

By the Committee on Innovation, Industry, and Technology; and
Senator Gruters

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1 A bill to be entitled
2 An act relating to community associations; amending
3 514.0115, F.S.; providing that certain property
4 association pools are exempt from Department of Health
5 regulations; amending s. 627.714, F.S.; prohibiting
6 subrogation rights against a condominium association
7 under certain circumstances; amending s. 718.111,
8 F.S.; requiring certain records to be maintained for a
9 specified time; prohibiting an association from
10 requiring certain actions related to the inspection of
11 records; revising requirements relating to certain
12 associations posting digital copies of certain
13 documents; amending s. 718.112, F.S.; specifying that
14 only board service that occurs on or after a specified
15 date may be used for calculating a board member's term
16 limit; providing requirements for certain notices;
17 prohibiting an association from charging certain fees;
18 providing an exception; revising requirements relating
19 to the recall of board members; deleting a prohibition
20 against employing or contracting with certain service
21 providers; amending s. 718.1255, F.S.; revising the
22 definition of the term "dispute"; amending s. 718.303,
23 F.S.; revising requirements for certain actions for
24 failure to comply with specified provisions; revising
25 requirements for certain fines; amending s. 718.5014,
26 F.S.; revising the location of the principal office of
27 the Office of the Condominium Ombudsman; amending s.
28 719.103, F.S.; revising the definition of the term
29 "unit" to specify that an interest in a cooperative

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30 unit is an interest in real property; amending s.
31 719.104, F.S.; prohibiting an association from
32 requiring certain actions related to the inspection of
33 records; amending s. 719.106, F.S.; revising
34 provisions relating to a quorum and voting rights for
35 members remotely participating in meetings; revising
36 requirements relating to the recall of board members
37 and challenges to such recalls; amending s. 719.1255,
38 F.S.; revising requirements for alternative resolution
39 of disputes; amending s. 719.501, F.S.; deleting
40 provisions relating to the division's certification of
41 mediators; amending s. 720.303, F.S.; authorizing an
42 association to adopt procedures for electronic meeting
43 notices; revising the documents that constitute the
44 official records of an association; amending s.
45 720.305, F.S.; providing requirements for certain
46 fines; amending s. 720.306, F.S.; revising
47 requirements for providing certain notices; amending
48 s. 720.311, F.S.; defining the term "dispute";
49 revising the standardized form for the offer to
50 participate in presuit mediation; providing
51 requirements for the service of a statutory demand to
52 participate in presuit mediation; providing
53 requirements for mediators and arbitrators selected by
54 the parties; authorizing the parties to select a
55 mediator or arbitrator who has not been certified by
56 the Florida Supreme Court; providing an effective
57 date.

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

60
61 Section 1. Paragraph (a) of subsection (2) of section
62 514.0115, Florida Statutes, is amended to read:

63 514.0115 Exemptions from supervision or regulation;
64 variances.—

65 (2) (a) Pools serving condominium, cooperative, and
66 homeowners' associations, as well as other property
67 associations, which have no more than 32 ~~condominium or~~
68 ~~cooperative~~ units or parcels and which are not operated as a
69 public lodging establishments are ~~establishment shall be~~ exempt
70 from supervision under this chapter, except for water quality.

71 Section 2. Subsection (4) of section 627.714, Florida
72 Statutes, is amended to read:

73 627.714 Residential condominium unit owner coverage; loss
74 assessment coverage required.—

75 (4) Every individual unit owner's residential property
76 policy must contain a provision stating that the coverage
77 afforded by such policy is excess coverage over the amount
78 recoverable under any other policy covering the same property.
79 An insurance policy issued to an individual unit owner may not
80 provide rights of subrogation against the condominium
81 association operating the condominium in which such individual's
82 unit is located.

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

85 718.111 The association.—

86 (12) OFFICIAL RECORDS.—

87 (a) From the inception of the association, the association

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88 shall maintain each of the following items, if applicable, which
89 constitutes the official records of the association:

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

92 2. A photocopy of the recorded declaration of condominium
93 of each condominium operated by the association and each
94 amendment to each declaration.

95 3. A photocopy of the recorded bylaws of the association
96 and each amendment to the bylaws.

97 4. A certified copy of the articles of incorporation of the
98 association, or other documents creating the association, and
99 each amendment thereto.

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

101 6. A book or books that contain the minutes of all meetings
102 of the association, the board of administration, and the unit
103 owners.

104 7. A current roster of all unit owners and their mailing
105 addresses, unit identifications, voting certifications, and, if
106 known, telephone numbers. The association shall also maintain
107 the e-mail addresses and facsimile numbers of unit owners
108 consenting to receive notice by electronic transmission. The e-
109 mail addresses and facsimile numbers are not accessible to unit
110 owners if consent to receive notice by electronic transmission
111 is not provided in accordance with sub-subparagraph (c)3.e.
112 However, the association is not liable for an inadvertent
113 disclosure of the e-mail address or facsimile number for
114 receiving electronic transmission of notices.

115 8. All current insurance policies of the association and
116 condominiums operated by the association.

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117 9. A current copy of any management agreement, lease, or
118 other contract to which the association is a party or under
119 which the association or the unit owners have an obligation or
120 responsibility.

121 10. Bills of sale or transfer for all property owned by the
122 association.

123 11. Accounting records for the association and separate
124 accounting records for each condominium that the association
125 operates. Any person who knowingly or intentionally defaces or
126 destroys such records, or who knowingly or intentionally fails
127 to create or maintain such records, with the intent of causing
128 harm to the association or one or more of its members, is
129 personally subject to a civil penalty pursuant to s.
130 718.501(1)(d). The accounting records must include, but are not
131 limited to:

132 a. Accurate, itemized, and detailed records of all receipts
133 and expenditures.

134 b. A current account and a monthly, bimonthly, or quarterly
135 statement of the account for each unit designating the name of
136 the unit owner, the due date and amount of each assessment, the
137 amount paid on the account, and the balance due.

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

140 d. All contracts for work to be performed. Bids for work to
141 be performed are also considered official records and must be
142 maintained by the association for at least 1 year after receipt
143 of the bid.

144 12. Ballots, sign-in sheets, voting proxies, and all other
145 papers and electronic records relating to voting by unit owners,

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146 which must be maintained for 1 year from the date of the
147 election, vote, or meeting to which the document relates,
148 notwithstanding paragraph (b).

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

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

153 ~~15. All other written records of the association not~~
154 ~~specifically included in the foregoing which are related to the~~
155 ~~operation of the association.~~

156 ~~16.~~ A copy of the inspection report as described in s.
157 718.301(4)(p).

158 ~~16.~~~~17.~~ Bids for materials, equipment, or services.

159 17. All other records of the association not specifically
160 included in subparagraphs 1.-16. which are related to the
161 operation of the association.

162 (b) The official records specified in subparagraphs (a)1.-
163 6. must be permanently maintained from the inception of the
164 association. Bids for work to be performed or for materials,
165 equipment, or services must be maintained for 1 year after
166 receipt of the bid. All other official records must be
167 maintained within the state for at least 7 years, unless
168 otherwise provided by general law. The records of the
169 association shall be made available to a unit owner within 45
170 miles of the condominium property or within the county in which
171 the condominium property is located within 10 working days after
172 receipt of a written request by the board or its designee.
173 However, such distance requirement does not apply to an
174 association governing a timeshare condominium. This paragraph

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175 may be complied with by having a copy of the official records of
176 the association available for inspection or copying on the
177 condominium property or association property, or the association
178 may offer the option of making the records available to a unit
179 owner electronically via the Internet or by allowing the records
180 to be viewed in electronic format on a computer screen and
181 printed upon request. The association is not responsible for the
182 use or misuse of the information provided to an association
183 member or his or her authorized representative in pursuant to
184 ~~the compliance with requirements of~~ this chapter unless the
185 association has an affirmative duty not to disclose such
186 information under pursuant to this chapter.

187 (c)1. The official records of the association are open to
188 inspection by any association member or the authorized
189 representative of such member at all reasonable times. The right
190 to inspect the records includes the right to make or obtain
191 copies, at the reasonable expense, if any, of the member or
192 authorized representative of such member. A renter of a unit has
193 a right to inspect and copy the association's bylaws and rules.
194 The association may adopt reasonable rules regarding the
195 frequency, time, location, notice, and manner of record
196 inspections and copying, but may not require a member to
197 demonstrate any purpose or state any reason for the inspection.
198 The failure of an association to provide the records within 10
199 working days after receipt of a written request creates a
200 rebuttable presumption that the association willfully failed to
201 comply with this paragraph. A unit owner who is denied access to
202 official records is entitled to the actual damages or minimum
203 damages for the association's willful failure to comply. Minimum

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204 damages are \$50 per calendar day for up to 10 days, beginning on
205 the 11th working day after receipt of the written request. The
206 failure to permit inspection entitles any person prevailing in
207 an enforcement action to recover reasonable attorney fees from
208 the person in control of the records who, directly or
209 indirectly, knowingly denied access to the records.

210 2. Any person who knowingly or intentionally defaces or
211 destroys accounting records that are required by this chapter to
212 be maintained during the period for which such records are
213 required to be maintained, or who knowingly or intentionally
214 fails to create or maintain accounting records that are required
215 to be created or maintained, with the intent of causing harm to
216 the association or one or more of its members, is personally
217 subject to a civil penalty pursuant to s. 718.501(1)(d).

