

1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.111,
3 F.S.; prohibiting an attorney from representing a
4 board under certain conditions; prohibiting certain
5 actions by a board member or management company;
6 providing recordkeeping requirements; providing that
7 certain official records of the association are open
8 to inspection by unit renters; providing criminal
9 penalties; providing a definition; providing
10 requirements relating to the posting of specified
11 documents on an association's website; providing a
12 remedy for an association's failure to provide a unit
13 owner with a copy of the most recent financial report;
14 requiring the Division of Florida Condominiums,
15 Timeshares, and Mobile Homes to maintain and provide
16 copies of financial reports; amending s. 718.112,
17 F.S.; providing board member term limits; providing an
18 exception; deleting certification requirements
19 relating to the recall of board members; revising the
20 amount of time in which a recalled board member must
21 turn over records and property of the association to
22 the board; prohibiting a certain associations from
23 employing or contracting with a service provider that
24 is owned or operated by certain persons; amending s.
25 718.1255, F.S.; authorizing, rather than requiring,

26 | the division to employ full-time attorneys to conduct
27 | certain arbitration hearings; providing requirements
28 | for the certification of arbitrators; prohibiting the
29 | department from entering into a legal services contact
30 | for certain arbitration hearings; requiring the
31 | division to assign or enter into contracts with
32 | arbitrators; requiring arbitrators to conduct hearings
33 | within a specified period; providing an exception;
34 | providing arbitration proceeding requirements;
35 | creating s. 718.129, F.S.; providing certain
36 | activities that constitute fraudulent voting
37 | activities related to association elections; providing
38 | criminal penalties; amending s. 718.3025, F.S.;
39 | prohibiting specified parties from certain activities;
40 | creating s. 718.3027, F.S.; providing requirements
41 | relating to director and officer conflicts of
42 | interest; amending s. 718.303, F.S.; providing
43 | requirements relating to the suspension of voting
44 | rights of unit owners and members; prohibiting a
45 | receiver from exercising the voting rights of a unit
46 | owner whose unit is placed in receivership; amending
47 | s. 718.5012, F.S.; providing the ombudsman with an
48 | additional power; creating s. 718.71, F.S.; providing
49 | financial reporting requirements of an association;
50 | providing an effective date.

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

Section 1. Subsections (3) and (9), paragraphs (a) and (c) of subsection (12), and subsection (13) of section 718.111, Florida Statutes, are amended, and paragraph (g) is added to subsection (12) of that section, to read:

718.111 The association.—

(3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT, SUE, AND BE SUED; CONFLICT OF INTEREST.—

(a) The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and

76 | on units; and may defend actions in eminent domain or bring
77 | inverse condemnation actions. If the association has the
78 | authority to maintain a class action, the association may be
79 | joined in an action as representative of that class with
80 | reference to litigation and disputes involving the matters for
81 | which the association could bring a class action. Nothing herein
82 | limits any statutory or common-law right of any individual unit
83 | owner or class of unit owners to bring any action without
84 | participation by the association which may otherwise be
85 | available.

86 | (b) An attorney may not represent a board if the attorney
87 | represents the management company of the association.

88 | (9) PURCHASE OF UNITS.—The association has the power,
89 | unless prohibited by the declaration, articles of incorporation,
90 | or bylaws of the association, to purchase units in the
91 | condominium and to acquire and hold, lease, mortgage, and convey
92 | them. There shall be no limitation on the association's right to
93 | purchase a unit at a foreclosure sale resulting from the
94 | association's foreclosure of its lien for unpaid assessments, or
95 | to take title by deed in lieu of foreclosure. However, except in
96 | a timeshare condominium, a board member or management company
97 | may not purchase a unit at a foreclosure sale resulting from the
98 | association's foreclosure of its lien for unpaid assessments or
99 | take title by deed in lieu of foreclosure.

100 | (12) OFFICIAL RECORDS.—

101 (a) From the inception of the association, the association
102 shall maintain each of the following items, if applicable, which
103 constitutes the official records of the association:

104 1. A copy of the plans, permits, warranties, and other
105 items provided by the developer pursuant to s. 718.301(4).

106 2. A photocopy of the recorded declaration of condominium
107 of each condominium operated by the association and each
108 amendment to each declaration.

109 3. A photocopy of the recorded bylaws of the association
110 and each amendment to the bylaws.

111 4. A certified copy of the articles of incorporation of
112 the association, or other documents creating the association,
113 and each amendment thereto.

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

115 6. A book or books that contain the minutes of all
116 meetings of the association, the board of administration, and
117 the unit owners, which minutes must be retained for at least 7
118 years.

119 7. A current roster of all unit owners and their mailing
120 addresses, unit identifications, voting certifications, and, if
121 known, telephone numbers. The association shall also maintain
122 the electronic mailing addresses and facsimile numbers of unit
123 owners consenting to receive notice by electronic transmission.
124 The electronic mailing addresses and facsimile numbers are not
125 accessible to unit owners if consent to receive notice by

126 | electronic transmission is not provided in accordance with
127 | subparagraph (c)5.e. ~~(e)5.~~ However, the association is not
128 | liable for an inadvertent disclosure of the electronic mail
129 | address or facsimile number for receiving electronic
130 | transmission of notices.

131 | 8. All current insurance policies of the association and
132 | condominiums operated by the association.

133 | 9. A current copy of any management agreement, lease, or
134 | other contract to which the association is a party or under
135 | which the association or the unit owners have an obligation or
136 | responsibility.

137 | 10. Bills of sale or transfer for all property owned by
138 | the association.

139 | 11. Accounting records for the association and separate
140 | accounting records for each condominium that the association
141 | operates. All accounting records must be maintained for at least
142 | 7 years. Any person who knowingly or intentionally defaces or
143 | destroys such records, or who knowingly or intentionally fails
144 | to create or maintain such records, with the intent of causing
145 | harm to the association or one or more of its members, is
146 | personally subject to a civil penalty pursuant to s.

147 | 718.501(1)(d). The accounting records must include, but are not
148 | limited to:

149 | a. Accurate, itemized, and detailed records of all
150 | receipts and expenditures.

151 b. A current account and a monthly, bimonthly, or
 152 quarterly statement of the account for each unit designating the
 153 name of the unit owner, the due date and amount of each
 154 assessment, the amount paid on the account, and the balance due.

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

157 d. All contracts for work to be performed. Bids for work
 158 to be performed are also considered official records and must be
 159 maintained by the association.

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

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

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

169 15. All other written records of the association not
 170 specifically included in the foregoing which are related to the
 171 operation of the association.

