

1 A bill to be entitled
2 An act relating to mobile homes; amending s. 73.072,
3 F.S.; conforming a cross-reference; amending s.
4 723.003, F.S.; providing definitions; amending s.
5 723.006, F.S.; requiring the Division of Florida
6 Condominiums, Timeshares, and Mobile Homes to approve
7 training and educational programs for board members of
8 mobile home owners' associations; providing duties of
9 the division; providing requirements for education
10 curriculum information for board member and mobile
11 home owner training; amending s. 723.023, F.S.;
12 revising mobile home owner's general obligations;
13 amending s. 723.031, F.S.; conforming a cross-
14 reference; amending s. 723.037, F.S.; providing and
15 revising requirements for lot rental increases;
16 amending s. 723.059, F.S.; revising provisions
17 relating to rights of purchasers of lifetime leases;
18 amending s. 723.0611, F.S.; providing for the removal
19 of a member of the board of directors under certain
20 conditions; amending s. 723.078, F.S.; revising
21 provisions with respect to the bylaws of homeowners'
22 associations; revising quorum and voting requirements;
23 revising provisions relating to board of directors,
24 committee, and member meetings; providing requirements
25 for meeting minutes; revising requirements for the
26 amendment of articles of incorporation and bylaws;

27 deleting a requirement that the officers and directors
 28 of the association have a fiduciary relationship to
 29 the members; revising requirements for the recall of
 30 board members; creating s. 723.1255, F.S.; providing
 31 requirements for the alternative resolution of recall
 32 disputes; creating s. 723.0781, F.S.; specifying
 33 certification or educational requirements for a newly
 34 elected or appointed cooperative board member;
 35 amending s. 723.079, F.S.; revising and providing
 36 requirements relating to the official records of the
 37 association; providing an effective date.

38

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

40

41 Section 1. Subsection (1) of section 73.072, Florida
 42 Statutes, is amended to read:

43 73.072 Mobile home parks; compensation for permanent
 44 improvements by mobile home owners.—

45 (1) When all or a portion of a mobile home park as defined
 46 in s. 723.003 ~~723.003(6)~~ is appropriated under this chapter, the
 47 condemning authority shall separately determine the compensation
 48 for any permanent improvements made to each site. This
 49 compensation shall be awarded to the mobile home owner leasing
 50 the site if:

51 (a) The effect of the taking includes a requirement that
 52 the mobile home owner remove or relocate his or her mobile home

53 from the site;

54 (b) The mobile home owner currently leasing the site has
55 paid for the permanent improvements to the site; and

56 (c) The value of the permanent improvements on the site
57 exceeds \$1,000 as of the date of taking.

58 Section 2. Section 723.003, Florida Statutes, is amended
59 to read:

60 723.003 Definitions.—As used in this chapter, the term
61 ~~following words and terms have the following meanings unless~~
62 ~~clearly indicated otherwise:~~

63 (1) ~~(14)~~ The term "Discrimination" or "discriminatory"
64 means that a homeowner is being treated differently as to the
65 rent charged, the services rendered, or an action for possession
66 or other civil action being taken by the park owner, without a
67 reasonable basis for the different treatment.

68 (2) ~~(1)~~ The term "Division" means the Division of Florida
69 Condominiums, Timeshares, and Mobile Homes of the Department of
70 Business and Professional Regulation.

71 (3) "Electronic transmission" means a form of
72 communication, not directly involving the physical transmission
73 or transfer of paper, that creates a record that may be
74 retained, retrieved, and reviewed by a recipient and that may be
75 directly reproduced in a comprehensible and legible paper form
76 by the recipient through an automated process, such as a printer
77 or copy machine. Examples of electronic transmission include,
78 but are not limited to, telegrams, facsimile transmission of

79 images, and text that is sent via e-mail between computers.
80 Electronic transmission does not include oral communication by
81 telephone.

82 (4) "Homeowners' association" means a corporation for
83 profit or not for profit, which is formed and operates in
84 compliance with ss. 723.075-723.079; or, in a subdivision the
85 homeowners' association authorized in the subdivision documents
86 in which all home owners must be members as a condition of
87 ownership.

88 (5) "Homeowners' committee" means a committee, not to
89 exceed five persons in number, designated by a majority of the
90 affected homeowners in a mobile home park or a subdivision; or,
91 if a homeowners' association has been formed, designated by the
92 board of directors of the association. The homeowners' committee
93 is designated for the purpose of meeting with the park owner or
94 park developer to discuss lot rental increases, reduction in
95 services or utilities, or changes in rules and regulations and
96 any other matter authorized by the homeowners' association, or
97 the majority of the affected home owners, and who are authorized
98 to enter into a binding agreement with the park owner or
99 subdivision developer, or a binding mediation agreement, on
100 behalf of the association, its members, and all other mobile
101 home owners in the mobile home park.

102 (6)(2) ~~The term~~ "Lot rental amount" means all financial
103 obligations, except user fees, which are required as a condition
104 of the tenancy.

105 (7)~~(3)~~ ~~The term~~ "Mobile home" means a residential
106 structure, transportable in one or more sections, which is 8
107 body feet or more in width, over 35 body feet in length with the
108 hitch, built on an integral chassis, designed to be used as a
109 dwelling when connected to the required utilities, and not
110 originally sold as a recreational vehicle, and includes the
111 plumbing, heating, air-conditioning, and electrical systems
112 contained therein.

113 (8) "Mobile home lot" means a lot described by a park
114 owner pursuant to the requirements of s 723.012, or in a
115 disclosure statement pursuant to s. 723.013, as a lot intended
116 for the placement of a mobile home.

117 (9)~~(4)~~ ~~The term~~ "Mobile home lot rental agreement" or
118 "rental agreement" means any mutual understanding or lease,
119 whether oral or written, between a mobile home owner and a
120 mobile home park owner in which the mobile home owner is
121 entitled to place his or her mobile home on a mobile home lot
122 for either direct or indirect remuneration of the mobile home
123 park owner.

