

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 |       revising requirements for the recall of board members;  
 28 |       creating s. 723.1255, F.S.; providing requirements for  
 29 |       the alternative resolution of recall disputes;  
 30 |       creating s. 723.0781, F.S.; specifying certification  
 31 |       or educational requirements for a newly elected or  
 32 |       appointed board member; amending s. 723.079, F.S.;  
 33 |       revising and providing requirements relating to the  
 34 |       official records of the association; providing an  
 35 |       effective date.

36 |

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

38 |

39 |       Section 1. Subsection (1) of section 73.072, Florida  
 40 | Statutes, is amended to read:

41 |       73.072 Mobile home parks; compensation for permanent  
 42 | improvements by mobile home owners.—

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

49 |       (a) The effect of the taking includes a requirement that  
 50 | the mobile home owner remove or relocate his or her mobile home  
 51 | from the site;

52 |       (b) The mobile home owner currently leasing the site has

53 | paid for the permanent improvements to the site; and

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

56 | Section 2. Section 723.003, Florida Statutes, is amended  
57 | to read:

58 | 723.003 Definitions.—As used in this chapter, the term  
59 | ~~following words and terms have the following meanings unless~~  
60 | ~~clearly indicated otherwise:~~

61 | ~~(1)(14)~~ The term "Discrimination" or "discriminatory"  
62 | means that a homeowner is being treated differently as to the  
63 | rent charged, the services rendered, or an action for possession  
64 | or other civil action being taken by the park owner, without a  
65 | reasonable basis for the different treatment.

66 | ~~(2)(1)~~ The term "Division" means the Division of Florida  
67 | Condominiums, Timeshares, and Mobile Homes of the Department of  
68 | Business and Professional Regulation.

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

79 telephone.

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

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

100 (6)(2) — The term "Lot rental amount" means all financial  
101 obligations, except user fees, which are required as a condition  
102 of the tenancy.

103 (7) (a) "Mediation" means a process whereby a mediator  
104 appointed by the Division of Florida Condominiums, Timeshares,

105 and Mobile Homes, or mutually selected by the parties, acts to  
106 encourage and facilitate the resolution of a dispute. It is an  
107 informal and nonadversarial process with the objective of  
108 helping the disputing parties reach a mutually acceptable  
109 agreement.

110 (b) For purposes of mediation under ss. 723.037 and  
111 723.038, the term "parties" means a park owner as defined in  
112 subsection (13) and a homeowners' committee selected pursuant to  
113 s. 723.037.

114 (8)-(3) The term "Mobile home" means a residential  
115 structure, transportable in one or more sections, which is 8  
116 body feet or more in width, over 35 body feet in length with the  
117 hitch, built on an integral chassis, designed to be used as a  
118 dwelling when connected to the required utilities, and not  
119 originally sold as a recreational vehicle, and includes the  
120 plumbing, heating, air-conditioning, and electrical systems  
121 contained therein.

122 (9) "Mobile home lot" means a lot described by a park  
123 owner pursuant to the requirements of s 723.012, or in a  
124 disclosure statement pursuant to s. 723.013, as a lot intended  
125 for the placement of a mobile home.

126 (10)-(4) The term "Mobile home lot rental agreement" or  
127 "rental agreement" means any mutual understanding or lease,  
128 whether oral or written, between a mobile home owner and a  
129 mobile home park owner in which the mobile home owner is  
130 entitled to place his or her mobile home on a mobile home lot

131 for either direct or indirect remuneration of the mobile home  
132 park owner.

133 ~~(11)-(5) The term "Mobile home owner," "mobile homeowner,"~~  
134 ~~or "home owner,"~~ or "homeowner" means a person who owns a mobile  
135 home and rents or leases a lot within a mobile home park for  
136 residential use.

137 ~~(12)-(6) The term "Mobile home park" or "park" means a use~~  
138 of land in which lots or spaces are offered for rent or lease  
139 for the placement of mobile homes and in which the primary use  
140 of the park is residential.