218 3. The association shall maintain an adequate number of
219 copies of the declaration, articles of incorporation, bylaws,
220 and rules, and all amendments to each of the foregoing, as well
221 as the question and answer sheet as described in s. 718.504 and
222 year-end financial information required under this section, on
223 the condominium property to ensure their availability to unit
224 owners and prospective purchasers, and may charge its actual
225 costs for preparing and furnishing these documents to those
226 requesting the documents. An association shall allow a member or
227 his or her authorized representative to use a portable device,
228 including a smartphone, tablet, portable scanner, or any other
229 technology capable of scanning or taking photographs, to make an
230 electronic copy of the official records in lieu of the
231 association's providing the member or his or her authorized
232 representative with a copy of such records. The association may

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233 not charge a member or his or her authorized representative for
234 the use of a portable device. Notwithstanding this paragraph,
235 the following records are not accessible to unit owners:

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

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

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

256 d. Medical records of unit owners.

257 e. Social security numbers, driver license numbers, credit
258 card numbers, e-mail addresses, telephone numbers, facsimile
259 numbers, emergency contact information, addresses of a unit
260 owner other than as provided to fulfill the association's notice
261 requirements, and other personal identifying information of any

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262 person, excluding the person's name, unit designation, mailing
263 address, property address, and any address, e-mail address, or
264 facsimile number provided to the association to fulfill the
265 association's notice requirements. Notwithstanding the
266 restrictions in this sub-subparagraph, an association may print
267 and distribute to unit ~~parcel~~ owners a directory containing the
268 name, unit ~~parcel~~ address, and all telephone numbers of each
269 unit ~~parcel~~ owner. However, an owner may exclude his or her
270 telephone numbers from the directory by so requesting in writing
271 to the association. An owner may consent in writing to the
272 disclosure of other contact information described in this sub-
273 subparagraph. The association is not liable for the inadvertent
274 disclosure of information that is protected under this sub-
275 subparagraph if the information is included in an official
276 record of the association and is voluntarily provided by an
277 owner and not requested by the association.

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

280 g. 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. By January 1, 2019, an association managing a
285 condominium with 150 or more units which does not contain
286 timeshare units shall post digital copies of the documents
287 specified in subparagraph 2. on its website or make such
288 documents available through an application that can be
289 downloaded on a mobile device.

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

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

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

300 b. The association's website or application must be
301 accessible through the Internet and must contain a subpage, web
302 portal, or other protected electronic location that is
303 inaccessible to the general public and accessible only to unit
304 owners and employees of the association.

305 c. Upon a unit owner's written request, the association
306 must provide the unit owner with a username and password and
307 access to the protected sections of the association's website or
308 application that contain any notices, records, or documents that
309 must be electronically provided.

310 2. A current copy of the following documents must be posted
311 in digital format on the association's website or made available
312 through an application that can be downloaded on a mobile
313 device:

314 a. The recorded declaration of condominium of each
315 condominium operated by the association and each amendment to
316 each declaration.

317 b. The recorded bylaws of the association and each
318 amendment to the bylaws.

319 c. The articles of incorporation of the association, or

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320 other documents creating the association, and each amendment to
321 the articles of incorporation or other documents ~~thereto~~. The
322 copy posted pursuant to this sub-subparagraph must be a copy of
323 the articles of incorporation filed with the Department of
324 State.

325 d. The rules of the association.

326 e. A list of all executory contracts or documents to which
327 the association is a party or under which the association or the
328 unit owners have an obligation or responsibility and, after
329 bidding for the related materials, equipment, or services has
330 closed, a list of bids received by the association within the
331 past year. Summaries of bids for materials, equipment, or
332 services which exceed \$500 must be maintained on the website or
333 application for 1 year. In lieu of summaries, complete copies of
334 the bids may be posted.

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

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

340 h. The certification of each director required by s.
341 718.112(2)(d)4.b.

342 i. All contracts or transactions between the association
343 and any director, officer, corporation, firm, or association
344 that is not an affiliated condominium association or any other
345 entity in which an association director is also a director or
346 officer and financially interested.

347 j. Any contract or document regarding a conflict of
348 interest or possible conflict of interest as provided in ss.

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349 468.436(2)(b)6. and 718.3027(3).

350 k. The notice of any unit owner meeting and the agenda for
351 the meeting, as required by s. 718.112(2)(d)3., no later than 14
352 days before the meeting. The notice must be posted in plain view
353 on the front page of the website or application, or on a
354 separate subpage of the website or application labeled "Notices"
355 which is conspicuously visible and linked from the front page.
356 The association must also post on its website or application any
357 document to be considered and voted on by the owners during the
358 meeting or any document listed on the agenda at least 7 days
359 before the meeting at which the document or the information
360 within the document will be considered.

361 1. Notice of any board meeting, the agenda, and any other
362 document required for the meeting as required by s.
363 718.112(2)(c), which must be posted no later than the date
364 required for notice pursuant to s. 718.112(2)(c).

365 3. The association shall ensure that the information and
366 records described in paragraph (c), which are not allowed to be
367 accessible to unit owners, are not posted on the association's
368 website or the association's application that can be downloaded
369 on a mobile device. If protected information or information
370 restricted from being accessible to unit owners is included in
371 documents that are required to be posted on the association's
372 website or application, the association shall ensure the
373 information is redacted before posting the documents ~~online~~.
374 Notwithstanding the foregoing, the association or its agent is
375 not liable for disclosing information that is protected or
376 restricted pursuant to this paragraph unless such disclosure was
377 made with a knowing or intentional disregard of the protected or

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378 restricted nature of such information.

379 4. The failure of the association to post information
380 required under subparagraph 2. is not in and of itself
381 sufficient to invalidate any action or decision of the
382 association's board or its committees.

383 Section 4. Paragraphs (d), (i), (j), and (p) of subsection
384 (2) of section 718.112, Florida Statutes, are amended to read:

385 718.112 Bylaws.—

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

389 (d) *Unit owner meetings*.—

390 1. An annual meeting of the unit owners must be held at the
391 location provided in the association bylaws and, if the bylaws
392 are silent as to the location, the meeting must be held within
393 45 miles of the condominium property. However, such distance
394 requirement does not apply to an association governing a
395 timeshare condominium.

396 2. Unless the bylaws provide otherwise, a vacancy on the
397 board caused by the expiration of a director's term must be
398 filled by electing a new board member, and the election must be
399 by secret ballot. An election is not required if the number of
400 vacancies equals or exceeds the number of candidates. For
401 purposes of this paragraph, the term "candidate" means an
402 eligible person who has timely submitted the written notice, as
403 described in sub-subparagraph 4.a., of his or her intention to
404 become a candidate. Except in a timeshare or nonresidential
405 condominium, or if the staggered term of a board member does not
406 expire until a later annual meeting, or if all members' terms

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407 would otherwise expire but there are no candidates, the terms of
408 all board members expire at the annual meeting, and such members
409 may stand for reelection unless prohibited by the bylaws. Board
410 members may serve terms longer than 1 year if permitted by the
411 bylaws or articles of incorporation. A board member may not
412 serve more than 8 consecutive years unless approved by an
413 affirmative vote of unit owners representing two-thirds of all
414 votes cast in the election or unless there are not enough
415 eligible candidates to fill the vacancies on the board at the
416 time of the vacancy. Only board service that occurs on or after
417 July 1, 2018, may be used when calculating a board member's term
418 limit. If the number of board members whose terms expire at the
419 annual meeting equals or exceeds the number of candidates, the
420 candidates become members of the board effective upon the
421 adjournment of the annual meeting. Unless the bylaws provide
422 otherwise, any remaining vacancies shall be filled by the
423 affirmative vote of the majority of the directors making up the
424 newly constituted board even if the directors constitute less
425 than a quorum or there is only one director. In a residential
426 condominium association of more than 10 units or in a
427 residential condominium association that does not include
428 timeshare units or timeshare interests, coowners of a unit may
429 not serve as members of the board of directors at the same time
430 unless they own more than one unit or unless there are not
431 enough eligible candidates to fill the vacancies on the board at
432 the time of the vacancy. A unit owner in a residential
433 condominium desiring to be a candidate for board membership must
434 comply with sub-subparagraph 4.a. and must be eligible to be a
435 candidate to serve on the board of directors at the time of the

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436 deadline for submitting a notice of intent to run in order to
437 have his or her name listed as a proper candidate on the ballot
438 or to serve on the board. A person who has been suspended or
439 removed by the division under this chapter, or who is delinquent
440 in the payment of any monetary obligation due to the
441 association, is not eligible to be a candidate for board
442 membership and may not be listed on the ballot. A person who has
443 been convicted of any felony in this state or in a United States
444 District or Territorial Court, or who has been convicted of any
445 offense in another jurisdiction which would be considered a
446 felony if committed in this state, is not eligible for board
447 membership unless such felon's civil rights have been restored
448 for at least 5 years as of the date such person seeks election
449 to the board. The validity of an action by the board is not
450 affected if it is later determined that a board member is
451 ineligible for board membership due to having been convicted of
452 a felony. This subparagraph does not limit the term of a member
453 of the board of a nonresidential or timeshare condominium.