172 16. A copy of the inspection report as described in s.
 173 718.301(4)(p).

174 17. Bids for materials, equipment, or services.

175 (c)1. The official records of the association are open to

176 inspection by any association member, ~~or~~ the authorized
177 representative of such member at all reasonable times. The right
178 to inspect the records includes the right to make or obtain
179 copies, at the reasonable expense, if any, of the member or the
180 authorized representative of such member. A renter of a unit has
181 the right to inspect and copy the association's bylaws and
182 rules. The association may adopt reasonable rules regarding the
183 frequency, time, location, notice, and manner of record
184 inspections and copying. The failure of an association to
185 provide the records within 10 working days after receipt of a
186 written request creates a rebuttable presumption that the
187 association willfully failed to comply with this paragraph. A
188 unit owner who is denied access to official records is entitled
189 to the actual damages or minimum damages for the association's
190 willful failure to comply. Minimum damages are \$50 per calendar
191 day for up to 10 days, beginning on the 11th working day after
192 receipt of the written request. The failure to permit inspection
193 entitles any person prevailing in an enforcement action to
194 recover reasonable attorney fees from the person in control of
195 the records who, directly or indirectly, knowingly denied access
196 to the records.

197 2. Any director or member of the board or association who
198 knowingly, willfully, and repeatedly violates subparagraph 1.
199 commits a misdemeanor of the second degree, punishable as
200 provided in s. 775.082, or s. 775.083. For purposes of this

201 subparagraph, the term "repeatedly violates" means more than two
202 violations within a 12-month period.

203 3. Any person who knowingly or intentionally defaces or
204 destroys accounting records that are required by this chapter to
205 be maintained during the period for which such records are
206 required to be maintained, or who knowingly or intentionally
207 fails to create or maintain accounting records that are required
208 to be created or maintained, with the intent of causing harm to
209 the association or one or more of its members, commits a
210 misdemeanor of the first degree, punishable as provided in s.
211 775.082, or s. 775.083.

212 4. Any person who willfully and knowingly refuses to
213 release or otherwise produce association records with the intent
214 of facilitating the commission of a crime or avoiding or
215 escaping detection, arrest, trial, or punishment for a crime
216 commits a felony of the third degree, punishable as provided in
217 s. 775.082, s. 775.083, or s. 775.084 ~~is personally subject to a~~
218 ~~civil penalty pursuant to s. 718.501(1)(d).~~

219 5. The association shall maintain an adequate number of
220 copies of the declaration, articles of incorporation, bylaws,
221 and rules, and all amendments to each of the foregoing, as well
222 as the question and answer sheet as described in s. 718.504 and
223 year-end financial information required under this section, on
224 the condominium property to ensure their availability to unit
225 owners and prospective purchasers, and may charge its actual

226 costs for preparing and furnishing these documents to those
227 requesting the documents. An association shall allow a member or
228 his or her authorized representative to use a portable device,
229 including a smartphone, tablet, portable scanner, or any other
230 technology capable of scanning or taking photographs, to make an
231 electronic copy of the official records in lieu of the
232 association's providing the member or his or her authorized
233 representative with a copy of such records. The association may
234 not charge a member or his or her authorized representative for
235 the use of a portable device. Notwithstanding this paragraph,
236 the following records are not accessible to unit owners:

237 a.1. Any record protected by the lawyer-client privilege
238 as described in s. 90.502 and any record protected by the work-
239 product privilege, including a record prepared by an association
240 attorney or prepared at the attorney's express direction, which
241 reflects a mental impression, conclusion, litigation strategy,
242 or legal theory of the attorney or the association, and which
243 was prepared exclusively for civil or criminal litigation or for
244 adversarial administrative proceedings, or which was prepared in
245 anticipation of such litigation or proceedings until the
246 conclusion of the litigation or proceedings.

247 b.2. Information obtained by an association in connection
248 with the approval of the lease, sale, or other transfer of a
249 unit.

250 c.3. Personnel records of association or management

251 company employees, including, but not limited to, disciplinary,
252 payroll, health, and insurance records. For purposes of this
253 subparagraph, the term "personnel records" does not include
254 written employment agreements with an association employee or
255 management company, or budgetary or financial records that
256 indicate the compensation paid to an association employee.

257 ~~d.4.~~ Medical records of unit owners.

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

276 | in an official record of the association and is voluntarily
277 | provided by an owner and not requested by the association.

278 | ~~f.6.~~ Electronic security measures that are used by the
279 | association to safeguard data, including passwords.

280 | ~~g.7.~~ The software and operating system used by the
281 | association which allow the manipulation of data, even if the
282 | owner owns a copy of the same software used by the association.
283 | The data is part of the official records of the association.

284 | (g)1. An association with 500 or more units that does not
285 | manage timeshare units shall post digital copies of the
286 | documents specified in subparagraph 2. on its website.

287 | a. The association's website must be:

288 | (I) An independent website or web portal wholly owned and
289 | operated by the association; or

290 | (II) A website or web portal operated by a third-party
291 | provider with whom the association owns, leases, rents, or
292 | otherwise obtains the right to operate a web page, subpage, web
293 | portal, or collection of subpages or web portals dedicated to
294 | the association's activities and on which required notices,
295 | records, and documents may be posted by the association.

296 | b. The association's website must be accessible through
297 | the Internet and must contain a subpage, web portal, or other
298 | protected electronic location that is inaccessible to the
299 | general public and accessible only to unit owners, employees of
300 | the association, and the department.

301 c. Upon a unit owner's request, the association must
302 provide the unit owner with a username and password and access
303 to the protected sections of the association's website that
304 contain any notices, records, or documents that must be
305 electronically provided.

306 2. A current copy of the following documents must be
307 posted in digital format on the association's website:

308 a. The recorded declaration of condominium of each
309 condominium operated by the association and each amendment to
310 each declaration.

311 b. The recorded bylaws of the association and each
312 amendment to the bylaws.

313 c. The articles of incorporation of the association, or
314 other documents creating the association, and each amendment
315 thereto. The copy posted pursuant to this sub-subparagraph must
316 be a certified copy.

317 d. The rules of the association.

318 e. Any management agreement, lease, or other contract to
319 which the association is a party or under which the association
320 or the unit owners have an obligation or responsibility.

321 Summaries of bids for materials, equipment, or services must be
322 maintained on the website for 1 year.

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

325 g. The financial report required by subsection (13) and

326 any proposed financial report to be considered at a meeting.

327 h. The certification of each director required by s.
328 718.112(2)(d)4.b.