141 ~~(13)-(7) The term "Mobile home park owner" or "park owner"~~  
142 means an owner or operator of a mobile home park.

143 ~~(14)-(8) The term "Mobile home subdivision" means a~~  
144 subdivision of mobile homes where individual lots are owned by  
145 owners and where a portion of the subdivision or the amenities  
146 exclusively serving the subdivision are retained by the  
147 subdivision developer.

148 (15) "Offering circular" has the same meaning as the term  
149 "prospectus" as it is used in this chapter.

150 ~~(16)-(9) The term "Operator of a mobile home park" means~~  
151 either a person who establishes a mobile home park on land that  
152 ~~which~~ is leased from another person or a person who has been  
153 delegated the authority to act as the park owner in matters  
154 relating to the administration and management of the mobile home  
155 park, including, but not limited to, authority to make decisions  
156 relating to the mobile home park.

157        (17) ~~(10)~~ The term "Pass-through charge" means the mobile  
 158 home owner's proportionate share of the necessary and actual  
 159 direct costs and impact or hookup fees for a governmentally  
 160 mandated capital improvement, which may include the necessary  
 161 and actual direct costs and impact or hookup fees incurred for  
 162 capital improvements required for public or private regulated  
 163 utilities.

164        (18) ~~(11)~~ The term "Proportionate share" as used in  
 165 subsection (17) ~~(10)~~ means an amount calculated by dividing  
 166 equally among the affected developed lots in the park the total  
 167 costs for the necessary and actual direct costs and impact or  
 168 hookup fees incurred for governmentally mandated capital  
 169 improvements serving the recreational and common areas and all  
 170 affected developed lots in the park.

171        (19) ~~(15)~~ The term "Resale agreement" means a contract in  
 172 which a mobile home owner authorizes the mobile home park owner,  
 173 or the park owner's designee, to act as exclusive agent for the  
 174 sale of the homeowner's mobile home for a commission or fee.

175        (20) ~~(12)~~ The term "Unreasonable" means arbitrary,  
 176 capricious, or inconsistent with this chapter.

177        (21) ~~(13)~~ The term "User fees" means those amounts charged  
 178 in addition to the lot rental amount for nonessential optional  
 179 services provided by or through the park owner to the mobile  
 180 home owner under a separate written agreement between the mobile  
 181 home owner and the person furnishing the optional service or  
 182 services.

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

185 723.006 Powers and duties of division.—In performing its  
 186 duties, the division has the following powers and duties:

187 (12) The division shall approve training and educational  
 188 programs for board members of mobile home owners' associations  
 189 formed and operated pursuant to s. 723.075(1) and mobile home  
 190 owners. The training may, at the division's discretion, include  
 191 web-based electronic media and live training and seminars in  
 192 various locations throughout the state.

193 (13) The division may review and approve educational  
 194 curriculum and training programs for board members and mobile  
 195 home owners to be offered by providers and shall maintain a  
 196 current list of approved programs and providers, and make such  
 197 lists available to board members in a reasonable and cost-  
 198 effective manner. The cost of such programs shall be borne by  
 199 the providers of the programs. The division shall establish a  
 200 fee structure for the approved training programs sufficient to  
 201 recover any cost incurred by the division in operating this  
 202 program.

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

205 (a) The provider of the training programs, which shall  
 206 include the following information regarding its training and  
 207 educational programs:

208 1. A price list, if any, for the programs and copies of



209 all materials.

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

212 3. Dates when programs will be offered.

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

214 (b) The programs shall provide information about statutory  
215 and regulatory matters relating to the board of directors of the  
216 homeowners' association and their responsibilities to the  
217 association and to the mobile home owners in the mobile home  
218 park.

219 (c) Programs and materials may not contain editorial  
220 comments.

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

223 Section 4. Section 723.023, Florida Statutes, is amended  
224 to read:

225 723.023 Mobile home owner's general obligations.—A mobile  
226 home owner shall at all times:

227 (1) Comply with all obligations imposed on mobile home  
228 owners by applicable provisions of building, housing, and health  
229 codes, including compliance with all building permits and  
230 construction requirements for construction on the mobile home  
231 and lot. The home owner is responsible for all fines imposed by  
232 the local government for noncompliance with any local codes.