454 3. The bylaws must provide the method of calling meetings
455 of unit owners, including annual meetings. Written notice must
456 include an agenda, must be mailed, hand delivered, or
457 electronically transmitted to each unit owner at least 14 days
458 before the ~~annual~~ meeting, and must be posted in a conspicuous
459 place on the condominium property at least 14 continuous days
460 before the ~~annual~~ meeting. Upon notice to the unit owners, the
461 board shall, by duly adopted rule, designate a specific location
462 on the condominium property where all notices of unit owner
463 meetings must be posted. This requirement does not apply if
464 there is no condominium property for posting notices. In lieu

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465 of, or in addition to, the physical posting of meeting notices,
466 the association may, by reasonable rule, adopt a procedure for
467 conspicuously posting and repeatedly broadcasting the notice and
468 the agenda on a closed-circuit cable television system serving
469 the condominium association. However, if broadcast notice is
470 used in lieu of a notice posted physically on the condominium
471 property, the notice and agenda must be broadcast at least four
472 times every broadcast hour of each day that a posted notice is
473 otherwise required under this section. If broadcast notice is
474 provided, the notice and agenda must be broadcast in a manner
475 and for a sufficient continuous length of time so as to allow an
476 average reader to observe the notice and read and comprehend the
477 entire content of the notice and the agenda. In addition to any
478 of the authorized means of providing notice of a meeting of the
479 board, the association may, by rule, adopt a procedure for
480 conspicuously posting the meeting notice and the agenda on a
481 website serving the condominium association for at least the
482 minimum period of time for which a notice of a meeting is also
483 required to be physically posted on the condominium property.
484 Any rule adopted shall, in addition to other matters, include a
485 requirement that the association send an electronic notice in
486 the same manner as a notice for a meeting of the members, which
487 must include a hyperlink to the website where the notice is
488 posted, to unit owners whose e-mail addresses are included in
489 the association's official records. Unless a unit owner waives
490 in writing the right to receive notice of the annual meeting,
491 such notice must be hand delivered, mailed, or electronically
492 transmitted to each unit owner. Notice for meetings and notice
493 for all other purposes must be mailed to each unit owner at the

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494 address last furnished to the association by the unit owner, or
495 hand delivered to each unit owner. However, if a unit is owned
496 by more than one person, the association must provide notice to
497 the address that the developer identifies for that purpose and
498 thereafter as one or more of the owners of the unit advise the
499 association in writing, or if no address is given or the owners
500 of the unit do not agree, to the address provided on the deed of
501 record. An officer of the association, or the manager or other
502 person providing notice of the association meeting, must provide
503 an affidavit or United States Postal Service certificate of
504 mailing, to be included in the official records of the
505 association affirming that the notice was mailed or hand
506 delivered in accordance with this provision.

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

514 a. At least 60 days before a scheduled election, the
515 association shall mail, deliver, or electronically transmit, by
516 separate association mailing or included in another association
517 mailing, delivery, or transmission, including regularly
518 published newsletters, to each unit owner entitled to a vote, a
519 first notice of the date of the election. A unit owner or other
520 eligible person desiring to be a candidate for the board must
521 give written notice of his or her intent to be a candidate to
522 the association at least 40 days before a scheduled election.

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523 Together with the written notice and agenda as set forth in
524 subparagraph 3., the association shall mail, deliver, or
525 electronically transmit a second notice of the election to all
526 unit owners entitled to vote, together with a ballot that lists
527 all candidates not less than 14 days or more than 34 days before
528 the date of the election. Upon request of a candidate, an
529 information sheet, no larger than 8 1/2 inches by 11 inches,
530 which must be furnished by the candidate at least 35 days before
531 the election, must be included with the mailing, delivery, or
532 transmission of the ballot, with the costs of mailing, delivery,
533 or electronic transmission and copying to be borne by the
534 association. The association is not liable for the contents of
535 the information sheets prepared by the candidates. In order to
536 reduce costs, the association may print or duplicate the
537 information sheets on both sides of the paper. The division
538 shall by rule establish voting procedures consistent with this
539 sub-subparagraph, including rules establishing procedures for
540 giving notice by electronic transmission and rules providing for
541 the secrecy of ballots. Elections shall be decided by a
542 plurality of ballots cast. There is no quorum requirement;
543 however, at least 20 percent of the eligible voters must cast a
544 ballot in order to have a valid election. A unit owner may not
545 authorize any other person to vote his or her ballot, and any
546 ballots improperly cast are invalid. A unit owner who violates
547 this provision may be fined by the association in accordance
548 with s. 718.303. A unit owner who needs assistance in casting
549 the ballot for the reasons stated in s. 101.051 may obtain such
550 assistance. The regular election must occur on the date of the
551 annual meeting. Notwithstanding this sub-subparagraph, an

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552 election is not required unless more candidates file notices of
553 intent to run or are nominated than board vacancies exist.

554 b. Within 90 days after being elected or appointed to the
555 board of an association of a residential condominium, each newly
556 elected or appointed director shall certify in writing to the
557 secretary of the association that he or she has read the
558 association's declaration of condominium, articles of
559 incorporation, bylaws, and current written policies; that he or
560 she will work to uphold such documents and policies to the best
561 of his or her ability; and that he or she will faithfully
562 discharge his or her fiduciary responsibility to the
563 association's members. In lieu of this written certification,
564 within 90 days after being elected or appointed to the board,
565 the newly elected or appointed director may submit a certificate
566 of having satisfactorily completed the educational curriculum
567 administered by a division-approved condominium education
568 provider within 1 year before or 90 days after the date of
569 election or appointment. The written certification or
570 educational certificate is valid and does not have to be
571 resubmitted as long as the director serves on the board without
572 interruption. A director of an association of a residential
573 condominium who fails to timely file the written certification
574 or educational certificate is suspended from service on the
575 board until he or she complies with this sub-subparagraph. The
576 board may temporarily fill the vacancy during the period of
577 suspension. The secretary shall cause the association to retain
578 a director's written certification or educational certificate
579 for inspection by the members for 5 years after a director's
580 election or the duration of the director's uninterrupted tenure,

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581 whichever is longer. Failure to have such written certification
582 or educational certificate on file does not affect the validity
583 of any board action.

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

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

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

607 7. Unit owners have the right to participate in meetings of
608 unit owners with reference to all designated agenda items.
609 However, the association may adopt reasonable rules governing

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610 the frequency, duration, and manner of unit owner participation.

611 8. A unit owner may tape record or videotape a meeting of
612 the unit owners subject to reasonable rules adopted by the
613 division.

614 9. Unless otherwise provided in the bylaws, any vacancy
615 occurring on the board before the expiration of a term may be
616 filled by the affirmative vote of the majority of the remaining
617 directors, even if the remaining directors constitute less than
618 a quorum, or by the sole remaining director. In the alternative,
619 a board may hold an election to fill the vacancy, in which case
620 the election procedures must conform to sub-subparagraph 4.a.
621 unless the association governs 10 units or fewer and has opted
622 out of the statutory election process, in which case the bylaws
623 of the association control. Unless otherwise provided in the
624 bylaws, a board member appointed or elected under this section
625 shall fill the vacancy for the unexpired term of the seat being
626 filled. Filling vacancies created by recall is governed by
627 paragraph (j) and rules adopted by the division.

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

634

635 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
636 association of 10 or fewer units may, by affirmative vote of a
637 majority of the total voting interests, provide for different
638 voting and election procedures in its bylaws, which may be by a

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639 proxy specifically delineating the different voting and election
640 procedures. The different voting and election procedures may
641 provide for elections to be conducted by limited or general
642 proxy.

643 (i) *Transfer fees.*—An association may not ~~no~~ charge an
644 applicant any fees, except the actual costs of any background
645 check or screening performed shall be made by the association,
646 or any body thereof in connection with the sale, mortgage,
647 lease, sublease, or other transfer of a unit unless the
648 association is required to approve such transfer and a fee for
649 such approval is provided for in the declaration, articles, or
650 bylaws. Except for the actual costs of any background check or
651 screening performed by the association, any such fee may be
652 preset, but may not ~~in no event may such fee~~ exceed \$100 per
653 applicant other than a husband and wife or parent and dependent
654 child ~~husband/wife or parent/dependent child~~, which are
655 considered one applicant. However, if the lease or sublease is a
656 renewal of a lease or sublease with the same lessee or
657 sublessee, a charge may not ~~no charge shall~~ be made. The
658 foregoing notwithstanding, an association may, if the authority
659 to do so appears in the declaration, articles, or bylaws,
660 require that a prospective lessee place a security deposit, in
661 an amount not to exceed the equivalent of 1 month's rent, into
662 an escrow account maintained by the association. The security
663 deposit shall protect against damages to the common elements or
664 association property. Payment of interest, claims against the
665 deposit, refunds, and disputes under this paragraph shall be
666 handled in the same fashion as provided in part II of chapter
667 83.

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668 (j) *Recall of board members.*—Subject to s. 718.301, any
669 member of the board of administration may be recalled and
670 removed from office with or without cause by the vote or
671 agreement in writing by a majority of all the voting interests.
672 A special meeting of the unit owners to recall a member or
673 members of the board of administration may be called by 10
674 percent of the voting interests giving notice of the meeting as
675 required for a meeting of unit owners, and the notice shall
676 state the purpose of the meeting. Electronic transmission may
677 not be used as a method of giving notice of a meeting called in
678 whole or in part for this purpose.

679 1. If the recall is approved by a majority of all voting
680 interests by a vote at a meeting, the recall will be effective
681 as provided in this paragraph. The board shall duly notice and
682 hold a board meeting within 5 full business days after the
683 adjournment of the unit owner meeting to recall one or more
684 board members. Such member or members shall be recalled
685 effective immediately upon conclusion of the board meeting,
686 provided that the recall is facially valid. A recalled member
687 must turn over to the board, within 10 full business days after
688 the vote, any and all records and property of the association in
689 his or her ~~their~~ possession.

690 2. If the proposed recall is by an agreement in writing by
691 a majority of all voting interests, the agreement in writing or
692 a copy thereof shall be served on the association by certified
693 mail or by personal service in the manner authorized by chapter
694 48 and the Florida Rules of Civil Procedure. The board of
695 administration shall duly notice and hold a meeting of the board
696 within 5 full business days after receipt of the agreement in

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697 writing. Such member or members shall be recalled effective
698 immediately upon the conclusion of the board meeting, provided
699 that the recall is facially valid. A recalled member must turn
700 over to the board, within 10 full business days, any and all
701 records and property of the association in his or her ~~their~~
702 possession.