329 i. All contracts or transactions between the association
330 and any director, officer, corporation, firm, or association
331 that is not an affiliated condominium association or any other
332 entity in which an association director is also a director or
333 officer and financially interested.

334 j. Any contract or document regarding a conflict of
335 interest or possible conflict of interest as provided in ss.
336 468.436(2) and 718.3026(3).

337 k. The notice of any board meeting and the agenda for the
338 meeting, as required by s. 718.112(2)(d)3., no later than 14
339 days before the meeting. The notice must be posted in plain view
340 on the front page of the website, or on a separate subpage of
341 the website labeled "Notices" which is conspicuously visible and
342 linked from the front page. The association must also post on
343 its website any documents to be considered during the meeting or
344 listed on the agenda at least 7 days before the meeting at which
345 the document or the information within the document will be
346 considered, including the following documents:

347 (I) The proposed annual budget required by s.
348 718.112(2)(f), which must be provided at least 14 days before
349 the meeting.

350 (II) The proposed financial report required by subsection

351 (13).

352 3. The association shall ensure that the information and
353 records described in paragraph (c), which are not permitted to
354 be accessible to unit owners, are not posted on the
355 association's website. If protected information or information
356 restricted from being accessible to unit owners is included in
357 documents that are required to be posted on the association's
358 website, the association shall ensure the information is
359 redacted before posting the documents online.

360 (13) FINANCIAL REPORTING.—Within 90 days after the end of
361 the fiscal year, or annually on a date provided in the bylaws,
362 the association shall prepare and complete, or contract for the
363 preparation and completion of, a financial report for the
364 preceding fiscal year. Within 21 days after the final financial
365 report is completed by the association or received from the
366 third party, but not later than 120 days after the end of the
367 fiscal year or other date as provided in the bylaws, the
368 association shall mail to each unit owner at the address last
369 furnished to the association by the unit owner, or hand deliver
370 to each unit owner, a copy of the most recent financial report
371 or a notice that a copy of the most recent financial report will
372 be mailed or hand delivered to the unit owner, without charge,
373 within 5 business days after ~~upon~~ receipt of a written request
374 from the unit owner. The division shall adopt rules setting
375 forth uniform accounting principles and standards to be used by

376 all associations and addressing the financial reporting
377 requirements for multicondominium associations. The rules must
378 include, but not be limited to, standards for presenting a
379 summary of association reserves, including a good faith estimate
380 disclosing the annual amount of reserve funds that would be
381 necessary for the association to fully fund reserves for each
382 reserve item based on the straight-line accounting method. This
383 disclosure is not applicable to reserves funded via the pooling
384 method. In adopting such rules, the division shall consider the
385 number of members and annual revenues of an association.

386 Financial reports shall be prepared as follows:

387 (a) An association that meets the criteria of this
388 paragraph shall prepare a complete set of financial statements
389 in accordance with generally accepted accounting principles. The
390 financial statements must be based upon the association's total
391 annual revenues, as follows:

392 1. An association with total annual revenues of \$150,000
393 or more, but less than \$300,000, shall prepare compiled
394 financial statements.

395 2. An association with total annual revenues of at least
396 \$300,000, but less than \$500,000, shall prepare reviewed
397 financial statements.

398 3. An association with total annual revenues of \$500,000
399 or more shall prepare audited financial statements.

400 (b)1. An association with total annual revenues of less

401 than \$150,000 shall prepare a report of cash receipts and
402 expenditures.

403 2. An association that operates fewer than 50 units,
404 regardless of the association's annual revenues, shall prepare a
405 report of cash receipts and expenditures in lieu of financial
406 statements required by paragraph (a).

407 3. A report of cash receipts and disbursements must
408 disclose the amount of receipts by accounts and receipt
409 classifications and the amount of expenses by accounts and
410 expense classifications, including, but not limited to, the
411 following, as applicable: costs for security, professional and
412 management fees and expenses, taxes, costs for recreation
413 facilities, expenses for refuse collection and utility services,
414 expenses for lawn care, costs for building maintenance and
415 repair, insurance costs, administration and salary expenses, and
416 reserves accumulated and expended for capital expenditures,
417 deferred maintenance, and any other category for which the
418 association maintains reserves.

419 (c) An association may prepare, without a meeting of or
420 approval by the unit owners:

421 1. Compiled, reviewed, or audited financial statements, if
422 the association is required to prepare a report of cash receipts
423 and expenditures;

424 2. Reviewed or audited financial statements, if the
425 association is required to prepare compiled financial

426 statements; or

427 3. Audited financial statements if the association is
428 required to prepare reviewed financial statements.

429 (d) If approved by a majority of the voting interests
430 present at a properly called meeting of the association, an
431 association may prepare:

432 1. A report of cash receipts and expenditures in lieu of a
433 compiled, reviewed, or audited financial statement;

434 2. A report of cash receipts and expenditures or a
435 compiled financial statement in lieu of a reviewed or audited
436 financial statement; or

437 3. A report of cash receipts and expenditures, a compiled
438 financial statement, or a reviewed financial statement in lieu
439 of an audited financial statement.

440

441 Such meeting and approval must occur before the end of the
442 fiscal year and is effective only for the fiscal year in which
443 the vote is taken, except that the approval may also be
444 effective for the following fiscal year. If the developer has
445 not turned over control of the association, all unit owners,
446 including the developer, may vote on issues related to the
447 preparation of the association's financial reports, from the
448 date of incorporation of the association through the end of the
449 second fiscal year after the fiscal year in which the
450 certificate of a surveyor and mapper is recorded pursuant to s.

451 718.104(4) (e) or an instrument that transfers title to a unit in
452 the condominium which is not accompanied by a recorded
453 assignment of developer rights in favor of the grantee of such
454 unit is recorded, whichever occurs first. Thereafter, all unit
455 owners except the developer may vote on such issues until
456 control is turned over to the association by the developer. Any
457 audit or review prepared under this section shall be paid for by
458 the developer if done before turnover of control of the
459 association. An association may not waive the financial
460 reporting requirements of this section for more than 3
461 consecutive years.

462 (e) If an association has not mailed or hand delivered to
463 the unit owner a copy of the most recent financial report within
464 5 business days after receipt of a written request from the unit
465 owner, the unit owner may give notice to the division of the
466 association's failure to comply. Upon notification, the division
467 shall give notice to the association that the association must
468 mail or hand deliver the copy of the most recent financial
469 report to the unit owner and the division within 5 business days
470 after such notice. Any association that fails to comply with the
471 division's request may not waive the financial reporting
472 requirement provided in paragraph (d). A financial report
473 received by the division pursuant to this paragraph shall be
474 maintained, and the division shall provide a copy of such report
475 to an association member upon his or her request.

