 accordance with subparagraph (d)5. The e-mail addresses and  
39 facsimile numbers provided by unit owners to receive notice by  
40 electronic transmission must be removed from association records

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41 if the unit owner revokes his or her consent to receive notice  
42 by electronic transmission in writing ~~(e)~~5. However, the  
43 association is not liable for an inadvertent disclosure of the  
44 e-mail ~~electronic-mail~~ address or facsimile number for receiving  
45 electronic transmission of notices.

46 8. All current insurance policies of the association and  
47 condominiums operated by the association.

48 9. A current copy of any management agreement, lease, or  
49 other contract to which the association is a party or under  
50 which the association or the unit owners have an obligation or  
51 responsibility. Bids for materials, equipment, or services are  
52 official records and must be maintained by the association for 1  
53 year.

54 10. Bills of sale or transfer for all property owned by  
55 the association.

56 11. Financial and accounting records for the association  
57 and separate financial and accounting records for each  
58 condominium that the association operates. All financial and  
59 accounting records must be maintained for at least 7 years. Any  
60 person who knowingly or intentionally defaces or destroys such  
61 records, or who knowingly or intentionally fails to create or  
62 maintain such records, with the intent of causing harm to the  
63 association or one or more of its members, is personally subject  
64 to a civil penalty pursuant to s. 718.501(1)(d). The financial  
65 and accounting records must include, but are not limited to:

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66 a. Accurate, itemized, and detailed records of all  
67 receipts and expenditures.

68 b. A current account and a monthly, bimonthly, or  
69 quarterly statement of the account for each unit designating the  
70 name of the unit owner, the due date and amount of each  
71 assessment, the amount paid on the account, and the balance due.

72 c. All tax returns, audits, reviews, accounting  
73 statements, and financial reports of the association or  
74 condominium.

75 d. Any records that identify, measure, record, or  
76 communicate financial information ~~All contracts for work to be~~  
77 ~~performed. Bids for work to be performed are also considered~~  
78 ~~official records and must be maintained by the association.~~

79 12. Ballots, sign-in sheets, voting proxies, and all other  
80 papers relating to voting by unit owners, which must be  
81 maintained for 1 year from the date of the election, vote, or  
82 meeting to which the document relates, notwithstanding paragraph  
83 (b).

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

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

88 15. All other written records of the association not  
89 specifically included in the foregoing which are related to the  
90 operation of the association.

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91 16. A copy of the inspection report as described in s.  
92 718.301(4) (p) .

93 (b) The official records of the association must be  
94 maintained within the state for at least 7 years. The records of  
95 the association shall be made available to a unit owner within  
96 45 miles of the condominium property or within the county in  
97 which the condominium property is located within 5 working days  
98 after receipt of a written request by the board or its designee.  
99 However, such distance requirement does not apply to an  
100 association governing a timeshare condominium. This paragraph  
101 may be complied with by having a copy of the official records of  
102 the association available for inspection or copying on the  
103 condominium property or association property, or the association  
104 may offer the option of making the records available to a unit  
105 owner electronically via the Internet or by allowing the records  
106 to be viewed in electronic format on a computer screen and  
107 printed upon request. The association is not responsible for the  
108 use or misuse of the information provided to an association  
109 member or his or her authorized representative pursuant to the  
110 compliance requirements of this chapter unless the association  
111 has an affirmative duty not to disclose such information  
112 pursuant to this chapter.

113 (c)1. A condominium with 500 or more units which does not  
114 manage timeshare units shall post digital copies of the  
115 documents specified in subparagraph 2. on the association's  
116 website.

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- 117 a. An association's website must be:  
118 (I) An independent website or web portal wholly owned and  
119 operated by the association; or  
120 (II) A website or web portal operated by a third party  
121 provider with whom the association owns, leases, rents, or  
122 otherwise obtains the right to operate a web page, subpage, web  
123 portal, or collection of subpages or web portals dedicated to  
124 the association's activities and where required notices,  
125 records, and documents may be posted by the association.  
126 b. The association's website must be accessible through  
127 the Internet and must contain a subpage, web portal, or other  
128 protected electronic location that is inaccessible to the  
129 general public and accessible only to unit owners and employees  
130 of the association.  
131 c. The association must provide each unit owner with  
132 access to the protected sections of the association's website  
133 that contain any notices, records, or documents that must be  
134 electronically provided.  
135 2. The following documents must be posted in digital  
136 format on the website:  
137 a. A copy of the plans, specifications, permits, and  
138 warranties related to improvements to the common elements or  
139 other property that the association is obligated to maintain,  
140 repair, or replace, and other items provided by the developer  
141 pursuant to s. 718.301(4).