703 3. If the board fails to duly notice and hold a board
704 meeting within 5 full business days after service of an
705 agreement in writing or within 5 full business days after the
706 adjournment of the unit owner recall meeting, the recall is
707 ~~shall be deemed~~ effective and the board members so recalled
708 shall turn over to the board within 10 full business days after
709 the vote any and all records and property of the association.

710 4. If the board fails to duly notice and hold the required
711 meeting or at the conclusion of the meeting determines that the
712 recall is not facially valid, the unit owner representative may
713 file a petition pursuant to s. 718.1255 challenging the board's
714 failure to act or challenging the board's determination on
715 facial validity. The petition must be filed within 60 days after
716 the expiration of the applicable 5-full-business-day period. The
717 review of a petition under this subparagraph is limited to the
718 sufficiency of service on the board and the facial validity of
719 the written agreement or ballots filed.

720 5. If a vacancy occurs on the board as a result of a recall
721 or removal and less than a majority of the board members are
722 removed, the vacancy may be filled by the affirmative vote of a
723 majority of the remaining directors, notwithstanding any
724 provision to the contrary contained in this subsection. If
725 vacancies occur on the board as a result of a recall and a

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726 majority or more of the board members are removed, the vacancies
727 shall be filled in accordance with the bylaws ~~procedural rules~~
728 ~~to be adopted by the division, which rules need not be~~
729 ~~consistent with this subsection. The rules must provide~~
730 ~~procedures governing the conduct of the recall election as well~~
731 ~~as the operation of the association during the period after a~~
732 ~~recall but before the recall election.~~

733 6. A board member who has been recalled may file a petition
734 pursuant to s. 718.1255 challenging the validity of the recall.
735 The petition must be filed within 60 days after the recall. The
736 association and the unit owner representative shall be named as
737 the respondents. The petition may challenge the facial validity
738 of the written agreement or ballots filed or the substantial
739 compliance with the procedural requirements for the recall. If
740 the arbitrator determines the recall was invalid, the
741 petitioning board member shall immediately be reinstated and the
742 recall is null and void. A board member who is successful in
743 challenging a recall is entitled to recover reasonable attorney
744 fees and costs from the respondents. The arbitrator may award
745 reasonable attorney fees and costs to the respondents if they
746 prevail, if the arbitrator makes a finding that the petitioner's
747 claim is frivolous.

748 7. The division may not accept for filing a recall
749 petition, whether filed pursuant to subparagraph 1.,
750 subparagraph 2., subparagraph 4., or subparagraph 6., when there
751 are 60 or fewer days until the scheduled reelection of the board
752 member sought to be recalled or when 60 or fewer days have
753 elapsed since the election of the board member sought to be
754 recalled.

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755 ~~(p) Service providers; conflicts of interest. An~~
756 ~~association, which is not a timeshare condominium association,~~
757 ~~may not employ or contract with any service provider that is~~
758 ~~owned or operated by a board member or with any person who has a~~
759 ~~financial relationship with a board member or officer, or a~~
760 ~~relative within the third degree of consanguinity by blood or~~
761 ~~marriage of a board member or officer. This paragraph does not~~
762 ~~apply to a service provider in which a board member or officer,~~
763 ~~or a relative within the third degree of consanguinity by blood~~
764 ~~or marriage of a board member or officer, owns less than 1~~
765 ~~percent of the equity shares.~~

766 Section 5. Paragraphs (a) and (c) of subsection (8) of
767 section 718.113, Florida Statutes, are amended to read:

768 718.113 Maintenance; limitation upon improvement; display
769 of flag; hurricane shutters and protection; display of religious
770 decorations.—

771 (8) The Legislature finds that the use of electric vehicles
772 conserves and protects the state's environmental resources,
773 provides significant economic savings to drivers, and serves an
774 important public interest. The participation of condominium
775 associations is essential to the state's efforts to conserve and
776 protect the state's environmental resources and provide economic
777 savings to drivers. Therefore, the installation of an electric
778 vehicle charging station shall be governed as follows:

779 (a) A declaration of condominium or restrictive covenant
780 may not prohibit or be enforced so as to prohibit any unit owner
781 from installing an electric vehicle charging station within the
782 boundaries of the unit owner's limited common element or
783 exclusively designated parking area. The board of administration

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784 of a condominium association may not prohibit a unit owner from
785 installing an electric vehicle charging station for an electric
786 vehicle, as defined in s. 320.01, within the boundaries of his
787 or her limited common element or exclusively designated parking
788 area. The installation of such charging stations are subject to
789 the provisions of this subsection.

790 (c) The electricity for the electric vehicle charging
791 station must be separately metered or must use an embedded meter
792 and be payable by the unit owner installing such charging
793 station.

794 Section 6. Subsection (1) of section 718.1255, Florida
795 Statutes, is amended to read:

796 718.1255 Alternative dispute resolution; voluntary
797 mediation; mandatory nonbinding arbitration; legislative
798 findings.—

799 (1) DEFINITIONS.—As used in this section, the term
800 “dispute” means any disagreement between two or more parties
801 that involves:

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

804 1. Require any owner to take any action, or not to take any
805 action, involving that owner’s unit or the appurtenances
806 thereto.

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

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

810 1. Properly conduct elections.

811 2. Maintain common elements, association property, or
812 portions of the unit for which the association is responsible.

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813 ~~3.2.~~ Give adequate notice of meetings or other actions.

814 ~~4.3.~~ Properly conduct meetings of the board and committees
815 appointed by the board and membership meetings.

816 ~~5.4.~~ Allow inspection of books and records.

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

818

819 "Dispute" does not include any disagreement that primarily
820 involves: title to any unit or common element; the
821 interpretation or enforcement of any warranty; the levy of a fee
822 or assessment, or the collection of an assessment levied against
823 a party; the eviction or other removal of a tenant from a unit;
824 alleged breaches of fiduciary duty by one or more directors; or
825 claims for damages to a unit based upon the alleged failure of
826 the association to maintain the common elements or condominium
827 property.

828 Section 7. Subsection (1) and paragraph (b) of subsection
829 (3) of section 718.303, Florida Statutes, are amended to read:

830 718.303 Obligations of owners and occupants; remedies.—

831 (1) Each unit owner, ~~each~~ tenant and other invitee, and
832 ~~each~~ association is governed by, and must comply with the
833 provisions of, this chapter, the declaration, the documents
834 creating the association, and the association bylaws which are
835 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
836 Actions at law or in equity ~~for damages or for injunctive~~
837 ~~relief~~, or both, for failure to comply with these provisions may
838 be brought by the association or by a unit owner against:

839 (a) The association.

840 (b) A unit owner.

841 (c) Directors designated by the developer, for actions

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842 taken by them before control of the association is assumed by
843 unit owners other than the developer.

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

846 (e) Any tenant leasing a unit, and any other invitee
847 occupying a unit.

848

849 The prevailing party in any such action or in any action in
850 which the purchaser claims a right of voidability based upon
851 contractual provisions as required in s. 718.503(1)(a) is
852 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
853 owner prevailing in an action between the association and the
854 unit owner under this subsection ~~section~~, in addition to
855 recovering his or her reasonable attorney ~~attorney's~~ fees, may
856 recover additional amounts as determined by the court to be
857 necessary to reimburse the unit owner for his or her share of
858 assessments levied by the association to fund its expenses of
859 the litigation. This relief does not exclude other remedies
860 provided by law. Actions arising under this subsection are not
861 considered ~~may not be deemed to be~~ actions for specific
862 performance.

863 (3) The association may levy reasonable fines for the
864 failure of the owner of the unit or its occupant, licensee, or
865 invitee to comply with any provision of the declaration, the
866 association bylaws, or reasonable rules of the association. A
867 fine may not become a lien against a unit. A fine may be levied
868 by the board on the basis of each day of a continuing violation,
869 with a single notice and opportunity for hearing before a
870 committee as provided in paragraph (b). However, the fine may

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871 not exceed \$100 per violation, or \$1,000 in the aggregate.

872 (b) A fine or suspension levied by the board of
873 administration may not be imposed unless the board first
874 provides at least 14 days' written notice to the unit owner and,
875 if applicable, any occupant, licensee, or invitee of the unit
876 owner sought to be fined or suspended, and an opportunity for a
877 hearing before a committee of at least three members appointed
878 by the board who are not officers, directors, or employees of
879 the association, or the spouse, parent, child, brother, or
880 sister of an officer, director, or employee. The role of the
881 committee is limited to determining whether to confirm or reject
882 the fine or suspension levied by the board. If the committee
883 does not approve the proposed fine or suspension by majority
884 vote, the fine or suspension may not be imposed. If the proposed
885 fine or suspension is approved by the committee, the fine
886 payment is due 5 days after notice of the approved fine is
887 provided to the unit owner and, if applicable, to any tenant,
888 licensee, or invitee of the unit owner ~~the date of the committee~~
889 ~~meeting at which the fine is approved.~~ The association must
890 provide written notice of such fine or suspension by mail or
891 hand delivery to the unit owner and, if applicable, to any
892 tenant, licensee, or invitee of the unit owner.

893 Section 8. Section 718.5014, Florida Statutes, is amended
894 to read:

895 718.5014 Ombudsman location.—The ombudsman shall maintain
896 his or her principal office in any ~~Leon County on the premises~~
897 ~~of the division or, if suitable space cannot be provided there,~~
898 ~~at another~~ place convenient to the offices of the division which
899 will enable the ombudsman to expeditiously carry out the duties

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900 and functions of his or her office. The ombudsman may establish
901 branch offices elsewhere in the state upon the concurrence of
902 the Governor.