476 Section 2. Paragraphs (d) and (j) of subsection (2) of
 477 section 718.112, Florida Statutes, are amended, and paragraph
 478 (p) is added to that subsection, to read:

479 718.112 Bylaws.—

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

483 (d) Unit owner meetings.—

484 1. An annual meeting of the unit owners shall be held at
 485 the location provided in the association bylaws and, if the
 486 bylaws are silent as to the location, the meeting shall be held
 487 within 45 miles of the condominium property. However, such
 488 distance requirement does not apply to an association governing
 489 a timeshare condominium.

490 2. Unless the bylaws provide otherwise, a vacancy on the
 491 board caused by the expiration of a director's term shall be
 492 filled by electing a new board member, and the election must be
 493 by secret ballot. An election is not required if the number of
 494 vacancies equals or exceeds the number of candidates. For
 495 purposes of this paragraph, the term "candidate" means an
 496 eligible person who has timely submitted the written notice, as
 497 described in sub-subparagraph 4.a., of his or her intention to
 498 become a candidate. Except in a timeshare or nonresidential
 499 condominium, or if the staggered term of a board member does not
 500 expire until a later annual meeting, or if all members' terms

501 would otherwise expire but there are no candidates, the terms of
502 all board members expire at the annual meeting, and such members
503 may stand for reelection unless prohibited by the bylaws. ~~If the~~
504 ~~bylaws or articles of incorporation permit terms of no more than~~
505 ~~2 years, the association~~ Board members may serve 2-year terms if
506 permitted by the bylaws or articles of incorporation. A board
507 member may not serve more than four consecutive 2-year terms,
508 unless approved by an affirmative vote of two-thirds of the
509 total voting interests of the association. If the number of
510 board members whose terms expire at the annual meeting equals or
511 exceeds the number of candidates, the candidates become members
512 of the board effective upon the adjournment of the annual
513 meeting. Unless the bylaws provide otherwise, any remaining
514 vacancies shall be filled by the affirmative vote of the
515 majority of the directors making up the newly constituted board
516 even if the directors constitute less than a quorum or there is
517 only one director. In a residential condominium association of
518 more than 10 units or in a residential condominium association
519 that does not include timeshare units or timeshare interests,
520 coowners of a unit may not serve as members of the board of
521 directors at the same time unless they own more than one unit or
522 unless there are not enough eligible candidates to fill the
523 vacancies on the board at the time of the vacancy. A unit owner
524 in a residential condominium desiring to be a candidate for
525 board membership must comply with sub-subparagraph 4.a. and must

526 | be eligible to be a candidate to serve on the board of directors
527 | at the time of the deadline for submitting a notice of intent to
528 | run in order to have his or her name listed as a proper
529 | candidate on the ballot or to serve on the board. A person who
530 | has been suspended or removed by the division under this
531 | chapter, or who is delinquent in the payment of any monetary
532 | obligation due to the association, is not eligible to be a
533 | candidate for board membership and may not be listed on the
534 | ballot. A person who has been convicted of any felony in this
535 | state or in a United States District or Territorial Court, or
536 | who has been convicted of any offense in another jurisdiction
537 | which would be considered a felony if committed in this state,
538 | is not eligible for board membership unless such felon's civil
539 | rights have been restored for at least 5 years as of the date
540 | such person seeks election to the board. The validity of an
541 | action by the board is not affected if it is later determined
542 | that a board member is ineligible for board membership due to
543 | having been convicted of a felony. This subparagraph does not
544 | limit the term of a member of the board of a nonresidential or a
545 | timeshare condominium.

546 | 3. The bylaws must provide the method of calling meetings
547 | of unit owners, including annual meetings. Written notice must
548 | include an agenda, must be mailed, hand delivered, or
549 | electronically transmitted to each unit owner at least 14 days
550 | before the annual meeting, and must be posted in a conspicuous

551 place on the condominium property at least 14 continuous days
552 before the annual meeting. Upon notice to the unit owners, the
553 board shall, by duly adopted rule, designate a specific location
554 on the condominium property or association property where all
555 notices of unit owner meetings shall be posted. This requirement
556 does not apply if there is no condominium property or
557 association property for posting notices. In lieu of, or in
558 addition to, the physical posting of meeting notices, the
559 association may, by reasonable rule, adopt a procedure for
560 conspicuously posting and repeatedly broadcasting the notice and
561 the agenda on a closed-circuit cable television system serving
562 the condominium association. However, if broadcast notice is
563 used in lieu of a notice posted physically on the condominium
564 property, the notice and agenda must be broadcast at least four
565 times every broadcast hour of each day that a posted notice is
566 otherwise required under this section. If broadcast notice is
567 provided, the notice and agenda must be broadcast in a manner
568 and for a sufficient continuous length of time so as to allow an
569 average reader to observe the notice and read and comprehend the
570 entire content of the notice and the agenda. Unless a unit owner
571 waives in writing the right to receive notice of the annual
572 meeting, such notice must be hand delivered, mailed, or
573 electronically transmitted to each unit owner. Notice for
574 meetings and notice for all other purposes must be mailed to
575 each unit owner at the address last furnished to the association

576 by the unit owner, or hand delivered to each unit owner.
577 However, if a unit is owned by more than one person, the
578 association must provide notice to the address that the
579 developer identifies for that purpose and thereafter as one or
580 more of the owners of the unit advise the association in
581 writing, or if no address is given or the owners of the unit do
582 not agree, to the address provided on the deed of record. An
583 officer of the association, or the manager or other person
584 providing notice of the association meeting, must provide an
585 affidavit or United States Postal Service certificate of
586 mailing, to be included in the official records of the
587 association affirming that the notice was mailed or hand
588 delivered in accordance with this provision.