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142 b. A photocopy of the recorded declaration of condominium  
143 of each condominium operated by the association and each  
144 amendment to each declaration.

145 c. A photocopy of the recorded bylaws of the association  
146 and each amendment to the bylaws.

147 d. A certified copy of the articles of incorporation of  
148 the association, or other documents creating the association,  
149 and each amendment thereto.

150 e. A copy of the current rules of the association.

151 f. All current insurance policies of the association and  
152 condominiums operated by the association.

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

155 h. The financial report required by subsection (13) and  
156 any proposed financial report to be considered at a meeting.

157 i. Any fidelity bond entered into by the association.

158 j. Notice of any board meeting and the agenda for the  
159 meeting, as required by s. 718.112(2)(d)3., no later than 14  
160 days before the meeting. The notice must be posted in plain view  
161 on the front page, or on a separate subpage labeled "Notices"  
162 which is conspicuously visible and linked from the front page of  
163 the association's website. The association must post on the  
164 association's website any documents to be considered during the  
165 meeting or listed on the agenda at least 7 days before the  
166 meeting at which the document or the information within the

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167 document will be considered, unless otherwise stated, including  
168 the following documents:

169 (I) The proposed annual budget required by s.  
170 718.112(2)(f), which must be provided at least 14 days before  
171 the meeting.

172 (II) The proposed financial report required by subsection  
173 (13).

174 (III) A list of persons seeking to be elected to the  
175 board.

176 3. The association shall ensure that the information and  
177 records described in paragraph (d), which are not permitted to  
178 be accessible to unit owners, are not posted on the  
179 association's website. If protected information or information  
180 restricted from being accessible to unit owners is included in  
181 documents that are required to be posted on the association's  
182 website, the association shall ensure the information is  
183 redacted before posting the documents online.

184 (d)~~(e)~~ The official records of the association are open to  
185 inspection by any association member or the authorized  
186 representative of such member at all reasonable times. The right  
187 to inspect the records includes the right to make or obtain  
188 copies, at the reasonable expense, if any, of the member. The  
189 association may adopt reasonable rules regarding the frequency,  
190 time, location, notice, and manner of record inspections and  
191 copying. The failure of an association to provide the records  
192 within 10 working days after receipt of a written request

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193 creates a rebuttable presumption that the association willfully  
194 failed to comply with this paragraph. A unit owner who is denied  
195 access to official records is entitled to the actual damages or  
196 minimum damages for the association's willful failure to comply.  
197 Minimum damages are \$50 per calendar day for up to 10 days,  
198 beginning on the 11th working day after receipt of the written  
199 request. The failure to permit inspection entitles any person  
200 prevailing in an enforcement action to recover reasonable  
201 attorney fees from the person in control of the records who,  
202 directly or indirectly, knowingly denied access to the records.  
203 Any person who knowingly or intentionally defaces or destroys  
204 accounting records that are required by this chapter to be  
205 maintained during the period for which such records are required  
206 to be maintained, or who knowingly or intentionally fails to  
207 create or maintain accounting records that are required to be  
208 created or maintained, with the intent of causing harm to the  
209 association or one or more of its members, is personally subject  
210 to a civil penalty pursuant to s. 718.501(1)(d). The association  
211 shall maintain an adequate number of copies of the declaration,  
212 articles of incorporation, bylaws, and rules, and all amendments  
213 to each of the foregoing, as well as the question and answer  
214 sheet as described in s. 718.504 and year-end financial  
215 information required under this section, on the condominium  
216 property to ensure their availability to unit owners and  
217 prospective purchasers, and may charge its actual costs for  
218 preparing and furnishing these documents to those requesting the

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219 documents. An association shall allow a member or his or her  
220 authorized representative to use a portable device, including a  
221 smartphone, tablet, portable scanner, or any other technology  
222 capable of scanning or taking photographs, to make an electronic  
223 copy of the official records in lieu of the association's  
224 providing the member or his or her authorized representative  
225 with a copy of such records. The association may not charge a  
226 member or his or her authorized representative for the use of a  
227 portable device. Notwithstanding this paragraph, the following  
228 records are not accessible to unit owners:

229       1. Any record protected by the lawyer-client privilege as  
230 described in s. 90.502 and any record protected by the work-  
231 product privilege, including a record prepared by an association  
232 attorney or prepared at the attorney's express direction, which  
233 reflects a mental impression, conclusion, litigation strategy,  
234 or legal theory of the attorney or the association, and which  
235 was prepared exclusively for civil or criminal litigation or for  
236 adversarial administrative proceedings, or which was prepared in  
237 anticipation of such litigation or proceedings until the  
238 conclusion of the litigation or proceedings.