903 Section 9. Subsection (25) of section 719.103, Florida
904 Statutes, is amended to read:

905 719.103 Definitions.—As used in this chapter:

906 (25) "Unit" means a part of the cooperative property which
907 is subject to exclusive use and possession. A unit may be
908 improvements, land, or land and improvements together, as
909 specified in the cooperative documents. An interest in a unit is
910 an interest in real property.

911 Section 10. Paragraph (c) of subsection (2) of section
912 719.104, Florida Statutes, is amended to read:

913 719.104 Cooperatives; access to units; records; financial
914 reports; assessments; purchase of leases.—

915 (2) OFFICIAL RECORDS.—

916 (c) The official records of the association are open to
917 inspection by any association member or the authorized
918 representative of such member at all reasonable times. The right
919 to inspect the records includes the right to make or obtain
920 copies, at the reasonable expense, if any, of the association
921 member. The association may adopt reasonable rules regarding the
922 frequency, time, location, notice, and manner of record
923 inspections and copying, but may not require a member to
924 demonstrate any purpose or state any reason for the inspection.
925 The failure of an association to provide the records within 10
926 working days after receipt of a written request creates a
927 rebuttable presumption that the association willfully failed to
928 comply with this paragraph. A member ~~unit owner~~ who is denied

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929 access to official records is entitled to the actual damages or
930 minimum damages for the association's willful failure to comply.
931 The minimum damages are \$50 per calendar day for up to 10 days,
932 beginning on the 11th working day after receipt of the written
933 request. The failure to permit inspection entitles any person
934 prevailing in an enforcement action to recover reasonable
935 attorney fees from the person in control of the records who,
936 directly or indirectly, knowingly denied access to the records.
937 Any person who knowingly or intentionally defaces or destroys
938 accounting records that are required by this chapter to be
939 maintained during the period for which such records are required
940 to be maintained, or who knowingly or intentionally fails to
941 create or maintain accounting records that are required to be
942 created or maintained, with the intent of causing harm to the
943 association or one or more of its members, is personally subject
944 to a civil penalty pursuant to s. 719.501(1)(d). The association
945 shall maintain an adequate number of copies of the declaration,
946 articles of incorporation, bylaws, and rules, and all amendments
947 to each of the foregoing, as well as the question and answer
948 sheet as described in s. 719.504 and year-end financial
949 information required by the department, on the cooperative
950 property to ensure their availability to members ~~unit owners~~ and
951 prospective purchasers, and may charge its actual costs for
952 preparing and furnishing these documents to those requesting the
953 same. An association shall allow a member or his or her
954 authorized representative to use a portable device, including a
955 smartphone, tablet, portable scanner, or any other technology
956 capable of scanning or taking photographs, to make an electronic
957 copy of the official records in lieu of the association

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958 providing the member or his or her authorized representative
959 with a copy of such records. The association may not charge a
960 member or his or her authorized representative for the use of a
961 portable device. Notwithstanding this paragraph, the following
962 records shall not be accessible to members ~~unit owners~~:

963 1. Any record protected by the lawyer-client privilege as
964 described in s. 90.502 and any record protected by the work-
965 product privilege, including any record prepared by an
966 association attorney or prepared at the attorney's express
967 direction which reflects a mental impression, conclusion,
968 litigation strategy, or legal theory of the attorney or the
969 association, and which was prepared exclusively for civil or
970 criminal litigation or for adversarial administrative
971 proceedings, or which was prepared in anticipation of such
972 litigation or proceedings until the conclusion of the litigation
973 or proceedings.

974 2. Information obtained by an association in connection
975 with the approval of the lease, sale, or other transfer of a
976 unit.

977 3. Personnel records of association or management company
978 employees, including, but not limited to, disciplinary, payroll,
979 health, and insurance records. For purposes of this
980 subparagraph, the term "personnel records" does not include
981 written employment agreements with an association employee or
982 management company, or budgetary or financial records that
983 indicate the compensation paid to an association employee.

984 4. Medical records of unit owners.

985 5. Social security numbers, driver license numbers, credit
986 card numbers, e-mail addresses, telephone numbers, facsimile

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987 numbers, emergency contact information, addresses of a unit
988 owner other than as provided to fulfill the association's notice
989 requirements, and other personal identifying information of any
990 person, excluding the person's name, unit designation, mailing
991 address, property address, and any address, e-mail address, or
992 facsimile number provided to the association to fulfill the
993 association's notice requirements. Notwithstanding the
994 restrictions in this subparagraph, an association may print and
995 distribute to unit ~~parcel~~ owners a directory containing the
996 name, unit ~~parcel~~ address, and all telephone numbers of each
997 unit ~~parcel~~ owner. However, an owner may exclude his or her
998 telephone numbers from the directory by so requesting in writing
999 to the association. An owner may consent in writing to the
1000 disclosure of other contact information described in this
1001 subparagraph. The association is not liable for the inadvertent
1002 disclosure of information that is protected under this
1003 subparagraph if the information is included in an official
1004 record of the association and is voluntarily provided by an
1005 owner and not requested by the association.

1006 6. Electronic security measures that are used by the
1007 association to safeguard data, including passwords.

1008 7. The software and operating system used by the
1009 association which allow the manipulation of data, even if the
1010 owner owns a copy of the same software used by the association.
1011 The data is part of the official records of the association.

1012 Section 11. Paragraphs (b) and (f) of subsection (1) of
1013 section 719.106, Florida Statutes, are amended to read:

1014 719.106 Bylaws; cooperative ownership.—

1015 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative

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1016 documents shall provide for the following, and if they do not,
1017 they shall be deemed to include the following:

1018 (b) *Quorum; voting requirements; proxies.*—

1019 1. Unless otherwise provided in the bylaws, the percentage
1020 of voting interests required to constitute a quorum at a meeting
1021 of the members shall be a majority of voting interests, and
1022 decisions shall be made by owners of a majority of the voting
1023 interests. Unless otherwise provided in this chapter, or in the
1024 articles of incorporation, bylaws, or other cooperative
1025 documents, and except as provided in subparagraph (d)1.,
1026 decisions shall be made by owners of a majority of the voting
1027 interests represented at a meeting at which a quorum is present.

1028 2. Except as specifically otherwise provided herein, after
1029 January 1, 1992, unit owners may not vote by general proxy, but
1030 may vote by limited proxies substantially conforming to a
1031 limited proxy form adopted by the division. Limited proxies and
1032 general proxies may be used to establish a quorum. Limited
1033 proxies shall be used for votes taken to waive or reduce
1034 reserves in accordance with subparagraph (j)2., for votes taken
1035 to waive the financial reporting requirements of s.
1036 719.104(4)(b), for votes taken to amend the articles of
1037 incorporation or bylaws pursuant to this section, and for any
1038 other matter for which this chapter requires or permits a vote
1039 of the unit owners. Except as provided in paragraph (d), after
1040 January 1, 1992, no proxy, limited or general, shall be used in
1041 the election of board members. General proxies may be used for
1042 other matters for which limited proxies are not required, and
1043 may also be used in voting for nonsubstantive changes to items
1044 for which a limited proxy is required and given. Notwithstanding

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1045 the provisions of this section, unit owners may vote in person
1046 at unit owner meetings. Nothing contained herein shall limit the
1047 use of general proxies or require the use of limited proxies or
1048 require the use of limited proxies for any agenda item or
1049 election at any meeting of a timeshare cooperative.

1050 3. Any proxy given shall be effective only for the specific
1051 meeting for which originally given and any lawfully adjourned
1052 meetings thereof. In no event shall any proxy be valid for a
1053 period longer than 90 days after the date of the first meeting
1054 for which it was given. Every proxy shall be revocable at any
1055 time at the pleasure of the unit owner executing it.

1056 4. A member of the board of administration or a committee
1057 may submit in writing his or her agreement or disagreement with
1058 any action taken at a meeting that the member did not attend.
1059 This agreement or disagreement may not be used as a vote for or
1060 against the action taken and may not be used for the purposes of
1061 creating a quorum.

1062 5. A board or committee member's participation in a meeting
1063 via telephone, real-time video conferencing, or similar real-
1064 time electronic or video communication counts toward a quorum,
1065 and such member may vote as if physically present ~~When some or~~
1066 ~~all of the board or committee members meet by telephone~~
1067 ~~conference, those board or committee members attending by~~
1068 ~~telephone conference may be counted toward obtaining a quorum~~
1069 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
1070 used ~~utilized~~ so that the conversation of such ~~those board or~~
1071 ~~committee members attending by telephone~~ may be heard by the
1072 board or committee members attending in person, as well as by
1073 any unit owners present at a meeting.

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1074 (f) *Recall of board members.*—Subject to s. 719.301, any
1075 member of the board of administration may be recalled and
1076 removed from office with or without cause by the vote or
1077 agreement in writing by a majority of all the voting interests.
1078 A special meeting of the voting interests to recall any member
1079 of the board of administration may be called by 10 percent of
1080 the unit owners giving notice of the meeting as required for a
1081 meeting of unit owners, and the notice shall state the purpose
1082 of the meeting. Electronic transmission may not be used as a
1083 method of giving notice of a meeting called in whole or in part
1084 for this purpose.