124 (10)~~(5)~~ ~~The term~~ "Mobile home owner" or "home owner" means
125 a person who owns a mobile home and rents or leases a lot within
126 a mobile home park for residential use.

127 (11)~~(6)~~ ~~The term~~ "Mobile home park" or "park" means a use
128 of land in which lots or spaces are offered for rent or lease
129 for the placement of mobile homes and in which the primary use
130 of the park is residential.

131 (12) ~~(7)~~ The term "Mobile home park owner" or "park owner"
 132 means an owner or operator of a mobile home park.

133 (13) ~~(8)~~ The term "Mobile home subdivision" means a
 134 subdivision of mobile homes where individual lots are owned by
 135 owners and where a portion of the subdivision or the amenities
 136 exclusively serving the subdivision are retained by the
 137 subdivision developer.

138 (14) "Offering circular" has the same meaning as the term
 139 "prospectus" as it is used in this chapter.

140 (15) ~~(9)~~ The term "Operator of a mobile home park" means
 141 either a person who establishes a mobile home park on land that
 142 ~~which~~ is leased from another person or a person who has been
 143 delegated the authority to act as the park owner in matters
 144 relating to the administration and management of the mobile home
 145 park, including, but not limited to, authority to make decisions
 146 relating to the mobile home park.

147 (16) ~~(10)~~ The term "Pass-through charge" means the mobile
 148 home owner's proportionate share of the necessary and actual
 149 direct costs and impact or hookup fees for a governmentally
 150 mandated capital improvement, which may include the necessary
 151 and actual direct costs and impact or hookup fees incurred for
 152 capital improvements required for public or private regulated
 153 utilities.

154 (17) ~~(11)~~ The term "Proportionate share" as used in
 155 subsection (16) ~~(10)~~ means an amount calculated by dividing
 156 equally among the affected developed lots in the park the total

157 costs for the necessary and actual direct costs and impact or
 158 hookup fees incurred for governmentally mandated capital
 159 improvements serving the recreational and common areas and all
 160 affected developed lots in the park.

161 ~~(18)-(15) The term "Resale agreement"~~ means a contract in
 162 which a mobile home owner authorizes the mobile home park owner,
 163 or the park owner's designee, to act as exclusive agent for the
 164 sale of the homeowner's mobile home for a commission or fee.

165 ~~(19)-(12) The term "Unreasonable"~~ means arbitrary,
 166 capricious, or inconsistent with this chapter.

167 ~~(20)-(13) The term "User fees"~~ means those amounts charged
 168 in addition to the lot rental amount for nonessential optional
 169 services provided by or through the park owner to the mobile
 170 home owner under a separate written agreement between the mobile
 171 home owner and the person furnishing the optional service or
 172 services.

173 Section 3. Subsections (12), (13), and (14) are added to
 174 section 723.006, Florida Statutes, to read:

175 723.006 Powers and duties of division.—In performing its
 176 duties, the division has the following powers and duties:

177 (12) The division shall approve training and educational
 178 programs for board members of mobile home owners' associations
 179 formed and operated pursuant to s. 723.075(1) and mobile home
 180 owners. The training may, at the division's discretion, include
 181 web-based electronic media and live training and seminars in
 182 various locations throughout the state.

183 (13) The division may review and approve educational
184 curriculums and training programs for board members and mobile
185 home owners to be offered by providers and shall maintain a
186 current list of approved programs and providers, and make such
187 lists available to board members in a reasonable and cost-
188 effective manner. The cost of such programs shall be borne by
189 the providers of the programs. The division shall establish a
190 fee structure for the approved training programs sufficient to
191 recover any cost incurred by the division in operating this
192 program.

193 (14) Required education curriculum information for board
194 member and mobile home owner training shall include:

195 (a) The provider of the training programs, which shall
196 include the following information regarding its training and
197 educational programs:

198 1. A price list, if any, for the programs and copies of
199 all materials.

200 2. The physical location where programs will be available,
201 if not web-based.

202 3. Dates when programs will be offered.

203 4. The curriculum of the program to be offered.

204 (b) The programs shall provide information about statutory
205 and regulatory matters relating to the board of directors of the
206 homeowners' association and their responsibilities to the
207 association and to the mobile home owners in the mobile home
208 park.

209 (c) Programs and materials may not contain editorial
 210 comments.

211 (d) The division has the right to approve and require
 212 changes to such education and training programs.

213 Section 4. Section 723.023, Florida Statutes, is amended
 214 to read:

215 723.023 Mobile home owner's general obligations.—A mobile
 216 home owner shall at all times:

217 (1) Comply with all obligations imposed on mobile home
 218 owners by applicable provisions of building, housing, and health
 219 codes, including compliance with all building permits and
 220 construction requirements for construction on the mobile home
 221 and lot. The home owner is responsible for all fines imposed by
 222 the local government for noncompliance with any local codes.

223 (2) Keep the mobile home lot which he or she occupies
 224 clean, neat, and sanitary, and maintained in compliance with all
 225 local codes.

226 (3) Comply with properly promulgated park rules and
 227 regulations and require other persons on the premises with his
 228 or her consent to comply with such rules ~~therewith~~ and to
 229 conduct themselves, and other persons on the premises with his
 230 or her consent, in a manner that does not unreasonably disturb
 231 other residents of the park or constitute a breach of the peace.