233 (2) Keep the mobile home lot which he or she occupies  
234 clean, neat, and sanitary, and maintained in compliance with all

235 local codes.

236 (3) Comply with properly promulgated park rules and  
237 regulations and require other persons on the premises with his  
238 or her consent to comply with such rules ~~therewith~~ and to  
239 conduct themselves, and other persons on the premises with his  
240 or her consent, in a manner that does not unreasonably disturb  
241 other residents of the park or constitute a breach of the peace.

242 Section 5. Paragraph (b) of subsection (5) of section  
243 723.031, Florida Statutes, is amended to read:

244 723.031 Mobile home lot rental agreements.—

245 (5) The rental agreement shall contain the lot rental  
246 amount and services included. An increase in lot rental amount  
247 upon expiration of the term of the lot rental agreement shall be  
248 in accordance with ss. 723.033 and 723.037 or s. 723.059(4),  
249 whichever is applicable, provided that, pursuant to s.  
250 723.059(4), the amount of the lot rental increase is disclosed  
251 and agreed to by the purchaser, in writing. An increase in lot  
252 rental amount shall not be arbitrary or discriminatory between  
253 similarly situated tenants in the park. No lot rental amount may  
254 be increased during the term of the lot rental agreement,  
255 except:

256 (b) For pass-through charges as defined in s. 723.003  
257 ~~723.003(10)~~.

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

261           723.037 Lot rental increases; reduction in services or  
262 utilities; change in rules and regulations; mediation.—  
263           (1) A park owner shall give written notice to each  
264 affected mobile home owner and the board of directors of the  
265 homeowners' association, if one has been formed, at least 90  
266 days before ~~prior to~~ any increase in lot rental amount or  
267 reduction in services or utilities provided by the park owner or  
268 change in rules and regulations. The notice shall identify all  
269 other affected homeowners, which may be by lot number, name,  
270 group, or phase. If the affected homeowners are not identified  
271 by name, the park owner shall make the names and addresses  
272 available upon request. The home owner's right to the 90-day  
273 notice may not be waived or precluded by a home owner, or the  
274 homeowners' committee, in an agreement with the park owner.  
275 Rules adopted as a result of restrictions imposed by  
276 governmental entities and required to protect the public health,  
277 safety, and welfare may be enforced prior to the expiration of  
278 the 90-day period but are not otherwise exempt from the  
279 requirements of this chapter. Pass-through charges must be  
280 separately listed as to the amount of the charge, the name of  
281 the governmental entity mandating the capital improvement, and  
282 the nature or type of the pass-through charge being levied.  
283 Notices of increase in the lot rental amount due to a pass-  
284 through charge shall state the additional payment and starting  
285 and ending dates of each pass-through charge. The homeowners'  
286 association shall have no standing to challenge the increase in

287 lot rental amount, reduction in services or utilities, or change  
288 of rules and regulations unless a majority of the affected  
289 homeowners agree, in writing, to such representation.

290 (4) (a) A committee, not to exceed five in number,  
291 designated by a majority of the affected mobile home owners or  
292 by the board of directors of the homeowners' association, if  
293 applicable, and the park owner shall meet, at a mutually  
294 convenient time and place no later than 60 days before the  
295 effective date of the change ~~within 30 days after receipt by the~~  
296 ~~homeowners of the notice of change,~~ to discuss the reasons for  
297 the increase in lot rental amount, reduction in services or  
298 utilities, or change in rules and regulations. The negotiating  
299 committee shall make a written request for a meeting with the  
300 park owner or subdivision developer to discuss those matters  
301 addressed in the 90-day notice, and may include in the request a  
302 listing of any other issue, with supporting documentation, that  
303 the committee intends to raise and discuss at the meeting.

304  
305 This subsection is not intended to be enforced by civil or  
306 administrative action. Rather, the meetings and discussions are  
307 intended to be in the nature of settlement discussions prior to  
308 the parties proceeding to mediation of any dispute.