1085 1. If the recall is approved by a majority of all voting
1086 interests by a vote at a meeting, the recall shall be effective
1087 as provided in this paragraph. The board shall duly notice and
1088 hold a board meeting within 5 full business days after the
1089 adjournment of the unit owner meeting to recall one or more
1090 board members. At the meeting, the board shall either certify
1091 the recall, in which case such member or members shall be
1092 recalled effective immediately and shall turn over to the board
1093 within 5 full business days any and all records and property of
1094 the association in their possession, or shall proceed as set
1095 forth in subparagraph 4. ~~subparagraph 3.~~

1096 2. If the proposed recall is by an agreement in writing by
1097 a majority of all voting interests, the agreement in writing or
1098 a copy thereof shall be served on the association by certified
1099 mail or by personal service in the manner authorized by chapter
1100 48 and the Florida Rules of Civil Procedure. The board of
1101 administration shall duly notice and hold a meeting of the board
1102 within 5 full business days after receipt of the agreement in

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1103 writing. Such member or members shall be recalled effective
1104 immediately upon the conclusion of the board meeting, provided
1105 that the recall is facially valid. A recalled member shall turn
1106 over to the board within 10 full business days after the date of
1107 the recall any and all records and property of the association
1108 in his or her possession ~~At the meeting, the board shall either~~
1109 ~~certify the written agreement to recall members of the board, in~~
1110 ~~which case such members shall be recalled effective immediately~~
1111 ~~and shall turn over to the board, within 5 full business days,~~
1112 ~~any and all records and property of the association in their~~
1113 ~~possession, or proceed as described in subparagraph 3.~~

1114 ~~3. If the board determines not to certify the written~~
1115 ~~agreement to recall members of the board, or does not certify~~
1116 ~~the recall by a vote at a meeting, the board shall, within 5~~
1117 ~~full business days after the board meeting, file with the~~
1118 ~~division a petition for binding arbitration pursuant to the~~
1119 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~
1120 ~~unit owners who voted at the meeting or who executed the~~
1121 ~~agreement in writing shall constitute one party under the~~
1122 ~~petition for arbitration. If the arbitrator certifies the recall~~
1123 ~~as to any member of the board, the recall shall be effective~~
1124 ~~upon mailing of the final order of arbitration to the~~
1125 ~~association. If the association fails to comply with the order~~
1126 ~~of the arbitrator, the division may take action pursuant to s.~~
1127 ~~719.501. Any member so recalled shall deliver to the board any~~
1128 ~~and all records and property of the association in the member's~~
1129 ~~possession within 5 full business days after the effective date~~
1130 ~~of the recall.~~

1131 3.4. If the board fails to duly notice and hold a board

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1132 meeting within 5 full business days after service of an
1133 agreement in writing or within 5 full business days after the
1134 adjournment of the unit owner recall meeting, the recall is
1135 ~~shall be deemed~~ effective and the board members so recalled
1136 shall immediately turn over to the board any and all records and
1137 property of the association.

1138 4.5. If the board fails to duly notice and hold the
1139 required meeting or fails to file the required petition, the
1140 unit owner representative may file a petition pursuant to s.
1141 719.1255 challenging the board's failure to act. The petition
1142 must be filed within 60 days after the expiration of the
1143 applicable 5-full-business-day period. The review of a petition
1144 under this subparagraph is limited to the sufficiency of service
1145 on the board and the facial validity of the written agreement or
1146 ballots filed.

1147 5.6. If a vacancy occurs on the board as a result of a
1148 recall and less than a majority of the board members are
1149 removed, the vacancy may be filled by the affirmative vote of a
1150 majority of the remaining directors, notwithstanding any
1151 provision to the contrary contained in this subsection ~~chapter~~.
1152 If vacancies occur on the board as a result of a recall and a
1153 majority or more of the board members are removed, the vacancies
1154 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~
1155 ~~rules to be adopted by the division, which rules need not be~~
1156 ~~consistent with this chapter. The rules must provide procedures~~
1157 ~~governing the conduct of the recall election as well as the~~
1158 ~~operation of the association during the period after a recall~~
1159 ~~but before the recall election.~~

1160 6.7. A board member who has been recalled may file a

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1161 petition pursuant to s. 719.1255 challenging the validity of the
1162 recall. The petition must be filed within 60 days after the
1163 recall is deemed certified. The association and the unit owner
1164 representative shall be named as the respondents.

1165 ~~7.8.~~ The division may not accept for filing a recall
1166 petition, whether filed pursuant to subparagraph 1.,
1167 subparagraph 2., subparagraph 4., or subparagraph 6.
1168 ~~subparagraph 5., or subparagraph 7.~~ and regardless of whether
1169 the recall was certified, when there are 60 or fewer days until
1170 the scheduled reelection of the board member sought to be
1171 recalled or when 60 or fewer days have not elapsed since the
1172 election of the board member sought to be recalled.

1173 Section 12. Paragraph (c) of subsection (2) and paragraph
1174 (1) of subsection (4) of section 720.303, Florida Statutes, are
1175 amended, and paragraph (m) is added to subsection (4) of that
1176 section, to read:

1177 720.303 Association powers and duties; meetings of board;
1178 official records; budgets; financial reporting; association
1179 funds; recalls.—

1180 (2) BOARD MEETINGS.—

1181 (c) The bylaws shall provide the following for giving
1182 notice to parcel owners and members of all board meetings and,
1183 if they do not do so, shall be deemed to include the following:

1184 1. Notices of all board meetings must be posted in a
1185 conspicuous place in the community at least 48 hours in advance
1186 of a meeting, except in an emergency. In the alternative, if
1187 notice is not posted in a conspicuous place in the community,
1188 notice of each board meeting must be mailed or delivered to each
1189 member at least 7 days before the meeting, except in an

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1190 emergency. Notwithstanding this general notice requirement, for
1191 communities with more than 100 members, the association bylaws
1192 may provide for a reasonable alternative to posting or mailing
1193 of notice for each board meeting, including publication of
1194 notice, provision of a schedule of board meetings, or the
1195 conspicuous posting and repeated broadcasting of the notice on a
1196 closed-circuit cable television system serving the homeowners'
1197 association. However, if broadcast notice is used in lieu of a
1198 notice posted physically in the community, the notice must be
1199 broadcast at least four times every broadcast hour of each day
1200 that a posted notice is otherwise required. When broadcast
1201 notice is provided, the notice and agenda must be broadcast in a
1202 manner and for a sufficient continuous length of time so as to
1203 allow an average reader to observe the notice and read and
1204 comprehend the entire content of the notice and the agenda. In
1205 addition to any of the authorized means of providing notice of a
1206 meeting of the board, the association may, by rule, adopt a
1207 procedure for conspicuously posting the meeting notice and the
1208 agenda on a website serving the association for at least the
1209 minimum period of time for which a notice of a meeting is also
1210 required to be physically posted on the association property.
1211 Any rule adopted shall, in addition to other matters, include a
1212 requirement that the association send an electronic notice in
1213 the same manner as is required for a notice for a meeting of the
1214 members, which must include a hyperlink to the website where the
1215 notice is posted, to members whose e-mail addresses are included
1216 in the association's official records. The association may
1217 provide notice by electronic transmission in a manner authorized
1218 by law for meetings of the board of directors, committee

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1219 meetings requiring notice under this section, and annual and
1220 special meetings of the members to any member who has provided a
1221 facsimile number or e-mail address to the association to be used
1222 for such purposes; however, a member must consent in writing to
1223 receiving notice by electronic transmission.

1224 2. An assessment may not be levied at a board meeting
1225 unless the notice of the meeting includes a statement that
1226 assessments will be considered and the nature of the
1227 assessments. Written notice of any meeting at which special
1228 assessments will be considered or at which amendments to rules
1229 regarding parcel use will be considered must be mailed,
1230 delivered, or electronically transmitted to the members and
1231 parcel owners and posted conspicuously on the property or
1232 broadcast on closed-circuit cable television not less than 14
1233 days before the meeting.

1234 3. Directors may not vote by proxy or by secret ballot at
1235 board meetings, except that secret ballots may be used in the
1236 election of officers. This subsection also applies to the
1237 meetings of any committee or other similar body, when a final
1238 decision will be made regarding the expenditure of association
1239 funds, and to any body vested with the power to approve or
1240 disapprove architectural decisions with respect to a specific
1241 parcel of residential property owned by a member of the
1242 community.

1243 (4) OFFICIAL RECORDS.—The association shall maintain each
1244 of the following items, when applicable, which constitute the
1245 official records of the association:

1246 (1) Ballots, sign-in sheets, voting proxies, and all other
1247 papers and electronic records relating to voting by parcel

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1248 owners, which shall be maintained for at least 1 year after the
1249 date of the election, vote, or meeting to which the document
1250 relates.

1251 (m) All other ~~written~~ records of the association not
1252 specifically included in paragraphs (a) through (l) the
1253 ~~foregoing~~ which are related to the operation of the association.

1254 Section 13. Subsections (1) and (2) of section 720.305,
1255 Florida Statutes, are amended to read:

1256 720.305 Obligations of members; remedies at law or in
1257 equity; levy of fines and suspension of use rights.—

1258 (1) Each member and the member's tenants, guests, and
1259 invitees, and each association, are governed by, and must comply
1260 with, this chapter and, the governing documents of the
1261 community, ~~and the rules of the association~~. Actions at law or
1262 in equity, or both, to redress alleged failure or refusal to
1263 comply with these provisions may be brought by the association
1264 or by any member against:

1265 (a) The association;

1266 (b) A member;

1267 (c) Any director or officer of an association who willfully
1268 and knowingly fails to comply with these provisions; and

1269 (d) Any tenants, guests, or invitees occupying a parcel or
1270 using the common areas.

1271
1272 The prevailing party in any such litigation is entitled to
1273 recover reasonable attorney fees and costs. A member prevailing
1274 in an action between the association and the member under this
1275 section, in addition to recovering his or her reasonable
1276 attorney fees, may recover additional amounts as determined by

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1277 the court to be necessary to reimburse the member for his or her
1278 share of assessments levied by the association to fund its
1279 expenses of the litigation. This relief does not exclude other
1280 remedies provided by law. This section does not deprive any
1281 person of any other available right or remedy.