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

596 a. At least 60 days before a scheduled election, the
597 association shall mail, deliver, or electronically transmit, by
598 separate association mailing or included in another association
599 mailing, delivery, or transmission, including regularly
600 published newsletters, to each unit owner entitled to a vote, a

601 first notice of the date of the election. A unit owner or other
602 eligible person desiring to be a candidate for the board must
603 give written notice of his or her intent to be a candidate to
604 the association at least 40 days before a scheduled election.
605 Together with the written notice and agenda as set forth in
606 subparagraph 3., the association shall mail, deliver, or
607 electronically transmit a second notice of the election to all
608 unit owners entitled to vote, together with a ballot that lists
609 all candidates. Upon request of a candidate, an information
610 sheet, no larger than 8 1/2 inches by 11 inches, which must be
611 furnished by the candidate at least 35 days before the election,
612 must be included with the mailing, delivery, or transmission of
613 the ballot, with the costs of mailing, delivery, or electronic
614 transmission and copying to be borne by the association. The
615 association is not liable for the contents of the information
616 sheets prepared by the candidates. In order to reduce costs, the
617 association may print or duplicate the information sheets on
618 both sides of the paper. The division shall by rule establish
619 voting procedures consistent with this sub-subparagraph,
620 including rules establishing procedures for giving notice by
621 electronic transmission and rules providing for the secrecy of
622 ballots. Elections shall be decided by a plurality of ballots
623 cast. There is no quorum requirement; however, at least 20
624 percent of the eligible voters must cast a ballot in order to
625 have a valid election. A unit owner may not permit any other

626 person to vote his or her ballot, and any ballots improperly
627 cast are invalid. A unit owner who violates this provision may
628 be fined by the association in accordance with s. 718.303. A
629 unit owner who needs assistance in casting the ballot for the
630 reasons stated in s. 101.051 may obtain such assistance. The
631 regular election must occur on the date of the annual meeting.
632 Notwithstanding this sub-subparagraph, an election is not
633 required unless more candidates file notices of intent to run or
634 are nominated than board vacancies exist.

635 b. Within 90 days after being elected or appointed to the
636 board of an association of a residential condominium, each newly
637 elected or appointed director shall certify in writing to the
638 secretary of the association that he or she has read the
639 association's declaration of condominium, articles of
640 incorporation, bylaws, and current written policies; that he or
641 she will work to uphold such documents and policies to the best
642 of his or her ability; and that he or she will faithfully
643 discharge his or her fiduciary responsibility to the
644 association's members. In lieu of this written certification,
645 within 90 days after being elected or appointed to the board,
646 the newly elected or appointed director may submit a certificate
647 of having satisfactorily completed the educational curriculum
648 administered by a division-approved condominium education
649 provider within 1 year before or 90 days after the date of
650 election or appointment. The written certification or

651 educational certificate is valid and does not have to be
652 resubmitted as long as the director serves on the board without
653 interruption. A director of an association of a residential
654 condominium who fails to timely file the written certification
655 or educational certificate is suspended from service on the
656 board until he or she complies with this sub-subparagraph. The
657 board may temporarily fill the vacancy during the period of
658 suspension. The secretary shall cause the association to retain
659 a director's written certification or educational certificate
660 for inspection by the members for 5 years after a director's
661 election or the duration of the director's uninterrupted tenure,
662 whichever is longer. Failure to have such written certification
663 or educational certificate on file does not affect the validity
664 of any board action.

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

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

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

677 6. Unit owners may waive notice of specific meetings if
678 allowed by the applicable bylaws or declaration or any law.
679 Notice of meetings of the board of administration, unit owner
680 meetings, except unit owner meetings called to recall board
681 members under paragraph (j), and committee meetings may be given
682 by electronic transmission to unit owners who consent to receive
683 notice by electronic transmission.

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

688 8. A unit owner may tape record or videotape a meeting of
689 the unit owners subject to reasonable rules adopted by the
690 division.

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

701 bylaws, a board member appointed or elected under this section
702 shall fill the vacancy for the unexpired term of the seat being
703 filled. Filling vacancies created by recall is governed by
704 paragraph (j) and rules adopted by the division.

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

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

720 (j) Recall of board members.—Subject to s. 718.301, any
721 member of the board of administration may be recalled and
722 removed from office with or without cause by the vote or
723 agreement in writing by a majority of all the voting interests.
724 A special meeting of the unit owners to recall a member or
725 members of the board of administration may be called by 10

726 percent of the voting interests giving notice of the meeting as
727 required for a meeting of unit owners, and the notice shall
728 state the purpose of the meeting. Electronic transmission may
729 not be used as a method of giving notice of a meeting called in
730 whole or in part for this purpose.

731 1. If the recall is approved by a majority of all voting
732 interests by a vote at a meeting, the recall will be effective
733 as provided in this paragraph. The board shall duly notice and
734 hold a board meeting within 5 full business days after the
735 adjournment of the unit owner meeting to recall one or more
736 board members. ~~At the meeting, the board shall either certify~~
737 ~~the recall, in which case~~ Such member or members shall be
738 recalled effective immediately and shall turn over to the board
739 within 10 ~~5~~ full business days after the vote any and all
740 records and property of the association in their possession, ~~or~~
741 ~~shall proceed as set forth in subparagraph 3.~~

742 2. If the proposed recall is by an agreement in writing by
743 a majority of all voting interests, the agreement in writing or
744 a copy thereof shall be served on the association by certified
745 mail or by personal service in the manner authorized by chapter
746 48 and the Florida Rules of Civil Procedure. The board of
747 administration shall duly notice and hold a meeting of the board
748 within 5 full business days after receipt of the agreement in
749 writing. ~~At the meeting, the board shall either certify the~~
750 ~~written agreement to recall a member or members of the board, in~~

751 ~~which case such member or members shall be recalled effective~~
752 ~~immediately and shall turn over to the board within 5 full~~
753 ~~business days any and all records and property of the~~
754 ~~association in their possession, or proceed as described in~~
755 ~~subparagraph 3.~~

756 ~~3. If the board determines not to certify the written~~
757 ~~agreement to recall a member or members of the board, or does~~
758 ~~not certify the recall by a vote at a meeting, The board shall,~~
759 ~~within 5 full business days after the meeting, file with the~~
760 ~~division a petition for arbitration pursuant to the procedures~~
761 ~~in s. 718.1255. For the purposes of this section, the unit~~
762 ~~owners who voted at the meeting or who executed the agreement in~~
763 ~~writing shall constitute one party under the petition for~~
764 ~~arbitration. If the arbitrator certifies the recall as to any~~
765 ~~member or members of the board, the recall will be effective~~
766 ~~upon mailing of the final order of arbitration to the~~
767 ~~association. If the association fails to comply with the order~~
768 ~~of the arbitrator, the division may take action pursuant to s.~~
769 ~~718.501. Any member or members so recalled shall deliver to the~~
770 ~~board any and all records of the association in their possession~~
771 ~~within 5 full business days after the effective date of the~~
772 ~~recall.~~

773 ~~3.4.~~ If the board fails to duly notice and hold a board
774 meeting within 5 full business days after service of an
775 agreement in writing or within 5 full business days after the

776 adjournment of the unit owner recall meeting, the recall shall
777 be deemed effective and the board members so recalled shall
778 ~~immediately~~ turn over to the board within 10 full business days
779 after the vote any and all records and property of the
780 association.