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

312 Section 7. Subsection (5) of section 723.059, Florida

313 Statutes, is amended to read:

314 723.059 Rights of purchaser.—

315 (5) Lifetime leases and the renewal provisions in  
 316 automatically renewable leases, both those existing and those  
 317 entered into after July 1, 1986, are not assumable ~~shall be~~  
 318 ~~nonassumable~~ unless otherwise provided in the mobile home lot  
 319 rental agreement or unless the transferee is the home owner's  
 320 spouse. The right to an assumption of the lease by a spouse may  
 321 be exercised only one time during the term of that lease. ~~The~~  
 322 ~~renewal provisions in automatically renewable leases, both those~~  
 323 ~~existing and those entered into after July 1, 1986, are not~~  
 324 ~~assumable unless otherwise provided in the lease agreement.~~

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

327 723.0611 Florida Mobile Home Relocation Corporation.—

328 (1) (a) There is created the Florida Mobile Home Relocation  
 329 Corporation. The corporation shall be administered by a board of  
 330 directors made up of six members, three of whom shall be  
 331 appointed by the Secretary of Business and Professional  
 332 Regulation from a list of nominees submitted by the largest  
 333 nonprofit association representing mobile home owners in this  
 334 state, and three of whom shall be appointed by the Secretary of  
 335 Business and Professional Regulation from a list of nominees  
 336 submitted by the largest nonprofit association representing the  
 337 manufactured housing industry in this state. All members of the  
 338 board of directors, including the chair, shall be appointed to

339 | serve for staggered 3-year terms.

340 |       (b) A member of the board of directors shall be removed  
341 | from the board by the Secretary of Business and Professional  
342 | Regulation, with or without cause, immediately after the written  
343 | request for removal from the association in paragraph (a) that  
344 | originally nominated that board member. The nominating entity  
345 | must include nominees for replacement with the request for  
346 | removal and the secretary must immediately fill the vacancy  
347 | created by the removal. The removal process may not occur more  
348 | than once in a calendar year.

349 |       Section 9. Section 723.078, Florida Statutes, is amended  
350 | to read:

351 |       723.078 Bylaws of homeowners' associations. ~~In order for a~~  
352 | ~~homeowners' association to exercise the rights provided in s.~~  
353 | ~~723.071, the bylaws of the association shall provide for the~~  
354 | ~~following:~~

355 |       (1) The directors of the association and the operation  
356 | shall be governed by the bylaws.

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

359 |       (a) Administration.—The form of administration of the  
360 | association shall be described, providing for the titles of the  
361 | officers and for a board of directors and specifying the powers,  
362 | duties, manner of selection and removal, and compensation, if  
363 | any, of officers and board members. Unless otherwise provided in  
364 | the bylaws, the board of directors shall be composed of five

365 members. The board of directors shall elect ~~have~~ a president,  
366 secretary, and treasurer who shall perform the duties of those  
367 offices customarily performed by officers of corporations, and  
368 these officers shall serve without compensation and at the  
369 pleasure of the board of directors. The board of directors may  
370 elect ~~appoint~~ and designate other officers and grant them those  
371 duties it deems appropriate.

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

373 1. Unless otherwise provided in the bylaws, 30 percent of  
374 the total membership is required to constitute a quorum. A  
375 ~~majority of the members shall constitute a quorum.~~ Decisions  
376 shall be made by a majority of members represented at a meeting  
377 at which a quorum is present. ~~In addition, provision shall be~~  
378 ~~made in the bylaws for definition and use of proxy. Any proxy~~  
379 ~~given shall be effective only for the specific meeting for which~~  
380 ~~originally given and any lawfully adjourned meetings thereof. In~~  
381 ~~no event shall any proxy be valid for a period longer than 120~~  
382 ~~days after the date of the first meeting for which it was given.~~  
383 ~~Every proxy shall be revocable at any time at the pleasure of~~  
384 ~~the member executing it.~~

385 2. A member may not vote by general proxy but may vote by  
386 limited proxies substantially conforming to a limited proxy form  
387 adopted by the division. Limited proxies and general proxies may  
388 be used to establish a quorum. Limited proxies may be used for  
389 votes taken to amend the articles of incorporation or bylaws  
390 pursuant to this section, and any other matters for which this

391 chapter requires or permits a vote of members, except that no  
392 proxy, limited or general, may be used in the election of board  
393 members. Notwithstanding the provisions of this section, members  
394 may vote in person at member meetings.