1282 (2) An ~~The~~ association may levy reasonable fines. A fine
1283 may not exceed \$100 per violation against any member or any
1284 member's tenant, guest, or invitee for the failure of the owner
1285 of the parcel or its occupant, licensee, or invitee to comply
1286 with any provision of the governing documents ~~declaration, the~~
1287 ~~association bylaws, or reasonable rules of the association~~
1288 unless otherwise provided in the governing documents. A fine may
1289 be levied by the board for each day of a continuing violation,
1290 with a single notice and opportunity for hearing, except that
1291 the fine may not exceed \$1,000 in the aggregate unless otherwise
1292 provided in the governing documents. A fine of less than \$1,000
1293 may not become a lien against a parcel. In any action to recover
1294 a fine, the prevailing party is entitled to reasonable attorney
1295 fees and costs from the nonprevailing party as determined by the
1296 court.

1297 (a) An association may suspend, for a reasonable period of
1298 time, the right of a member, or a member's tenant, guest, or
1299 invitee, to use common areas and facilities for the failure of
1300 the owner of the parcel or its occupant, licensee, or invitee to
1301 comply with any provision of the declaration, the association
1302 bylaws, or reasonable rules of the association. This paragraph
1303 does not apply to that portion of common areas used to provide
1304 access or utility services to the parcel. A suspension may not
1305 prohibit an owner or tenant of a parcel from having vehicular

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1306 and pedestrian ingress to and egress from the parcel, including,
1307 but not limited to, the right to park.

1308 (b) A fine or suspension levied by the board of
1309 administration may not be imposed unless the board first
1310 provides at least 14 days' notice to the parcel owner and, if
1311 applicable, any occupant, licensee, or invitee of the parcel
1312 owner, sought to be fined or suspended and an opportunity for a
1313 hearing before a committee of at least three members appointed
1314 by the board who are not officers, directors, or employees of
1315 the association, or the spouse, parent, child, brother, or
1316 sister of an officer, director, or employee. If the committee,
1317 by majority vote, does not approve a proposed fine or
1318 suspension, the proposed fine or suspension may not be imposed.
1319 The role of the committee is limited to determining whether to
1320 confirm or reject the fine or suspension levied by the board. If
1321 the proposed fine or suspension levied by the board is approved
1322 by the committee, the fine payment is due 5 days after notice of
1323 the approved fine is provided to the parcel owner and, if
1324 applicable, to any occupant, licensee, or invitee of the parcel
1325 owner ~~the date of the committee meeting at which the fine is~~
1326 ~~approved~~. The association must provide written notice of such
1327 fine or suspension by mail or hand delivery to the parcel owner
1328 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
1329 of the parcel owner.

1330 Section 14. Paragraph (g) of subsection (1) of section
1331 720.306, Florida Statutes, is amended to read:

1332 720.306 Meetings of members; voting and election
1333 procedures; amendments.—

1334 (1) QUORUM; AMENDMENTS.—

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1335 (g) A notice required under this section must be mailed or
 1336 delivered to the address identified as the parcel owner's
 1337 mailing address in the official records of the association as
 1338 required under s. 720.303(4) ~~on the property appraiser's website~~
 1339 ~~for the county in which the parcel is located~~, or electronically
 1340 transmitted in a manner authorized by the association if the
 1341 parcel owner has consented, in writing, to receive notice by
 1342 electronic transmission.

1343 Section 15. Subsections (1) and (2) of section 720.311,
 1344 Florida Statutes, are redesignated as subsections (2) and (3),
 1345 respectively, a new subsection (1) is added to that section, and
 1346 present subsection (2) is amended, to read:

1347 720.311 Dispute resolution.—

1348 (1)(a) As used in this section, the term "dispute" means
 1349 any disagreement between two or more parties which involves:

1350 1. The authority of the board of directors, under this
 1351 chapter or an association document, to:

1352 a. Require any owner to take any action, or not to take any
 1353 action, involving that owner's parcel.

1354 b. Alter or add to a common area.

1355 2. The failure of a governing body, when required by this
 1356 chapter or an association document, to:

1357 a. Properly enforce the governing documents.

1358 b. Provide adequate notice of meetings or other actions.

1359 c. Properly conduct meetings of the board and committees
 1360 appointed by the board and membership meetings. This sub-
 1361 paragraph does not apply to elections held at a meeting.

1362 d. Maintain a common area.

1363 (b) The term "dispute" does not include any disagreement

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1364 that primarily involves:

1365 1. Title to any parcel or common area;

1366 2. The interpretation or enforcement of any warranty;

1367 3. The levy of a fee or assessment or the collection of an
1368 assessment levied against a party;

1369 4. The eviction or removal of an occupant, licensee, or
1370 invitee from a parcel;

1371 5. An alleged breach of fiduciary duty by one or more
1372 directors; or

1373 6. Claims for damages to a parcel based upon the alleged
1374 failure of the association to maintain the common areas or
1375 association property.

1376 (3) (a) 1. ~~(2) (a)~~ Disputes between an association and a parcel
1377 owner regarding use of or changes to the parcel or the common
1378 areas and other covenant enforcement disputes, disputes
1379 regarding amendments to the association documents, disputes
1380 regarding meetings of the board and committees appointed by the
1381 board, membership meetings not including election meetings, and
1382 access to the official records of the association shall be the
1383 subject of a demand for presuit mediation served by an aggrieved
1384 party before the dispute is filed in court. Presuit mediation
1385 proceedings must be conducted in accordance with the applicable
1386 rules of the Florida Rules of Civil Procedure and chapter 44,
1387 and these proceedings are privileged and confidential to the
1388 same extent as court-ordered mediation. Disputes subject to
1389 presuit mediation under this section may ~~shall~~ not include the
1390 collection of any assessment, fine, or other financial
1391 obligation, including attorney ~~attorney's~~ fees and costs,
1392 claimed to be due or any action to enforce a prior mediation

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1393 settlement agreement between the parties. ~~Also,~~ In any dispute
 1394 subject to presuit mediation under this section where
 1395 preliminary injunctive ~~emergency~~ relief is required, a motion
 1396 for temporary injunctive relief may be filed with the court
 1397 without first complying with the presuit mediation requirements
 1398 of this section. After any issues regarding preliminary
 1399 injunctive ~~emergency or temporary~~ relief are resolved, the court
 1400 may ~~either~~ refer the parties to a mediation program administered
 1401 by the courts or require mediation under this section. An
 1402 arbitrator or judge may not consider any information or evidence
 1403 arising from the presuit mediation proceeding except in a
 1404 proceeding to impose sanctions for failure to attend a presuit
 1405 mediation session or to enforce a mediated settlement agreement.
 1406 Persons who are not parties to the dispute may not attend the
 1407 presuit mediation conference without the consent of all parties,
 1408 except for counsel for the parties, and ~~and~~ a corporate
 1409 representative designated by the association, and a
 1410 representative from the association's insurance carrier, if
 1411 applicable. When mediation is attended by a quorum of the board,
 1412 such mediation is not a board meeting for purposes of notice and
 1413 participation set forth in s. 720.303. An aggrieved party shall
 1414 serve on the responding party a written demand to participate in
 1415 presuit mediation in substantially the following form:

1416
 1417 STATUTORY OFFER TO PARTICIPATE
 1418 IN PRESUIT MEDIATION
 1419

1420 The alleged aggrieved party,, hereby
 1421 demands that, as the responding

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1422 party, engage in mandatory presuit mediation in
1423 connection with the following disputes, which by
1424 statute are of a type that are subject to presuit
1425 mediation:

1426

1427 (List specific nature of the dispute or disputes to be
1428 mediated and the authority supporting a finding of a
1429 violation as to each dispute.)

1430

1431 Pursuant to section 720.311, Florida Statutes, this
1432 demand to resolve the dispute through presuit
1433 mediation is required before a lawsuit can be filed
1434 concerning the dispute. Pursuant to the statute, the
1435 parties are required to engage in presuit mediation
1436 with a neutral third-party mediator in order to
1437 attempt to resolve this dispute without court action,
1438 and the aggrieved party demands that you likewise
1439 agree to this process. If you fail to participate in
1440 the mediation process, suit may be brought against you
1441 without further warning.

1442

1443 The process of mediation involves a supervised
1444 negotiation process in which a trained, neutral third-
1445 party mediator meets with both parties and assists
1446 them in exploring possible opportunities for resolving
1447 part or all of the dispute. By agreeing to participate
1448 in presuit mediation, you are not bound in any way to
1449 change your position. Furthermore, the mediator has no
1450 authority to make any decisions in this matter or to

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1451 determine who is right or wrong and merely acts as a
1452 facilitator to ensure that each party understands the
1453 position of the other party and that all options for
1454 reasonable settlement are fully explored.

1455
1456 If an agreement is reached, it must ~~shall~~ be reduced
1457 to writing and signed, at which time the agreement
1458 becomes a binding and enforceable contract between
1459 ~~commitment~~ of the parties. A resolution of one or more
1460 disputes in this fashion avoids the need to litigate
1461 those ~~these~~ issues in court. The failure ~~to reach an~~
1462 ~~agreement, or the failure~~ of a party to participate in
1463 the process or the failure of the parties to reach an
1464 agreement during the mediation process, results in the
1465 aggrieved party being able to ~~mediator declaring an~~
1466 ~~impasse in the mediation, after which the aggrieved~~
1467 ~~party may~~ proceed to court on all outstanding and,
1468 unsettled disputes. If you fail or refuse ~~have failed~~
1469 ~~or refused~~ to participate in the entire mediation
1470 process, you will not be entitled to recover attorney
1471 ~~attorney's~~ fees, even if you prevail.