232 Section 5. Paragraph (b) of subsection (5) of section
 233 723.031, Florida Statutes, is amended to read:

234 723.031 Mobile home lot rental agreements.—

235 (5) The rental agreement shall contain the lot rental
 236 amount and services included. An increase in lot rental amount
 237 upon expiration of the term of the lot rental agreement shall be
 238 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),
 239 whichever is applicable, provided that, pursuant to s.
 240 723.059(4), the amount of the lot rental increase is disclosed
 241 and agreed to by the purchaser, in writing. An increase in lot
 242 rental amount shall not be arbitrary or discriminatory between
 243 similarly situated tenants in the park. No lot rental amount may
 244 be increased during the term of the lot rental agreement,
 245 except:

246 (b) For pass-through charges as defined in s. 723.003
 247 ~~723.003(10)~~.

248 Section 6. Subsection (1) and paragraph (a) of subsection
 249 (4) of section 723.037, Florida Statutes, are amended, and
 250 subsection (7) is added to that section, to read:

251 723.037 Lot rental increases; reduction in services or
 252 utilities; change in rules and regulations; mediation.—

253 (1) A park owner shall give written notice to each
 254 affected mobile home owner and the board of directors of the
 255 homeowners' association, if one has been formed, at least 90
 256 days before ~~prior to~~ any increase in lot rental amount or
 257 reduction in services or utilities provided by the park owner or
 258 change in rules and regulations. The notice shall identify all
 259 other affected homeowners, which may be by lot number, name,
 260 group, or phase. If the affected homeowners are not identified

261 by name, the park owner shall make the names and addresses
262 available upon request. The home owner's right to the 90-day
263 notice may not be waived or precluded by a home owner, or the
264 homeowners' committee, in an agreement with the park owner.
265 Rules adopted as a result of restrictions imposed by
266 governmental entities and required to protect the public health,
267 safety, and welfare may be enforced prior to the expiration of
268 the 90-day period but are not otherwise exempt from the
269 requirements of this chapter. Pass-through charges must be
270 separately listed as to the amount of the charge, the name of
271 the governmental entity mandating the capital improvement, and
272 the nature or type of the pass-through charge being levied.
273 Notices of increase in the lot rental amount due to a pass-
274 through charge shall state the additional payment and starting
275 and ending dates of each pass-through charge. The homeowners'
276 association shall have no standing to challenge the increase in
277 lot rental amount, reduction in services or utilities, or change
278 of rules and regulations unless a majority of the affected
279 homeowners agree, in writing, to such representation.

280 (4) (a) A committee, not to exceed five in number,
281 designated by a majority of the affected mobile home owners or
282 by the board of directors of the homeowners' association, if
283 applicable, and the park owner shall meet, at a mutually
284 convenient time and place no later than 60 days before the
285 effective date of the change ~~within 30 days after receipt by the~~
286 ~~homeowners of the notice of change,~~ to discuss the reasons for

287 the increase in lot rental amount, reduction in services or
 288 utilities, or change in rules and regulations. The negotiating
 289 committee shall make a written request for a meeting with the
 290 park owner or subdivision developer to discuss those matters
 291 addressed in the 90-day notice, and may include in the request a
 292 listing of any other issue, with supporting documentation, that
 293 the committee intends to raise and discuss at the meeting.

294
 295 This subsection is not intended to be enforced by civil or
 296 administrative action. Rather, the meetings and discussions are
 297 intended to be in the nature of settlement discussions prior to
 298 the parties proceeding to mediation of any dispute.

299 (7) The term "parties," for purposes of mediation under
 300 this section and s. 723.038, means a park owner and a
 301 homeowners' committee selected pursuant to this section.

302 Section 7. Subsection (5) of section 723.059, Florida
 303 Statutes, is amended to read:

304 723.059 Rights of purchaser.—

305 (5) Lifetime leases and the renewal provisions in
 306 automatically renewable leases, both those existing and those
 307 entered into after July 1, 1986, are not assumable ~~shall be~~
 308 ~~nonassumable~~ unless otherwise provided in the mobile home lot
 309 rental agreement or unless the transferee is the home owner's
 310 spouse. The right to an assumption of the lease by a spouse may
 311 be exercised only one time during the term of that lease. ~~The~~
 312 ~~renewal provisions in automatically renewable leases, both those~~

313 ~~existing and those entered into after July 1, 1986, are not~~
314 ~~assumable unless otherwise provided in the lease agreement.~~

315 Section 8. Subsection (1) of section 723.0611, Florida
316 Statutes, is amended to read:

317 723.0611 Florida Mobile Home Relocation Corporation.—

318 (1) (a) There is created the Florida Mobile Home Relocation
319 Corporation. The corporation shall be administered by a board of
320 directors made up of six members, three of whom shall be
321 appointed by the Secretary of Business and Professional
322 Regulation from a list of nominees submitted by the largest
323 nonprofit association representing mobile home owners in this
324 state, and three of whom shall be appointed by the Secretary of
325 Business and Professional Regulation from a list of nominees
326 submitted by the largest nonprofit association representing the
327 manufactured housing industry in this state. All members of the
328 board of directors, including the chair, shall be appointed to
329 serve for staggered 3-year terms.

330 (b) A member of the board of directors shall be removed
331 from the board by the Secretary of Business and Professional
332 Regulation, with or without cause, immediately after the written
333 request for removal from the association in paragraph (a) that
334 originally nominated that board member. The nominating entity
335 must include nominees for replacement with the request for
336 removal and the secretary must immediately fill the vacancy
337 created by the removal. The removal process may not occur more
338 than once in a calendar year.

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339 Section 9. Section 723.078, Florida Statutes, is amended
340 to read:

341 723.078 Bylaws of homeowners' associations. ~~In order for a~~
342 ~~homeowners' association to exercise the rights provided in s.~~
343 ~~723.071, the bylaws of the association shall provide for the~~
344 ~~following:~~

345 (1) The directors of the association and the operation
346 shall be governed by the bylaws.