239       2. Information obtained by an association in connection  
240 with the approval of the lease, sale, or other transfer of a  
241 unit.

242       3. Personnel records of association or management company  
243 employees, including, but not limited to, disciplinary, payroll,  
244 health, and insurance records. For purposes of this

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245 subparagraph, the term "personnel records" does not include  
246 written employment agreements with an association employee or  
247 management company, or budgetary or financial records that  
248 indicate the compensation paid to an association employee.

249 4. Medical records of unit owners.

250 5. Social security numbers, driver license numbers, credit  
251 card numbers, e-mail addresses, telephone numbers, facsimile  
252 numbers, emergency contact information, addresses of a unit  
253 owner other than as provided to fulfill the association's notice  
254 requirements, and other personal identifying information of any  
255 person, excluding the person's name, unit designation, mailing  
256 address, property address, and any address, e-mail address, or  
257 facsimile number provided to the association to fulfill the  
258 association's notice requirements. Notwithstanding the  
259 restrictions in this subparagraph, an association may print and  
260 distribute to parcel owners a directory containing the name,  
261 parcel address, and all telephone numbers of each parcel owner.  
262 However, an owner may exclude his or her telephone numbers from  
263 the directory by so requesting in writing to the association. An  
264 owner may consent in writing to the disclosure of other contact  
265 information described in this subparagraph. The association is  
266 not liable for the inadvertent disclosure of information that is  
267 protected under this subparagraph if the information is included  
268 in an official record of the association and is voluntarily  
269 provided by an owner and not requested by the association.

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

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

276           ~~(e)~~ The association shall prepare a question and answer  
277 sheet as described in s. 718.504, and shall update it annually.

278           ~~(f)~~1. The association or its authorized agent is not  
279 required to provide a prospective purchaser or lienholder with  
280 information about the condominium or the association other than  
281 information or documents required by this chapter to be made  
282 available or disclosed. The association or its authorized agent  
283 may charge a reasonable fee to the prospective purchaser,  
284 lienholder, or the current unit owner for providing good faith  
285 responses to requests for information by or on behalf of a  
286 prospective purchaser or lienholder, other than that required by  
287 law, if the fee does not exceed \$150 plus the reasonable cost of  
288 photocopying and any attorney ~~attorney's~~ fees incurred by the  
289 association in connection with the response.

290           2. An association and its authorized agent are not liable  
291 for providing such information in good faith pursuant to a  
292 written request if the person providing the information includes  
293 a written statement in substantially the following form: "The  
294 responses herein are made in good faith and to the best of my  
295 ability as to their accuracy."

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296        (g) ~~(f)~~ An outgoing board or committee member must  
297        relinquish all official records and property of the association  
298        in his or her possession or under his or her control, including  
299        administrative rights or controls of an association's website or  
300        other digital or electronic asset of the association, to the  
301        incoming board within 5 days after the election. The division  
302        shall impose a civil penalty as set forth in s. 718.501(1)(d)6.  
303        against an outgoing board or committee member who willfully and  
304        knowingly fails to relinquish such records and property.

305        Section 2. Subsections (6) through (13) of section  
306        720.303, Florida Statutes, are renumbered as sections (7)  
307        through (14), respectively, and a new subsection (6) is added to  
308        that section, to read:

309        (6) ACCESS TO ASSOCIATION DOCUMENTS AND RECORDS ON AN  
310        ASSOCIATION WEBSITE.—

311        (a) An association governing 7,500 or more parcels shall  
312        post digital copies of the documents specified in paragraph (b)  
313        on the association's website. An association with fewer than  
314        7,500 parcels located within the physical boundaries of an  
315        affiliated association that has more than 7,500 or more parcels  
316        shall post digital copies of such documents on the larger  
317        affiliated association's website. An association with fewer than  
318        7,500 parcels located within the physical boundaries of an  
319        association with more than 7,500 or more parcels but that is not  
320        affiliated with the larger association may post digital copies

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321 of such documents on its website if the association chooses to  
322 do so.

323 1. An association's website must be:

324 a. An independent website or web portal wholly owned and  
325 operated by the association; or

326 b. A website or web portal that is operated by a third-  
327 party provider with whom the association owns, leases, rents, or  
328 otherwise obtains the right to operate a web page, subpage, web  
329 portal, or collection of subpages or web portals dedicated to  
330 the association's activities and where required notices,  
331 records, and documents may be posted by the association.

332 2. The association's website must be accessible through  
333 the Internet and must contain a subpage, web portal, or other  
334 protected electronic location that is inaccessible to the  
335 general public and accessible only to the members and employees  
336 of the association.