395 3. A proxy is effective only for the specific meeting for  
396 which originally given and any lawfully adjourned meetings  
397 thereof. In no event shall any proxy be valid for a period  
398 longer than 90 days after the date of the first meeting for  
399 which it was given. Every proxy shall be revocable at any time  
400 at the pleasure of the member executing it.

401 4. A member of the board of directors or a committee may  
402 submit in writing his or her agreement or disagreement with any  
403 action taken at a meeting that the member did not attend. This  
404 agreement or disagreement may not be used as a vote for or  
405 against the action taken and may not be used for the purposes of  
406 creating a quorum.

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

408 1. Meetings of the board of directors and meetings of its  
409 committees at which a quorum is present shall be open to all  
410 members. Notwithstanding any other provision of law, the  
411 requirement that board meetings and committee meetings be open  
412 to the members does not apply to board or committee meetings  
413 held for the purpose of discussing personnel matters or meetings  
414 between the board or a committee and the association's attorney,  
415 with respect to potential or pending litigation, where the  
416 meeting is held for the purpose of seeking or rendering legal



417 advice, and where the contents of the discussion would otherwise  
418 be governed by the attorney-client privilege.~~and~~ Notice of  
419 meetings shall be posted in a conspicuous place upon the park  
420 property at least 48 hours in advance, except in an emergency.  
421 Notice of any meeting in which assessments against members are  
422 to be considered for any reason shall specifically contain a  
423 statement that assessments will be considered and the nature of  
424 such assessments.

425 2. A board or committee member's participation in a  
426 meeting via telephone, real-time videoconferencing, or similar  
427 real-time telephonic, electronic, or video communication counts  
428 toward a quorum, and such member may vote as if physically  
429 present. A speaker shall be used so that the conversation of  
430 those board or committee members attending by telephone may be  
431 heard by the board or committee members attending in person, as  
432 well as by members present at a meeting.

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

436 4. The right to attend meetings of the board of directors  
437 and its committees includes the right to speak at such meetings  
438 with reference to all designated agenda items. The association  
439 may adopt reasonable written rules governing the frequency,  
440 duration, and manner of members' statements. Any item not  
441 included on the notice may be taken up on an emergency basis by  
442 at least a majority plus one of the members of the board. Such

443 emergency action shall be noticed and ratified at the next  
444 regular meeting of the board. Any member may tape record or  
445 videotape meetings of the board of directors and its committees.  
446 The division shall adopt reasonable rules governing the tape  
447 recording and videotaping of the meeting.

448 5. Except as provided in s. 723.078(2)(i), a vacancy  
449 occurring on the board of directors may be filled by the  
450 affirmative vote of the majority of the remaining directors,  
451 even though the remaining directors constitute less than a  
452 quorum; by the sole remaining director; if the vacancy is not so  
453 filled or if no director remains, by the members; or, on the  
454 application of any person, by the circuit court of the county in  
455 which the registered office of the corporation is located.

456 6. The term of a director elected or appointed to fill a  
457 vacancy expires at the next annual meeting at which directors  
458 are elected. A directorship to be filled by reason of an  
459 increase in the number of directors may be filled by the board  
460 of directors, but only for the term of office continuing until  
461 the next election of directors by the members.

462 7. A vacancy that will occur at a specific later date, by  
463 reason of a resignation effective at a later date, may be filled  
464 before the vacancy occurs. However, the new director may not  
465 take office until the vacancy occurs.

466 8.a. The officers and directors of the association have a  
467 fiduciary relationship to the members.