781 ~~4.5.~~ If the board fails to duly notice and hold the
782 required meeting or fails to file the required petition, the
783 unit owner representative may file a petition pursuant to s.
784 718.1255 challenging the board's failure to act. The petition
785 must be filed within 60 days after the expiration of the
786 applicable 5-full-business-day period. The review of a petition
787 under this subparagraph is limited to the sufficiency of service
788 on the board and the facial validity of the written agreement or
789 ballots filed.

790 ~~5.6.~~ If a vacancy occurs on the board as a result of a
791 recall or removal and less than a majority of the board members
792 are removed, the vacancy may be filled by the affirmative vote
793 of a majority of the remaining directors, notwithstanding any
794 provision to the contrary contained in this subsection. If
795 vacancies occur on the board as a result of a recall and a
796 majority or more of the board members are removed, the vacancies
797 shall be filled in accordance with procedural rules to be
798 adopted by the division, which rules need not be consistent with
799 this subsection. The rules must provide procedures governing the
800 conduct of the recall election as well as the operation of the

801 association during the period after a recall but before the
 802 recall election.

803 ~~6.7.~~ A board member who has been recalled may file a
 804 petition pursuant to s. 718.1255 challenging the validity of the
 805 recall. The petition must be filed within 60 days after the
 806 recall ~~is deemed certified~~. The association and the unit owner
 807 representative shall be named as the respondents.

808 ~~7.8.~~ The division may not accept for filing a recall
 809 petition, whether filed pursuant to subparagraph 1.,
 810 subparagraph 2., subparagraph ~~4.5.~~, or subparagraph ~~6.7.~~ and
 811 ~~regardless of whether the recall was certified,~~ when there are
 812 60 or fewer days until the scheduled reelection of the board
 813 member sought to be recalled or when 60 or fewer days have
 814 elapsed since the election of the board member sought to be
 815 recalled.

816 (p) Service providers; conflicts of interest.—An
 817 association, which is not a timeshare condominium association,
 818 may not employ or contract with any service provider that is
 819 owned or operated by a board member or any person who has a
 820 financial relationship with a board member.

821 Section 3. Subsection (4) of section 718.1255, Florida
 822 Statutes, is amended to read:

823 718.1255 Alternative dispute resolution; voluntary
 824 mediation; mandatory nonbinding arbitration; legislative
 825 findings.—

826 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
827 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
828 Mobile Homes of the Department of Business and Professional
829 Regulation may ~~shall~~ employ full-time attorneys to act as
830 arbitrators to conduct the arbitration hearings provided by this
831 chapter. The division may also certify attorneys who are not
832 employed by the division to act as arbitrators to conduct the
833 arbitration hearings provided by this chapter ~~section~~. No person
834 may be employed by the department as a full-time arbitrator
835 unless he or she is a member in good standing of The Florida
836 Bar. A person may only be certified by the division to act as an
837 arbitrator if he or she has been a member in good standing of
838 The Florida Bar for at least 5 years and has mediated or
839 arbitrated at least 10 disputes involving condominiums in this
840 state during the 3 years immediately preceding the date of
841 application, mediated or arbitrated at least 30 disputes in any
842 subject area in this state during the 3 years immediately
843 preceding the date of application, or attained board
844 certification in real estate law or condominium and planned
845 development law from The Florida Bar. Arbitrator certification
846 is valid for 1 year. An arbitrator who does not maintain the
847 minimum qualifications for initial certification may not have
848 his or her certification renewed. The department may not enter
849 into a legal services contact for an arbitration hearing under
850 this chapter with an attorney who is not a certified arbitrator

851 unless a certified arbitrator is not available within 50 miles
852 of the dispute. The department shall adopt rules of procedure to
853 govern such arbitration hearings including mediation incident
854 thereto. The decision of an arbitrator shall be final; however,
855 a decision shall not be deemed final agency action. Nothing in
856 this provision shall be construed to foreclose parties from
857 proceeding in a trial de novo unless the parties have agreed
858 that the arbitration is binding. If judicial proceedings are
859 initiated, the final decision of the arbitrator shall be
860 admissible in evidence in the trial de novo.

861 (a) Prior to the institution of court litigation, a party
862 to a dispute shall petition the division for nonbinding
863 arbitration. The petition must be accompanied by a filing fee in
864 the amount of \$50. Filing fees collected under this section must
865 be used to defray the expenses of the alternative dispute
866 resolution program.

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

869 1. Advance written notice of the specific nature of the
870 dispute;

871 2. A demand for relief, and a reasonable opportunity to
872 comply or to provide the relief; and

873 3. Notice of the intention to file an arbitration petition
874 or other legal action in the absence of a resolution of the
875 dispute.

876
877 Failure to include the allegations or proof of compliance with
878 these prerequisites requires dismissal of the petition without
879 prejudice.

880 (c) Upon receipt, the petition shall be promptly reviewed
881 by the division to determine the existence of a dispute and
882 compliance with the requirements of paragraphs (a) and (b). If
883 emergency relief is required and is not available through
884 arbitration, a motion to stay the arbitration may be filed. The
885 motion must be accompanied by a verified petition alleging facts
886 that, if proven, would support entry of a temporary injunction,
887 and if an appropriate motion and supporting papers are filed,
888 the division may abate the arbitration pending a court hearing
889 and disposition of a motion for temporary injunction.

890 (d) Upon determination by the division that a dispute
891 exists and that the petition substantially meets the
892 requirements of paragraphs (a) and (b) and any other applicable
893 rules, the division shall assign or enter into a contract with
894 an arbitrator and serve a copy of the petition ~~shall be served~~
895 ~~by the division~~ upon all respondents. The arbitrator shall
896 conduct a hearing within 30 days after being assigned or
897 entering into a contract unless the petition is withdrawn or a
898 continuance is granted for good cause shown.

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

901 the case to mediation under this section and any rules adopted
902 by the division. Upon receipt of a request for mediation, the
903 division shall promptly contact the parties to determine if
904 there is agreement that mediation would be appropriate. If all
905 parties agree, the dispute must be referred to mediation.
906 Notwithstanding a lack of an agreement by all parties, the
907 arbitrator may refer a dispute to mediation at any time.