1472
1473 The aggrieved party has selected and hereby lists five
1474 circuit court civil ~~certified~~ mediators certified by
1475 the Florida Supreme Court who the aggrieved party
1476 believes ~~we believe~~ to be neutral and qualified to
1477 mediate the dispute. You have the right to select any
1478 one of these mediators. The fact that one party may be
1479 familiar with one or more of the listed mediators does

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1480 not mean that the mediator cannot act as a neutral and
1481 impartial facilitator. Any mediator who cannot act in
1482 this capacity is required ethically to decline to
1483 accept engagement. The mediators that we suggest, and
1484 their current hourly rates, are as follows:

1485
1486 (List the names, physical addresses, e-mail addresses,
1487 telephone numbers, and hourly rates of the mediators.
1488 Other pertinent information about the backgrounds
1489 ~~background~~ of the mediators may be included as an
1490 attachment, including whether the mediator is board
1491 certified by The Florida Bar in any practice area.)

1492
1493 By mutual agreement, and before accepting presuit
1494 mediation, we can also select mediators other than the
1495 Supreme Court-certified circuit court civil mediators
1496 named above as alternates to the above-named
1497 mediators. The alternate mediators are not required to
1498 be Supreme Court-certified circuit court civil
1499 mediators. The alternate mediators that we suggest,
1500 and their hourly rates, are as follows:

1501 (List the names, physical addresses, e-mail addresses,
1502 telephone numbers, and hourly rates of the alternate
1503 mediators. Other pertinent information about the
1504 backgrounds of the alternate mediators may be included
1505 as an attachment.)

1506
1507 You may contact the offices of these mediators to
1508 confirm that the listed mediators will be neutral and

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1509 will not show any favoritism toward either party. The
1510 Florida Supreme Court can provide you a list of
1511 ~~certified~~ mediators who are certified in the area of
1512 circuit civil law.

1513
1514 Unless otherwise agreed by the parties, section
1515 720.311(2)(b), Florida Statutes, requires that the
1516 parties share equally the costs of presuit mediation
1517 ~~equally~~, including the fee charged by the mediator. A
1518 typical ~~An average~~ mediation may require three to four
1519 hours of the mediator's time, including some
1520 preparation time, and the parties would need to share
1521 equally the mediator's fees as well as pay their own
1522 attorney ~~attorney's~~ fees if they choose to employ an
1523 attorney in connection with the mediation. However,
1524 use of an attorney is not required and is at the
1525 option of each party. The mediators may require the
1526 advance payment of some or all of the anticipated
1527 fees. The aggrieved party hereby agrees to pay or
1528 prepay one-half of the mediator's estimated fees and
1529 to forward this amount or such other reasonable
1530 advance deposits as the mediator requires for this
1531 purpose. Any funds deposited will be returned to you
1532 if these are in excess of your share of the fees
1533 incurred.

1534
1535 To begin your participation in presuit mediation to
1536 try to resolve the dispute and avoid further legal
1537 action, please sign below and clearly indicate which

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1538 mediator is acceptable to you. We will then ask the
 1539 mediator to schedule a mutually convenient time and
 1540 place for the mediation conference to be held. The
 1541 mediation conference must be held within 90 ~~ninety~~
 1542 ~~(90)~~ days after the date of acceptance of presuit
 1543 mediation of this date, unless extended by mutual
 1544 written agreement. In the event that you fail to
 1545 respond within 30 days after ~~20 days from~~ the date of
 1546 this letter, or if you fail to agree to at least one
 1547 of the mediators that we have suggested or to pay or
 1548 prepay to the mediator one-half of the costs involved,
 1549 the aggrieved party will be authorized to proceed with
 1550 the filing of a lawsuit against you without further
 1551 notice and may seek an award of attorney ~~attorney's~~
 1552 fees or costs incurred in attempting to obtain
 1553 mediation.

1554
 1555 Therefore, please give this matter your immediate
 1556 attention. By law, your response must be mailed by
 1557 certified mail, return receipt requested, and by
 1558 first-class mail to the address shown on this demand.

1560

1561

1562
 1563 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR
 1564 AGREEMENT TO THAT CHOICE.

1565
1566 AGREEMENT TO MEDIATE

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1567 The undersigned hereby agrees to participate in
 1568 presuit mediation and agrees to attend a mediation
 1569 conducted by the following mediator or mediators who
 1570 are listed above as individuals ~~someone~~ who would be
 1571 acceptable to mediate this dispute:

1572
 1573 (List acceptable mediator or mediators.)

1574
 1575 I/we further agree to pay or prepay one-half of the
 1576 mediator's fees and to forward such advance deposits
 1577 as the mediator may require for this purpose.

1578
 1579
 1580 Signature of responding party #1

1581
 1582
 1583 Telephone contact information

1584
 1585
 1586 Signature and telephone contact information of
 1587 responding party #2 (if applicable) (if property is
 1588 owned by more than one person, all owners must sign)

1589
 1590 2. The statutory demand must also contain the following
 1591 statement in capitalized, bold letters in a font size larger
 1592 than any other used in the statutory demand: A PERSON WHO FAILS
 1593 OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION
 1594 PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN
 1595 SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

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1596 (b) Service of the statutory demand to participate in
1597 presuit mediation shall be effected by sending a letter in
1598 substantial conformity with the above form by certified mail,
1599 return receipt requested, with an additional copy being sent by
1600 regular first-class mail, to the address of the responding party
1601 as it last appears on the books and records of the association.
1602 The responding party has 30 ~~20~~ days after ~~from~~ the date of the
1603 mailing of the statutory demand to serve a response to the
1604 aggrieved party in writing. The response must be sent ~~shall be~~
1605 ~~served~~ by certified mail, return receipt requested, with an
1606 additional copy being sent by ~~regular~~ first-class mail, to the
1607 address shown on the statutory demand. Notwithstanding the
1608 foregoing, once the parties have agreed on a mediator, the
1609 mediator may schedule ~~reschedule~~ the mediation for a date and
1610 time mutually convenient to the parties. Each proposed mediator
1611 must be available to hold the mediation in the county in which
1612 the parcel is located or within 40 miles of the parcel without
1613 charging extra for travel-related costs. If a presuit mediation
1614 session cannot be scheduled and concluded within 90 days after
1615 the date of acceptance of presuit mediation and there is no
1616 agreement between the parties to extend the 90-day deadline, the
1617 aggrieved party may file an action in court. The parties shall
1618 share equally the costs of presuit mediation ~~equally~~, including
1619 the fee charged by the mediator, if any, unless the parties
1620 agree otherwise, and the mediator may require advance payment of
1621 its reasonable fees and costs. The failure of any party to
1622 respond to a demand or response, to agree upon a mediator, to
1623 make payment of fees and costs within the time established by
1624 the mediator, or to appear for a scheduled mediation session

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1625 without the approval of the mediator, constitutes ~~shall~~
1626 ~~constitute~~ the failure or refusal to participate in the
1627 mediation process and operates ~~shall operate~~ as an impasse in
1628 the presuit mediation by such party, entitling the other party
1629 to proceed in court and to seek an award of the costs and fees
1630 associated with the mediation. Additionally, notwithstanding ~~the~~
1631 ~~provisions of~~ any other law or document, persons who fail or
1632 refuse to participate in the entire mediation process may not
1633 recover attorney ~~attorney's~~ fees and costs in subsequent
1634 litigation relating to the dispute. ~~If any presuit mediation~~
1635 ~~session cannot be scheduled and conducted within 90 days after~~
1636 ~~the offer to participate in mediation was filed, an impasse~~
1637 ~~shall be deemed to have occurred unless both parties agree to~~
1638 ~~extend this deadline.~~

1639 (c) If presuit mediation as described in paragraph (a) is
1640 not successful in resolving all issues between the parties, any
1641 party ~~the parties~~ may file an action regarding the unresolved
1642 dispute in a court of competent jurisdiction or elect to enter
1643 into binding or nonbinding arbitration pursuant to the
1644 procedures set forth in s. 718.1255 and rules adopted by the
1645 division, with the arbitration proceeding to be conducted by a
1646 department arbitrator or by a private arbitrator certified by
1647 the department. If all parties do not agree to arbitration
1648 proceedings following an unsuccessful presuit mediation, any
1649 party may file the dispute in court. A final order resulting
1650 from nonbinding arbitration is final and enforceable in the
1651 courts if a complaint for trial de novo is not filed in a court
1652 of competent jurisdiction within 30 days after entry of the
1653 order. As to any issue or dispute that is not resolved at

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1654 presuit mediation, and as to any issue that is settled at
1655 presuit mediation but is thereafter subject to an action seeking
1656 enforcement of the mediation settlement, the prevailing party in
1657 any subsequent arbitration or litigation proceeding shall be
1658 entitled to seek recovery of all costs and attorney ~~attorney's~~
1659 fees incurred in the presuit mediation process.

1660 (d) The parties may agree to a mediator or arbitrator who
1661 is not certified by the Florida Supreme Court. Unless such
1662 mediator or arbitrator is agreed upon, a mediator or arbitrator
1663 may not ~~shall be authorized to~~ conduct mediation or arbitration
1664 under this section unless ~~only if~~ he or she has been certified
1665 as a circuit court civil mediator or arbitrator, respectively,
1666 pursuant to the requirements established by the Florida Supreme
1667 Court. Settlement agreements resulting from mediation may ~~shall~~
1668 not have precedential value in proceedings involving parties
1669 other than those participating in the mediation to support
1670 either a claim or defense in other disputes.

1671 (e) The presuit mediation procedures provided by this
1672 subsection may be used by a Florida corporation responsible for
1673 the operation of a community in which the voting members are
1674 parcel owners or their representatives, in which membership in
1675 the corporation is not a mandatory condition of parcel
1676 ownership, or which is not authorized to impose an assessment
1677 that may become a lien on the parcel.

1678 Section 16. This act shall take effect July 1, 2019.