347 (2) The bylaws shall provide and, if they do not, shall be
348 deemed to include, the following provisions:

349 (a) Administration.—The form of administration of the
350 association shall be described, providing for the titles of the
351 officers and for a board of directors and specifying the powers,
352 duties, manner of selection and removal, and compensation, if
353 any, of officers and board members. Unless otherwise provided in
354 the bylaws, the board of directors shall be composed of five
355 members. The board of directors shall elect ~~have~~ a president,
356 secretary, and treasurer who shall perform the duties of those
357 offices customarily performed by officers of corporations, and
358 these officers shall serve without compensation and at the
359 pleasure of the board of directors. The board of directors may
360 elect ~~appoint~~ and designate other officers and grant them those
361 duties it deems appropriate.

362 (b) Quorum; voting requirements; proxies.—

363 1. Unless otherwise provided in the bylaws, 30 percent of
364 the total membership is required to constitute a quorum. A

365 ~~majority of the members shall constitute a quorum. Decisions~~
366 ~~shall be made by a majority of members represented at a meeting~~
367 ~~at which a quorum is present. In addition, provision shall be~~
368 ~~made in the bylaws for definition and use of proxy. Any proxy~~
369 ~~given shall be effective only for the specific meeting for which~~
370 ~~originally given and any lawfully adjourned meetings thereof. In~~
371 ~~no event shall any proxy be valid for a period longer than 120~~
372 ~~days after the date of the first meeting for which it was given.~~
373 ~~Every proxy shall be revocable at any time at the pleasure of~~
374 ~~the member executing it.~~

375 2. A member may not vote by general proxy but may vote by
376 limited proxies substantially conforming to a limited proxy form
377 adopted by the division. Limited proxies and general proxies may
378 be used to establish a quorum. Limited proxies may be used for
379 votes taken to amend the articles of incorporation or bylaws
380 pursuant to this section, and any other matters for which this
381 chapter requires or permits a vote of members, except that no
382 proxy, limited or general, may be used in the election of board
383 members. Notwithstanding the provisions of this section, members
384 may vote in person at member meetings.

385 3. A proxy is effective only for the specific meeting for
386 which originally given and any lawfully adjourned meetings
387 thereof. In no event shall any proxy be valid for a period
388 longer than 90 days after the date of the first meeting for
389 which it was given. Every proxy shall be revocable at any time
390 at the pleasure of the member executing it.

391 4. A member of the board of directors or a committee may
392 submit in writing his or her agreement or disagreement with any
393 action taken at a meeting that the member did not attend. This
394 agreement or disagreement may not be used as a vote for or
395 against the action taken and may not be used for the purposes of
396 creating a quorum.

397 (c) Board of directors' and committee meetings.-

398 1. Meetings of the board of directors and meetings of its
399 committees at which a quorum is present shall be open to all
400 members. Notwithstanding any other provision of law, the
401 requirement that board meetings and committee meetings be open
402 to the members does not apply to board or committee meetings
403 held for the purpose of discussing personnel matters or meetings
404 between the board or a committee and the association's attorney,
405 with respect to potential or pending litigation, where the
406 meeting is held for the purpose of seeking or rendering legal
407 advice, and where the contents of the discussion would otherwise
408 be governed by the attorney-client privilege., ~~and~~ Notice of
409 meetings shall be posted in a conspicuous place upon the park
410 property at least 48 hours in advance, except in an emergency.
411 Notice of any meeting in which assessments against members are
412 to be considered for any reason shall specifically contain a
413 statement that assessments will be considered and the nature of
414 such assessments.

415 2. A board or committee member's participation in a
416 meeting via telephone, real-time videoconferencing, or similar

417 real-time telephonic, electronic, or video communication counts
418 toward a quorum, and such member may vote as if physically
419 present. A speaker shall be used so that the conversation of
420 those board or committee members attending by telephone may be
421 heard by the board or committee members attending in person, as
422 well as by members present at a meeting.

423 3. Members of the board of directors may use e-mail as a
424 means of communication but may not cast a vote on an association
425 matter via e-mail.

426 4. The right to attend meetings of the board of directors
427 and its committees includes the right to speak at such meetings
428 with reference to all designated agenda items. The association
429 may adopt reasonable written rules governing the frequency,
430 duration, and manner of members' statements. Any item not
431 included on the notice may be taken up on an emergency basis by
432 at least a majority plus one of the members of the board. Such
433 emergency action shall be noticed and ratified at the next
434 regular meeting of the board. Any member may tape record or
435 videotape meetings of the board of directors and its committees.
436 The division shall adopt reasonable rules governing the tape
437 recording and videotaping of the meeting.

438 5. Except as provided in s. 723.078(2)(i), a vacancy
439 occurring on the board of directors may be filled by the
440 affirmative vote of the majority of the remaining directors,
441 even though the remaining directors constitute less than a
442 quorum; by the sole remaining director; if the vacancy is not so

443 filled or if no director remains, by the members; or, on the
444 application of any person, by the circuit court of the county in
445 which the registered office of the corporation is located.

446 6. The term of a director elected or appointed to fill a
447 vacancy expires at the next annual meeting at which directors
448 are elected. A directorship to be filled by reason of an
449 increase in the number of directors may be filled by the board
450 of directors, but only for the term of office continuing until
451 the next election of directors by the members

452 7. A vacancy that will occur at a specific later date, by
453 reason of a resignation effective at a later date, may be filled
454 before the vacancy occurs. However, the new director may not
455 take office until the vacancy occurs.

456 8.a. The officers and directors of the association have a
457 fiduciary relationship to the members.

458 b. A director and committee member shall discharge his or
459 her duties in good faith, with the care an ordinarily prudent
460 person in a like position would exercise under similar
461 circumstances, and in a manner he or she reasonably believes to
462 be in the best interests of the corporation.