337 3. The association must provide each member with access to  
338 the protected sections of the association's website that contain  
339 any notices, records, or documents that must be electronically  
340 provided.

341 (b) The following documents must be posted in digital  
342 format on the website:

343 1. A copy of the bylaws of the association and of each  
344 amendment to the bylaws.

345 2. A certified copy of the articles of incorporation of  
346 the association and of each amendment thereto.

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347 3. A copy of the declaration of covenants and a copy of  
348 each amendment thereto.

349 4. A copy of the current rules of the association.

350 5. The annual budget required by subsection (7) and any  
351 proposed budget to be considered at the annual meeting.

352 6. The financial report required by subsection (8) and any  
353 proposed financial report to be considered at a meeting.

354 7. Any fidelity bond entered into by the association.

355 8. A map of the association, including association  
356 boundaries.

357 9. Notice of any board meeting and the agenda for the  
358 meeting, as required by subsection (2), no later than 14 days  
359 before the meeting. The notice must be posted in plain view on  
360 the front page, or on a separate subpage labeled "Notices" which  
361 is conspicuously visible and linked from the front page of the  
362 association's website. The association must post on the  
363 association's website any documents to be considered during the  
364 meeting or listed on the agenda at least 7 days before the  
365 meeting at which the document or the information within the  
366 document will be considered, including the following documents:

367 a. The proposed annual budget required by subsection (7).

368 b. The proposed financial report required by subsection  
369 (8).

370 c. A list of persons seeking to be elected to the board.

371 d. A copy of contracts or transactions listed in  
372 subparagraph 8.

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373 e. Any competitive bids for materials, equipment, or  
374 services.

375 f. Any proposed contracts or proposed transactional  
376 documents related to any possible conflict of interest set forth  
377 in ss. 468.436(2) and 720.3033.

378 (c) The website must include the following statement:

379

380 The following documents are available at the request  
381 of any association member:

382

383 1. Minutes of all meetings of the board of directors  
384 and of the members.

385 2. A current roster of all members and their mailing  
386 addresses and parcel identifications.

387 3. All of the association's insurance policies or a  
388 copy thereof.

389 4. A current copy of all contracts to which the  
390 association is a party.

391 5. The financial and accounting records of the  
392 association, kept according to good accounting  
393 practices.

394 6. All tax returns, audits, review, financial  
395 statements, and financial reports of the association.

396 7. A copy of the disclosure summary described in s.  
397 720.401(1), Florida Statutes.

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- 398 8. Any other records that identify, measure, record,  
399 or communicate financial information.
- 400 9. Any document created by the association or a board  
401 member relating to the recall of a director, pursuant  
402 to s. 720.303(11), Florida Statutes, or any document  
403 created for or filed by the association in an  
404 arbitration proceeding conducted by the division  
405 regarding the recall of a director.
- 406 10. A copy of the information submitted to the  
407 division to comply with the reporting requirements of  
408 s. 720.303(14), Florida Statutes.
- 409 11. Documentation reporting the compensation of  
410 directors, officers, or members.
- 411 12. A list of all contracts or transactions between  
412 the association and any director, officer,  
413 corporation, firm, or association that is not an  
414 affiliated homeowners' association or any other entity  
415 in which an association director is also a director or  
416 officer and financially interested.
- 417 13. Any contract or document regarding a conflict of  
418 interest or possible conflict of interest, as provided  
419 in s. 468.436(2) or s. 720.3033, Florida Statutes.
- 420
- 421 The notice must include the e-mail address of the person to  
422 contact for a copy of the roster.

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423 (d) The association shall ensure that the information and  
424 records described in paragraph (5)(c), which are not permitted  
425 to be accessible to members or parcel owners, are not posted on  
426 the association's website. If protected information or  
427 information restricted from being accessible to members or  
428 parcel owners is included in documents that are required to be  
429 posted on the association's website, the association shall  
430 ensure the information is redacted before posting the documents  
431 online.

432 Section 3. Paragraph (d) of subsection (1) of section  
433 720.306, Florida Statutes, is redesignated as paragraph (h),  
434 paragraph (c) of subsection (9) is amended, and new paragraphs  
435 (d) through (g) are added to subsection (1) of that section, to  
436 read:

437 720.306 Meetings of members; voting and election  
438 procedures; amendments.—

439 (1) QUORUM; AMENDMENTS.—

440 (d) A proposal to amend an existing provision of the  
441 declaration must contain the full text of the provision to be  
442 amended and may not be revised or amended by reference only to  
443 the declaration title or number. Words to be added must be  
444 inserted in the text and underlined, and words to be deleted  
445 must be stricken with hyphens. However, if the proposed change  
446 is so extensive that this procedure would hinder, rather than  
447 assist, the understanding of the proposed amendment, it is not  
448 necessary to use underlined and stricken text as indicators of

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449 words added and deleted. Instead, a notation must be inserted  
450 immediately preceding the proposed amendment in substantially  
451 the following language: "Substantial rewording of declaration.  
452 See current provision for present text." An amendment to a  
453 declaration is effective when properly recorded in the public  
454 records of the county where the declaration is recorded.