908 (f) Upon referral of a case to mediation, the parties must
909 select a mutually acceptable mediator. To assist in the
910 selection, the arbitrator shall provide the parties with a list
911 of both volunteer and paid mediators that have been certified by
912 the division under s. 718.501. If the parties are unable to
913 agree on a mediator within the time allowed by the arbitrator,
914 the arbitrator shall appoint a mediator from the list of
915 certified mediators. If a case is referred to mediation, the
916 parties shall attend a mediation conference, as scheduled by the
917 parties and the mediator. If any party fails to attend a duly
918 noticed mediation conference, without the permission or approval
919 of the arbitrator or mediator, the arbitrator must impose
920 sanctions against the party, including the striking of any
921 pleadings filed, the entry of an order of dismissal or default
922 if appropriate, and the award of costs and attorneys' fees
923 incurred by the other parties. Unless otherwise agreed to by the
924 parties or as provided by order of the arbitrator, a party is
925 deemed to have appeared at a mediation conference by the

926 | physical presence of the party or its representative having full
927 | authority to settle without further consultation, provided that
928 | an association may comply by having one or more representatives
929 | present with full authority to negotiate a settlement and
930 | recommend that the board of administration ratify and approve
931 | such a settlement within 5 days from the date of the mediation
932 | conference. The parties shall share equally the expense of
933 | mediation, unless they agree otherwise.

934 | (g) The purpose of mediation as provided for by this
935 | section is to present the parties with an opportunity to resolve
936 | the underlying dispute in good faith, and with a minimum
937 | expenditure of time and resources.

938 | (h) Mediation proceedings must generally be conducted in
939 | accordance with the Florida Rules of Civil Procedure, and these
940 | proceedings are privileged and confidential to the same extent
941 | as court-ordered mediation. Persons who are not parties to the
942 | dispute are not allowed to attend the mediation conference
943 | without the consent of all parties, with the exception of
944 | counsel for the parties and corporate representatives designated
945 | to appear for a party. If the mediator declares an impasse after
946 | a mediation conference has been held, the arbitration proceeding
947 | terminates, unless all parties agree in writing to continue the
948 | arbitration proceeding, in which case the arbitrator's decision
949 | shall be binding or nonbinding, as agreed upon by the parties;
950 | in the arbitration proceeding, the arbitrator shall not consider

951 any evidence relating to the unsuccessful mediation except in a
952 proceeding to impose sanctions for failure to appear at the
953 mediation conference. If the parties do not agree to continue
954 arbitration, the arbitrator shall enter an order of dismissal,
955 and either party may institute a suit in a court of competent
956 jurisdiction. The parties may seek to recover any costs and
957 attorneys' fees incurred in connection with arbitration and
958 mediation proceedings under this section as part of the costs
959 and fees that may be recovered by the prevailing party in any
960 subsequent litigation.

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

964 (j) At the request of any party to the arbitration, the
965 arbitrator shall issue subpoenas for the attendance of witnesses
966 and the production of books, records, documents, and other
967 evidence and any party on whose behalf a subpoena is issued may
968 apply to the court for orders compelling such attendance and
969 production. Subpoenas shall be served and shall be enforceable
970 in the manner provided by the Florida Rules of Civil Procedure.
971 Discovery may, in the discretion of the arbitrator, be permitted
972 in the manner provided by the Florida Rules of Civil Procedure.
973 Rules adopted by the division may authorize any reasonable
974 sanctions except contempt for a violation of the arbitration
975 procedural rules of the division or for the failure of a party

976 to comply with a reasonable nonfinal order issued by an
977 arbitrator which is not under judicial review.

978 (k) The arbitration decision shall be rendered within 30
979 days after the hearing and presented to the parties in writing.
980 An arbitration decision is final in those disputes in which the
981 parties have agreed to be bound. An arbitration decision is also
982 final if a complaint for a trial de novo is not filed in a court
983 of competent jurisdiction in which the condominium is located
984 within 30 days. The right to file for a trial de novo entitles
985 the parties to file a complaint in the appropriate trial court
986 for a judicial resolution of the dispute. The prevailing party
987 in an arbitration proceeding shall be awarded the costs of the
988 arbitration and reasonable attorney's fees in an amount
989 determined by the arbitrator. Such an award shall include the
990 costs and reasonable attorney's fees incurred in the arbitration
991 proceeding as well as the costs and reasonable attorney's fees
992 incurred in preparing for and attending any scheduled mediation.
993 An arbitrator's failure to render a written decision within 30
994 days after the hearing may result in the cancellation of his or
995 her arbitration certification.

996 (l) The party who files a complaint for a trial de novo
997 shall be assessed the other party's arbitration costs, court
998 costs, and other reasonable costs, including attorney's fees,
999 investigation expenses, and expenses for expert or other
1000 testimony or evidence incurred after the arbitration hearing if

1001 the judgment upon the trial de novo is not more favorable than
 1002 the arbitration decision. If the judgment is more favorable, the
 1003 party who filed a complaint for trial de novo shall be awarded
 1004 reasonable court costs and attorney's fees.

1005 (m) Any party to an arbitration proceeding may enforce an
 1006 arbitration award by filing a petition in a court of competent
 1007 jurisdiction in which the condominium is located. A petition may
 1008 not be granted unless the time for appeal by the filing of a
 1009 complaint for trial de novo has expired. If a complaint for a
 1010 trial de novo has been filed, a petition may not be granted with
 1011 respect to an arbitration award that has been stayed. If the
 1012 petition for enforcement is granted, the petitioner shall
 1013 recover reasonable attorney's fees and costs incurred in
 1014 enforcing the arbitration award. A mediation settlement may also
 1015 be enforced through the county or circuit court, as applicable,
 1016 and any costs and fees incurred in the enforcement of a
 1017 settlement agreement reached at mediation must be awarded to the
 1018 prevailing party in any enforcement action.

1019 Section 4. Section 718.129, Florida Statutes, is created
 1020 to read:

1021 718.129 Fraudulent voting activities related to
 1022 association elections; penalties.—The following acts constitute
 1023 fraudulent voting activities related to association elections:

1024 (1) A person who willfully, knowingly, and falsely swears
 1025 or affirms to an oath or affirmation, or procures another person

1026 to willfully, knowingly, and falsely swear or affirm to an oath
 1027 or affirmation, in connection with or arising out of voting or
 1028 casting a ballot in an association election commits a felony of
 1029 the third degree, punishable as provided in s. 775.082, s.
 1030 775.083, or s. 775.084.

1031 (2) A person who willfully and knowingly perpetrates or
 1032 attempts to perpetrate, or willfully and knowingly aids another
 1033 person in perpetrating or attempting to perpetrate, fraud in
 1034 connection with or arising out of a vote or ballot cast, to be
 1035 cast, or attempted to be cast by an elector in an association
 1036 election commits a felony of the third degree, punishable as
 1037 provided in s. 775.082, s. 775.083, or s. 775.084.