463 9. In discharging his or her duties, a director may rely
464 on information, opinions, reports, or statements, including
465 financial statements and other financial data, if prepared or
466 presented by:

467 a. One or more officers or employees of the corporation
468 who the director reasonably believes to be reliable and

469 competent in the matters presented;

470 b. Legal counsel, public accountants, or other persons as
471 to matters the director reasonably believes are within the
472 persons' professional or expert competence; or

473 c. A committee of the board of directors of which he or
474 she is not a member if the director reasonably believes the
475 committee merits confidence.

476 10. A director is not acting in good faith if he or she
477 has knowledge concerning the matter in question that makes
478 reliance otherwise permitted by subparagraph 9. unwarranted.

479 11. A director is not liable for any action taken as a
480 director, or any failure to take any action, if he or she
481 performed the duties of his or her office in compliance with
482 this section.

483 (d) Member meetings.—

484 1. Members shall meet at least once each calendar year,
485 and the meeting shall be the annual meeting. All members of the
486 board of directors shall be elected at the annual meeting unless
487 the bylaws provide for staggered election terms or for their
488 election at another meeting. The bylaws shall not restrict any
489 member desiring to be a candidate for board membership from
490 being nominated from the floor. All nominations from the floor
491 must be made at a duly noticed meeting of the members held at
492 least 30 days before the annual meeting. The bylaws shall
493 provide the method for calling the meetings of the members,
494 including annual meetings. The method shall provide at least 14

495 days' written notice to each member in advance of the meeting
496 and require the posting in a conspicuous place on the park
497 property of a notice of the meeting at least 14 days prior to
498 the meeting. The right to receive written notice of membership
499 meetings may be waived in writing by a member. Unless waived,
500 the notice of the annual meeting shall be mailed, hand
501 delivered, or electronically transmitted ~~sent by mail~~ to each
502 member, and shall constitute ~~the mailing constitutes~~ notice. An
503 officer of the association shall provide an affidavit affirming
504 that the notices were mailed or hand delivered in accordance
505 with the provisions of this section to each member at the
506 address last furnished to the corporation. These meeting
507 requirements do not prevent members from waiving notice of
508 meetings or from acting by written agreement without meetings,
509 if allowed by the bylaws.

510 (e) Minutes of meetings.—

511 1. Minutes of all meetings of members of an association,
512 the board of directors, and a committee must be maintained in
513 written form and approved by the members, board, or committee,
514 as applicable. A vote or abstention from voting on each matter
515 voted upon for each director present at a board meeting must be
516 recorded in the minutes.

517 2. All approved minutes of all meetings of members,
518 committees, and ~~of~~ the board of directors shall be kept in a
519 businesslike manner and shall be available for inspection by
520 members, or their authorized representatives, and board members

521 at reasonable times. The association shall retain these minutes
522 for a period of at least ~~not less than~~ 7 years.

523 (f) Manner of sharing assessments.—The share or percentage
524 of, and manner of sharing, assessments and expenses for each
525 member shall be stated.

526 (g) Annual budget.—If the bylaws provide for adoption of
527 an annual budget by the members, the board of directors shall
528 mail a meeting notice and copies of the proposed annual budget
529 of expenses to the members at least ~~not less than~~ 30 days before
530 ~~prior to~~ the meeting at which the budget will be considered. If
531 the bylaws provide that the budget may be adopted by the board
532 of directors, the members shall be given written notice of the
533 time and place at which the meeting of the board of directors to
534 consider the budget will be held. The meeting shall be open to
535 the members. If the bylaws do not provide for adoption of an
536 annual budget, this paragraph shall not apply.

537 (h) Amendment of articles of incorporation and bylaws.—

538 1. The method by which the articles of incorporation and
539 bylaws may be amended consistent with the provisions of this
540 chapter shall be stated. If the bylaws fail to provide a method
541 of amendment, the bylaws may be amended by the board of
542 directors and approved by a majority of members at a meeting at
543 which a quorum is present ~~of the membership~~. No bylaw shall be
544 revised or amended by reference to its title or number only.

545 2. Notwithstanding any other provision of this section, if
546 an amendment to the articles of incorporation or the bylaws is

547 required by any action of any federal, state, or local
548 governmental authority or agency, or any law, ordinance, or rule
549 thereof, the board of directors may, by a majority vote of the
550 board, at a duly noticed meeting of the board, amend the
551 articles of incorporation or bylaws without a vote of the
552 membership.

553 ~~(i) The officers and directors of the association have a~~
554 ~~fiduciary relationship to the members.~~

555 ~~(j)~~ Recall of board members.—Any member of the board of
556 directors may be recalled and removed from office with or
557 without cause by the vote of or agreement in writing by a
558 majority of all members. A special meeting of the members to
559 recall a member or members of the board of directors may be
560 called by 10 percent of the members giving notice of the meeting
561 as required for a meeting of members, and the notice shall state
562 the purpose of the meeting. Electronic transmission may not be
563 used as a method of giving notice of a meeting called in whole
564 or in part for this purpose.

565 1. If the recall is approved by a majority of all members
566 by a vote at a meeting, the recall is effective as provided in
567 this paragraph. The board shall duly notice and hold a board
568 meeting within 5 full business days after the adjournment of the
569 member meeting to recall one or more board members. At the
570 meeting, the board shall either certify the recall, in which
571 case such member or members shall be recalled effective
572 immediately and shall turn over to the board within 5 full

573 business days any and all records and property of the
574 association in their possession, or shall proceed under
575 subparagraph 3.

576 2. If the proposed recall is by an agreement in writing by
577 a majority of all members, the agreement in writing or a copy
578 thereof shall be served on the association by certified mail or
579 by personal service in the manner authorized by chapter 48 and
580 the Florida Rules of Civil Procedure. The board of directors
581 shall duly notice and hold a meeting of the board within 5 full
582 business days after receipt of the agreement in writing. At the
583 meeting, the board shall either certify the written agreement to
584 recall members of the board, in which case such members shall be
585 recalled effective immediately and shall turn over to the board,
586 within 5 full business days, any and all records and property of
587 the association in their possession, or shall proceed as
588 described in subparagraph 3.