455 (e) A nonmaterial error or omission in the amendment  
456 process does not invalidate an otherwise properly adopted  
457 amendment.

458 (f) An amendment to a recorded governing document is  
459 effective when properly recorded in the public records of the  
460 county in which the governing document is recorded.

461 (g) An amendment prohibiting parcel owners from renting  
462 their homes, altering the duration of the rental term, or  
463 specifying or limiting the number of times that parcel owners  
464 are entitled to rent their homes during a specified period  
465 applies only to parcel owners who acquire title to their homes  
466 after the effective date of the amendment or to parcel owners  
467 who consent, individually or through a representative, to the  
468 amendment.

469 (9) ELECTIONS AND BOARD VACANCIES.—

470 (c) Any election dispute between a member and an  
471 association must be submitted to mandatory binding arbitration  
472 with the division. Such proceedings must be conducted in the  
473 manner provided by s. 718.1255 and the procedural rules adopted  
474 by the division. Unless otherwise provided in the bylaws, any

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475 vacancy occurring on the board before the expiration of a term  
476 may be filled by an affirmative vote of the majority of the  
477 remaining directors, even if the remaining directors constitute  
478 less than a quorum, or by the sole remaining director. In the  
479 alternative, a board may hold an election to fill the vacancy,  
480 in which case the election procedures must conform to the  
481 requirements of the governing documents. Unless otherwise  
482 provided in the bylaws, a board member appointed or elected  
483 under this section is appointed for the unexpired term of the  
484 seat being filled. Filling vacancies created by recall is  
485 governed by s. 720.303(11) ~~720.303(10)~~ and rules adopted by the  
486 division.

487 Section 4. Subsection (1) of section 720.311, Florida  
488 Statutes, is amended to read:

489 720.311 Dispute resolution.—

490 (1) The Legislature finds that alternative dispute  
491 resolution has made progress in reducing court dockets and  
492 trials and in offering a more efficient, cost-effective option  
493 to litigation. The filing of any petition for arbitration or the  
494 serving of a demand for presuit mediation as provided for in  
495 this section shall toll the applicable statute of limitations.  
496 Any recall dispute filed with the department pursuant to s.  
497 720.303(11) ~~720.303(10)~~ shall be conducted by the department in  
498 accordance with the provisions of ss. 718.112(2)(j) and 718.1255  
499 and the rules adopted by the division. In addition, the  
500 department shall conduct mandatory binding arbitration of

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501 election disputes between a member and an association pursuant  
502 to s. 718.1255 and rules adopted by the division. Neither  
503 election disputes nor recall disputes are eligible for presuit  
504 mediation; these disputes shall be arbitrated by the department.  
505 At the conclusion of the proceeding, the department shall charge  
506 the parties a fee in an amount adequate to cover all costs and  
507 expenses incurred by the department in conducting the  
508 proceeding. Initially, the petitioner shall remit a filing fee  
509 of at least \$200 to the department. The fees paid to the  
510 department shall become a recoverable cost in the arbitration  
511 proceeding, and the prevailing party in an arbitration  
512 proceeding shall recover its reasonable costs and attorney's  
513 fees in an amount found reasonable by the arbitrator. The  
514 department shall adopt rules to effectuate the purposes of this  
515 section.

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**T I T L E   A M E N D M E N T**

Remove lines 2-3 and insert:

520 An act relating to the Department of Business and  
521 Professional Regulation; amending s. 718.111, F.S.;  
522 revising records required to be maintained by a  
523 condominium association; providing requirements  
524 relating to the posting of specified documents on an  
525 association's website; requiring an outgoing board or  
526 committee member to relinquish administrative rights

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527 | or controls of an association's website or other  
528 | digital or electronic asset of the association;  
529 | amending s. 720.303, F.S.; providing requirements  
530 | relating to the posting of specified documents on an  
531 | association's website; amending s. 720.306, F.S.;  
532 | providing requirements for amendments to the  
533 | declaration; amending s. 720.311, F.S.; conforming a  
534 | cross-reference; amending s. 326.004, F.S.; deleting a

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