468 b. A director and committee member shall discharge his or

469 her duties in good faith, with the care an ordinarily prudent  
470 person in a like position would exercise under similar  
471 circumstances, and in a manner he or she reasonably believes to  
472 be in the best interests of the corporation.

473 9. In discharging his or her duties, a director may rely  
474 on information, opinions, reports, or statements, including  
475 financial statements and other financial data, if prepared or  
476 presented by:

477 a. One or more officers or employees of the corporation  
478 who the director reasonably believes to be reliable and  
479 competent in the matters presented;

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

483 c. A committee of the board of directors of which he or  
484 she is not a member if the director reasonably believes the  
485 committee merits confidence.

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

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

493 (d) Member meetings.—

494 1. Members shall meet at least once each calendar year,

495 and the meeting shall be the annual meeting. All members of the  
496 board of directors shall be elected at the annual meeting unless  
497 the bylaws provide for staggered election terms or for their  
498 election at another meeting. The bylaws shall not restrict any  
499 member desiring to be a candidate for board membership from  
500 being nominated from the floor. All nominations from the floor  
501 must be made at a duly noticed meeting of the members held at  
502 least 30 days before the annual meeting. The bylaws shall  
503 provide the method for calling the meetings of the members,  
504 including annual meetings. The method shall provide at least 14  
505 days' written notice to each member in advance of the meeting  
506 and require the posting in a conspicuous place on the park  
507 property of a notice of the meeting at least 14 days prior to  
508 the meeting. The right to receive written notice of membership  
509 meetings may be waived in writing by a member. Unless waived,  
510 the notice of the annual meeting shall be mailed, hand  
511 delivered, or electronically transmitted ~~sent by mail~~ to each  
512 member, and shall constitute ~~the mailing constitutes~~ notice. An  
513 officer of the association shall provide an affidavit affirming  
514 that the notices were mailed or hand delivered in accordance  
515 with the provisions of this section to each member at the  
516 address last furnished to the corporation. These meeting  
517 requirements do not prevent members from waiving notice of  
518 meetings or from acting by written agreement without meetings,  
519 if allowed by the bylaws.

520 (e) Minutes of meetings.—

521 1. Minutes of all meetings of members of an association,  
522 the board of directors, and a committee must be maintained in  
523 written form and approved by the members, board, or committee,  
524 as applicable. A vote or abstention from voting on each matter  
525 voted upon for each director present at a board meeting must be  
526 recorded in the minutes.

527 2. All approved minutes of all meetings of members,  
528 committees, and of the board of directors shall be kept in a  
529 businesslike manner and shall be available for inspection by  
530 members, or their authorized representatives, and board members  
531 at reasonable times. The association shall retain these minutes  
532 for a period of at least ~~not less than~~ 7 years.

533 (f) Manner of sharing assessments.—The share or percentage  
534 of, and manner of sharing, assessments and expenses for each  
535 member shall be stated.

536 (g) Annual budget.—If the bylaws provide for adoption of  
537 an annual budget by the members, the board of directors shall  
538 mail a meeting notice and copies of the proposed annual budget  
539 of expenses to the members at least ~~not less than~~ 30 days before  
540 prior to the meeting at which the budget will be considered. If  
541 the bylaws provide that the budget may be adopted by the board  
542 of directors, the members shall be given written notice of the  
543 time and place at which the meeting of the board of directors to  
544 consider the budget will be held. The meeting shall be open to  
545 the members. If the bylaws do not provide for adoption of an  
546 annual budget, this paragraph shall not apply.

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

548 1. The method by which the articles of incorporation and  
549 bylaws may be amended consistent with the provisions of this  
550 chapter shall be stated. If the bylaws fail to provide a method  
551 of amendment, the bylaws may be amended by the board of  
552 directors and approved by a majority of members at a meeting at  
553 which a quorum is present ~~of the membership~~. No bylaw shall be  
554 revised or amended by reference to its title or number only.