589 3. If the board determines not to certify the written
590 agreement to recall members of the board, or does not certify
591 the recall by a vote at a meeting, the board shall, within 5
592 full business days after the board meeting, file with the
593 division a petition for binding arbitration pursuant to the
594 procedures of s. 723.1255. For purposes of this paragraph, the
595 members who voted at the meeting or who executed the agreement
596 in writing shall constitute one party under the petition for
597 arbitration. If the arbitrator certifies the recall of a member
598 of the board, the recall shall be effective upon mailing of the

599 final order of arbitration to the association. If the
600 association fails to comply with the order of the arbitrator,
601 the division may take action under s. 723.006. A member so
602 recalled shall deliver to the board any and all records and
603 property of the association in the member's possession within 5
604 full business days after the effective date of the recall.

605 4. If the board fails to duly notice and hold a board
606 meeting within 5 full business days after service of an
607 agreement in writing or within 5 full business days after the
608 adjournment of the members' recall meeting, the recall shall be
609 deemed effective and the board members so recalled shall
610 immediately turn over to the board all records and property of
611 the association.

612 5. If the board fails to duly notice and hold the required
613 meeting or fails to file the required petition, the member's
614 representative may file a petition pursuant to s. 723.1255
615 challenging the board's failure to act. The petition must be
616 filed within 60 days after expiration of the applicable 5-full-
617 business-day period. The review of a petition under this
618 subparagraph is limited to the sufficiency of service on the
619 board and the facial validity of the written agreement or
620 ballots filed.

621 6. If a vacancy occurs on the board as a result of a
622 recall and less than a majority of the board members are
623 removed, the vacancy may be filled by the affirmative vote of a
624 majority of the remaining directors, notwithstanding any other

625 provision of this chapter. If vacancies occur on the board as a
626 result of a recall and a majority or more of the board members
627 are removed, the vacancies shall be filled in accordance with
628 procedural rules to be adopted by the division, which rules need
629 not be consistent with this chapter. The rules must provide
630 procedures governing the conduct of the recall election as well
631 as the operation of the association during the period after a
632 recall but before the recall election.

633 7. A board member who has been recalled may file a
634 petition pursuant to s. 723.1255 challenging the validity of the
635 recall. The petition must be filed within 60 days after the
636 recall is deemed certified. The association and the member's
637 representative shall be named as the respondents.

638 8. The division may not accept for filing a recall
639 petition, whether or not filed pursuant to this subsection, and
640 regardless of whether the recall was certified, when there are
641 60 or fewer days until the scheduled reelection of the board
642 member sought to be recalled or when 60 or fewer days have not
643 elapsed since the election of the board member sought to be
644 recalled.

645 (3) The bylaws may provide the following:

646 (a) A method of adopting and of amending administrative
647 rules and regulations governing the details of the operation and
648 use of the park property.

649 (b) Restrictions on, and requirements respecting, the use
650 and maintenance of mobile homes located within the park, and the

651 use of the park property, which restrictions and requirements
652 are not inconsistent with the articles of incorporation.

653 (c) Other provisions not inconsistent with this chapter or
654 with other documents governing the park property or mobile homes
655 located therein.

656 (d) The board of directors may, in any event, propose a
657 budget to the members at a meeting of members or in writing,
658 and, if the budget or proposed budget is approved by the members
659 at the meeting or by a majority of their whole number in
660 writing, that budget shall be adopted.

661 (e) The manner of collecting from the members their shares
662 of the expenses for maintenance of the park property shall be
663 stated. Assessments shall be made against members not less
664 frequently than quarterly, in amounts no less than are required
665 to provide funds in advance for payments of all of the
666 anticipated current operating expenses and for all of the unpaid
667 operating expense previously incurred.

668 (4) No amendment may change the proportion or percentage
669 by which members share in the assessments and expenses as
670 initially established unless all the members affected by such
671 change approve the amendment.

672 (5) Upon purchase of the mobile home park, the association
673 organized under this chapter may convert to a condominium,
674 cooperative, or subdivision. The directors shall have the
675 authority to amend and restate the articles of incorporation and
676 bylaws in order to comply with the requirements of chapter 718,

677 chapter 719, or other applicable sections of the Florida
 678 Statutes.

679 (6) Notwithstanding the provisions of s. 723.075(1), upon
 680 purchase of the park by the association, and conversion of the
 681 association to a condominium, cooperative, or subdivision, the
 682 mobile home owners who were members of the association prior to
 683 the conversion and who no longer meet the requirements for
 684 membership, as established by the amended or restated articles
 685 of incorporation and bylaws, shall no longer be members of the
 686 converted association. Mobile home owners, as defined in this
 687 chapter, who no longer are eligible for membership in the
 688 converted association may form an association pursuant to s.
 689 723.075.

690 Section 10. Section 723.1255, Florida Statutes, is created
 691 to read:

692 723.1255 Alternative resolution of recall disputes.—The
 693 Division of Florida Condominiums, Timeshares, and Mobile Homes
 694 of the Department of Business and Professional Regulation shall
 695 adopt rules of procedure to govern binding recall arbitration
 696 proceedings.