1038 (3) A person who willfully, knowingly, and fraudulently
 1039 changes or attempts to change a vote or ballot cast, to be cast,
 1040 or attempted to be cast by an elector in an association election
 1041 to prevent such elector from voting or casting a ballot as he or
 1042 she intended in such election commits a felony of the third
 1043 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1044 775.084.

1045 (4) (a) A person who willfully and knowingly aids or
 1046 advises another person in committing a violation of this section
 1047 shall be punished as if he or she had committed the violation.

1048 (b) A person who willfully and knowingly agrees,
 1049 conspires, combines, or confederates with another person in
 1050 committing a violation of this section shall be punished as if

1051 he or she had committed the violation.

1052 (c) A person who willfully and knowingly aids or advises a
1053 person who has committed a violation of this section in avoiding
1054 or escaping detection, arrest, trial, or punishment shall be
1055 punished as if he or she had committed the violation. This
1056 paragraph does not prohibit a member of The Florida Bar from
1057 giving legal advice to a client.

1058 Section 5. Subsection (5) is added to section 718.3025,
1059 Florida Statutes, to read:

1060 718.3025 Agreements for operation, maintenance, or
1061 management of condominiums; specific requirements.—

1062 (5) A party contracting to provide maintenance or
1063 management services to an association, which is not a timeshare
1064 condominium association, or a board member of such party, may
1065 not:

1066 (a) Own 50 percent or more of the units in the
1067 condominium.

1068 (b) Purchase a property subject to a lien by the
1069 association.

1070 Section 6. Section 718.3027, Florida Statutes, is created
1071 to read:

1072 718.3027 Conflicts of interest.—

1073 (1) Directors and officers of a board of an association
1074 that is not a timeshare condominium association, and the
1075 relatives of such directors and officers, must disclose to the

1076 board any activity that may reasonably be construed to be a
1077 conflict of interest. A rebuttable presumption of a conflict of
1078 interest exists if any of the following occurs without prior
1079 notice, as required in subsection (4):

1080 (a) Any director, officer, or relative of any director or
1081 officer enters into a contract for goods or services with the
1082 association.

1083 (b) Any director, officer, or relative of any director or
1084 officer holds an interest in a corporation, limited liability
1085 corporation, partnership, limited liability partnership, or
1086 other business entity that conducts business with the
1087 association or proposes to enter into a contract or other
1088 transaction with the association.

1089 (2) If any director, officer, or relative of any director
1090 or officer proposes to engage in an activity that is a conflict
1091 of interest, as described in subsection (1), the proposed
1092 activity must be listed on, and all contracts and transactional
1093 documents related to the proposed activity must be attached to,
1094 the meeting agenda. If the board votes against the proposed
1095 activity, the director, officer, or relative shall notify the
1096 board in writing of his or her intention not to pursue the
1097 proposed activity, or the director or officer shall withdraw
1098 from office. If the board finds that any officer or director has
1099 violated this subsection, the board shall immediately remove the
1100 officer or director from office. The vacancy shall be filled

1101 according to general law.

1102 (3) Any director, officer, or relative of any director or
1103 officer who is a party to, or has an interest in, an activity
1104 that is a possible conflict of interest, as described in
1105 subsection (1), may attend the meeting at which the activity is
1106 considered by the board, and is authorized to make a
1107 presentation to the board regarding the activity. After the
1108 presentation, the director, officer, or relative must leave the
1109 meeting during the discussion of, and the vote on, the activity.
1110 Any director or officer who is a party to, or has an interest
1111 in, the activity must recuse himself or herself from the vote.

1112 (4) The board must provide notice to unit owners of a
1113 possible conflict of interest, as described in subsection (1),
1114 in accordance with the procedures in s. 718.112(2)(c). All
1115 contracts and transactional documents related to the possible
1116 conflict of interest must be attached to, and made available
1117 with, the meeting agenda.

1118 (5) Any contract entered into between any director,
1119 officer, or relative of any director or officer and the
1120 association, which is not a timeshare condominium association,
1121 that is not properly noticed before consideration in accordance
1122 with the procedures in s. 718.112(2)(c) is null and void.

1123 Section 7. Subsection (5) of section 718.303, Florida
1124 Statutes, is amended, and subsection (8) is added to that
1125 section, to read:

1126 718.303 Obligations of owners and occupants; remedies.—
 1127 (5) An association may suspend the voting rights of a unit
 1128 owner or member due to nonpayment of any fee, fine, or other
 1129 monetary obligation due to the association which is more than
 1130 \$1,000 and more than 90 days delinquent. Proof of such
 1131 obligation must be provided to the unit owner or member 30 days
 1132 before such suspension takes effect. A voting interest or
 1133 consent right allocated to a unit owner or member which has been
 1134 suspended by the association shall be subtracted from the total
 1135 number of voting interests in the association, which shall be
 1136 reduced by the number of suspended voting interests when
 1137 calculating the total percentage or number of all voting
 1138 interests available to take or approve any action, and the
 1139 suspended voting interests shall not be considered for any
 1140 purpose, including, but not limited to, the percentage or number
 1141 of voting interests necessary to constitute a quorum, the
 1142 percentage or number of voting interests required to conduct an
 1143 election, or the percentage or number of voting interests
 1144 required to approve an action under this chapter or pursuant to
 1145 the declaration, articles of incorporation, or bylaws. The
 1146 suspension ends upon full payment of all obligations currently
 1147 due or overdue the association. The notice and hearing
 1148 requirements under subsection (3) do not apply to a suspension
 1149 imposed under this subsection.
 1150 (8) A receiver may not exercise voting rights of any unit

1151 owner whose unit is placed in receivership for the benefit of
 1152 the association pursuant to this chapter.

1153 Section 8. Subsection (5) of section 718.5012, Florida
 1154 Statutes, is amended to read:

1155 718.5012 Ombudsman; powers and duties.—The ombudsman shall
 1156 have the powers that are necessary to carry out the duties of
 1157 his or her office, including the following specific powers:

1158 (5) To monitor and review procedures and disputes
 1159 concerning condominium elections or meetings, including, but not
 1160 limited to, recommending that the division pursue enforcement
 1161 action in any manner where there is reasonable cause to believe
 1162 that election misconduct has occurred and reviewing secret
 1163 ballots cast at a vote of the association.

1164 Section 9. Section 718.71, Florida Statutes, is created to
 1165 read:

1166 718.71 Financial reporting.—An association shall provide
 1167 an annual report to the department containing the names of all
 1168 of the financial institutions with which it maintains accounts,
 1169 and a copy of such report may be obtained upon written request
 1170 of any association member.

1171 Section 10. This act shall take effect July 1, 2017.