697 Section 11. Section 723.0781, Florida Statutes, is created
 698 to read:

699 723.0781 Board member training programs.—Within 90 days
 700 after being elected or appointed to the board, a newly elected
 701 or appointed director shall certify by an affidavit in writing
 702 to the secretary of the association that he or she has read the

703 association's current articles of incorporation, bylaws, and the
704 mobile home park's prospectus, rental agreement, rules,
705 regulations, and written policies; that he or she will work to
706 uphold such documents and policies to the best of his or her
707 ability; and that he or she will faithfully discharge his or her
708 fiduciary responsibility to the association's members. In lieu
709 of this written certification, within 90 days after being
710 elected or appointed to the board, the newly elected or
711 appointed director may submit a certificate of having
712 satisfactorily completed the educational curriculum approved by
713 the division within 1 year before or 90 days after the date of
714 election or appointment. The educational certificate is valid
715 and does not have to be resubmitted as long as the director
716 serves on the board without interruption. A director who fails
717 to timely file the written certification or educational
718 certificate is suspended from service on the board until he or
719 she complies with this section. The board may temporarily fill
720 the vacancy during the period of suspension. The secretary of
721 the association shall retain a director's written certification
722 or educational certificate for inspection by the members for 5
723 years after the director's election or the duration of the
724 director's uninterrupted tenure, whichever is longer. Failure to
725 have such written certification or educational certificate on
726 file does not affect the validity of any board action.

727 Section 12. Section 723.079, Florida Statutes, is amended
728 to read:

729 723.079 Powers and duties of homeowners' association.—

730 (1) An association may contract, sue, or be sued with
731 respect to the exercise or nonexercise of its powers. For these
732 purposes, the powers of the association include, but are not
733 limited to, the maintenance, management, and operation of the
734 park property.

735 (2) The powers and duties of an association include those
736 set forth in this section and ss. 723.075 and 723.077 and those
737 set forth in the articles of incorporation and bylaws and any
738 recorded declarations or restrictions encumbering the park
739 property, if not inconsistent with this chapter.

740 (3) An association has the power to make, levy, and
741 collect assessments and to lease, maintain, repair, and replace
742 the common areas upon purchase of the mobile home park.

743 (4) The association shall maintain the following items,
744 when applicable, which constitute the official records of the
745 association:

746 (a) A copy of the association's articles of incorporation
747 and each amendment to the articles of incorporation.

748 (b) A copy of the bylaws of the association and each
749 amendment to the bylaws.

750 (c) A copy of the written rules or policies of the
751 association and each amendment to the written rules or policies.

752 (d) The approved minutes of all meetings of the members,
753 the board of directors, and committees of the board, which
754 minutes must be retained within the state for at least 7 years.

755 (e) A current roster of all members and their mailing
756 addresses and lot identifications. The association shall also
757 maintain the e-mail addresses and the numbers designated by
758 members for receiving notice sent by electronic transmission of
759 those members consenting to receive notice by electronic
760 transmission. The e-mail addresses and numbers provided by
761 members to receive notice by electronic transmission shall be
762 removed from association records when consent to receive notice
763 by electronic transmission is revoked. However, the association
764 is not liable for an erroneous disclosure of the e-mail address
765 or the number for receiving electronic transmission of notices.

766 (f) All of the association's insurance policies or copies
767 thereof, which must be retained for at least 7 years.

768 (g) A copy of all contracts or agreements to which the
769 association is a party, including, without limitation, any
770 written agreements with the park owner, lease, or other
771 agreements or contracts under which the association or its
772 members has any obligation or responsibility, which must be
773 retained for at least 7 years.

774 (h) The financial and accounting records of the
775 association, kept according to good accounting practices. All
776 financial and accounting records must be maintained for a period
777 of at least 7 years. The financial and accounting records must
778 include:

779 1. Accurate, itemized, and detailed records of all
780 receipts and expenditures.

781 2. A current account and a periodic statement of the
782 account for each member, designating the name and current
783 address of each member who is obligated to pay dues or
784 assessments, the due date and amount of each assessment or other
785 charge against the member, the date and amount of each payment
786 on the account, and the balance due.

787 3. All tax returns, financial statements, and financial
788 reports of the association.

789 4. Any other records that identify, measure, record, or
790 communicate financial information.

791 (i) All other written records of the association not
792 specifically included in the foregoing which are related to the
793 operation of the association.

794 (5) The official records shall be maintained within the
795 state for at least 7 years and shall be made available to a
796 member for inspection or photocopying within 10 business days
797 after receipt by the board or its designee of a written request
798 submitted by certified mail, return receipt requested. The
799 requirements of this subsection are satisfied by having a copy
800 of the official records available for inspection or copying in
801 the park or, at the option of the association, by making the
802 records available to a member electronically via the Internet or
803 by allowing the records to be viewed in electronic format on a
804 computer screen and printed upon request. If the association has
805 a photocopy machine available where the records are maintained,
806 it must provide a member with copies on request during the

807 inspection if the entire request is no more than 25 pages. An
808 association shall allow a member or his or her authorized
809 representative to use a portable device, including a smartphone,
810 tablet, portable scanner, or any other technology capable of
811 scanning or taking photographs, to make an electronic copy of
812 the official records in lieu of the association's providing the
813 member or his or her authorized representative with a copy of
814 such records. The association may not charge a fee to a member
815 or his or her authorized representative for the use of a
816 portable device.

817 (a) The failure of an association to provide access to the
818 records within 10 business days after receipt of a written
819 request submitted by certified mail, return receipt requested,
820 creates a rebuttable presumption that the association willfully
821 failed to comply with this subsection.

822 (b) A member who is denied access to official records is
823 entitled to the actual damages or minimum damages for the
824 association's willful failure to comply with this subsection.
825 The minimum damages are to be \$10 per calendar day up to 10
826 days, the calculation to begin on the 11th business day after
827 receipt of the written request, submitted by certified mail,
828 return receipt requested.

829 (c) The association may adopt reasonable written rules
830 governing the frequency, time, location, notice, records to be
831 inspected, and manner of inspections, but may not require a
832 member to demonstrate a proper purpose for the inspection, state

833 a reason for the inspection, or limit a member's right to
834 inspect records to less than 1 business day per month. The
835 association may impose fees to cover the costs of providing
836 copies of the official records, including the costs of copying
837 and for personnel to retrieve and copy the records if the time
838 spent retrieving and copying the records exceeds 30 minutes and
839 if the personnel costs do not exceed \$20 per hour. Personnel
840 costs may not be charged for records requests that result in the
841 copying of 25 or fewer pages. The association may charge up to
842 25 cents per page for copies made on the association's
843 photocopier. If the association does not have a photocopy
844 machine available where the records are kept, or if the records
845 requested to be copied exceed 25 pages in length, the
846 association may have copies made by an outside duplicating
847 service and may charge the actual cost of copying, as supported
848 by the vendor invoice. The association shall maintain an
849 adequate number of copies of the recorded governing documents,
850 to ensure their availability to members and prospective members.
851 Notwithstanding this paragraph, the following records are not
852 accessible to members or home owners:

853 1. A record protected by the lawyer-client privilege as
854 described in s. 90.502 and a record protected by the work-
855 product privilege, including, but not limited to, a record
856 prepared by an association attorney or prepared at the
857 attorney's express direction which reflects a mental impression,
858 conclusion, litigation strategy, or legal theory of the attorney

859 or the association and which was prepared exclusively for civil
860 or criminal litigation, for adversarial administrative
861 proceedings, or in anticipation of such litigation or
862 proceedings until the conclusion of the litigation or
863 proceedings.

864 2. E-mail addresses, telephone numbers, facsimile numbers,
865 emergency contact information, any addresses for a home owner
866 other than as provided for association notice requirements, and
867 other personal identifying information of any person, excluding
868 the person's name, lot designation, mailing address, and
869 property address. Notwithstanding the restrictions in this
870 subparagraph, an association may print and distribute to home
871 owners a directory containing the name, park address, and
872 telephone number of each home owner. However, a home owner may
873 exclude his or her telephone number from the directory by so
874 requesting in writing to the association. The association is not
875 liable for the disclosure of information that is protected under
876 this subparagraph if the information is included in an official
877 record of the association and is voluntarily provided by a home
878 owner and not requested by the association.

879 3. A electronic security measure that is used by the
880 association to safeguard data, including passwords.

881 4. The software and operating system used by the
882 association which allows the manipulation of data, even if the
883 home owner owns a copy of the same software used by the
884 association. The data is part of the official records of the

885 association.

886 (6) An outgoing board or committee member must relinquish
887 all official records and property of the association in his or
888 her possession or under his or her control to the incoming board
889 within 5 days after the election or removal. An association
890 shall maintain accounting records in the county where the
891 property is located, according to good accounting practices. The
892 records shall be open to inspection by association members or
893 their authorized representatives at reasonable times, and
894 written summaries of such records shall be supplied at least
895 annually to such members or their authorized representatives.
896 The failure of the association to permit inspection of its
897 accounting records by members or their authorized
898 representatives entitles any person prevailing in an enforcement
899 action to recover reasonable attorney's fees from the person in
900 control of the books and records who, directly or indirectly,
901 knowingly denied access to the books and records for inspection.
902 The records shall include, but shall not be limited to:

903 (a) A record of all receipts and expenditures.

904 (b) An account for each member, designating the name and
905 current mailing address of the member, the amount of each
906 assessment, the dates on which and amounts in which the
907 assessments come due, the amount paid upon the account, and the
908 balance due.

909 (7) (5) An association has the power to purchase lots in
910 the park and to acquire, hold, lease, mortgage, and convey them.

911 (8)~~(6)~~ An association shall use its best efforts to obtain
912 and maintain adequate insurance to protect the association and
913 the park property upon purchase of the mobile home park. A copy
914 of each policy of insurance in effect shall be made available
915 for inspection by owners at reasonable times.

916 (9)~~(7)~~ An association has the authority, without the
917 joinder of any home owner, to modify, move, or create any
918 easement for ingress and egress or for the purpose of utilities
919 if the easement constitutes part of or crosses the park property
920 upon purchase of the mobile home park. This subsection does not
921 authorize the association to modify or move any easement created
922 in whole or in part for the use or benefit of anyone other than
923 the members, or crossing the property of anyone other than the
924 members, without his or her consent or approval as required by
925 law or the instrument creating the easement. Nothing in this
926 subsection affects the rights of ingress or egress of any member
927 of the association.

928 (10)~~(8)~~ Any mobile home owners' association or group of
929 residents of a mobile home park as defined in this chapter may
930 conduct bingo games as provided in s. 849.0931.

931 (11)~~(9)~~ An association organized under this chapter may
932 offer subscriptions, for the purpose of raising the necessary
933 funds to purchase, acquire, and operate the mobile home park, to
934 its members or other owners of mobile homes within the park.
935 Subscription funds collected for the purpose of purchasing the
936 park shall be placed in an association or other escrow account

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937 prior to purchase, which funds shall be held according to the
938 terms of the subscription agreement. The directors shall
939 maintain accounting records according to generally accepted
940 accounting practices and shall, upon written request by a
941 subscriber, furnish an accounting of the subscription fund
942 escrow account within 60 days of the purchase of the park or the
943 ending date as provided in the subscription agreement, whichever
944 occurs first.

945 (12)~~(10)~~ For a period of 180 days after the date of a
946 purchase of a mobile home park by the association, the
947 association shall not be required to comply with the provisions
948 of part V of chapter 718, ~~or~~ part V of chapter 719, or part II
949 of chapter 720, as to mobile home owners or persons who have
950 executed contracts to purchase mobile homes in the park.

951 (13)~~(11)~~ The provisions of subsections ~~subsection~~ (4) and
952 (7) shall not apply to records relating to subscription funds
953 collected pursuant to subsection (11) ~~(9)~~.

954 Section 13. This act shall take effect July 1, 2015.