555 2. Notwithstanding any other provision of this section, if  
556 an amendment to the articles of incorporation or the bylaws is  
557 required by any action of any federal, state, or local  
558 governmental authority or agency, or any law, ordinance, or rule  
559 thereof, the board of directors may, by a majority vote of the  
560 board, at a duly noticed meeting of the board, amend the  
561 articles of incorporation or bylaws without a vote of the  
562 membership.

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

565 ~~(j)~~ Recall of board members.—Any member of the board of  
566 directors may be recalled and removed from office with or  
567 without cause by the vote of or agreement in writing by a  
568 majority of all members. A special meeting of the members to  
569 recall a member or members of the board of directors may be  
570 called by 10 percent of the members giving notice of the meeting  
571 as required for a meeting of members, and the notice shall state  
572 the purpose of the meeting. Electronic transmission may not be

573 used as a method of giving notice of a meeting called in whole  
574 or in part for this purpose.

575 1. If the recall is approved by a majority of all members  
576 by a vote at a meeting, the recall is effective as provided in  
577 this paragraph. The board shall duly notice and hold a board  
578 meeting within 5 full business days after the adjournment of the  
579 member meeting to recall one or more board members. At the  
580 meeting, the board shall either certify the recall, in which  
581 case such member or members shall be recalled effective  
582 immediately and shall turn over to the board within 5 full  
583 business days any and all records and property of the  
584 association in their possession, or shall proceed under  
585 subparagraph 3.

586 2. If the proposed recall is by an agreement in writing by  
587 a majority of all members, the agreement in writing or a copy  
588 thereof shall be served on the association by certified mail or  
589 by personal service in the manner authorized by chapter 48 and  
590 the Florida Rules of Civil Procedure. The board of directors  
591 shall duly notice and hold a meeting of the board within 5 full  
592 business days after receipt of the agreement in writing. At the  
593 meeting, the board shall either certify the written agreement to  
594 recall members of the board, in which case such members shall be  
595 recalled effective immediately and shall turn over to the board,  
596 within 5 full business days, any and all records and property of  
597 the association in their possession, or shall proceed as  
598 described in subparagraph 3.

599       3. If the board determines not to certify the written  
600 agreement to recall members of the board, or does not certify  
601 the recall by a vote at a meeting, the board shall, within 5  
602 full business days after the board meeting, file with the  
603 division a petition for binding arbitration pursuant to the  
604 procedures of s. 723.1255. For purposes of this paragraph, the  
605 members who voted at the meeting or who executed the agreement  
606 in writing shall constitute one party under the petition for  
607 arbitration. If the arbitrator certifies the recall of a member  
608 of the board, the recall shall be effective upon mailing of the  
609 final order of arbitration to the association. If the  
610 association fails to comply with the order of the arbitrator,  
611 the division may take action under s. 723.006. A member so  
612 recalled shall deliver to the board any and all records and  
613 property of the association in the member's possession within 5  
614 full business days after the effective date of the recall.

615       4. If the board fails to duly notice and hold a board  
616 meeting within 5 full business days after service of an  
617 agreement in writing or within 5 full business days after the  
618 adjournment of the members' recall meeting, the recall shall be  
619 deemed effective and the board members so recalled shall  
620 immediately turn over to the board all records and property of  
621 the association.

622       5. If the board fails to duly notice and hold the required  
623 meeting or fails to file the required petition, the member's  
624 representative may file a petition pursuant to s. 723.1255



625 challenging the board's failure to act. The petition must be  
626 filed within 60 days after expiration of the applicable 5-full-  
627 business-day period. The review of a petition under this  
628 subparagraph is limited to the sufficiency of service on the  
629 board and the facial validity of the written agreement or  
630 ballots filed.

631 6. If a vacancy occurs on the board as a result of a  
632 recall and less than a majority of the board members are  
633 removed, the vacancy may be filled by the affirmative vote of a  
634 majority of the remaining directors, notwithstanding any other  
635 provision of this chapter. If vacancies occur on the board as a  
636 result of a recall and a majority or more of the board members  
637 are removed, the vacancies shall be filled in accordance with  
638 procedural rules to be adopted by the division, which rules need  
639 not be consistent with this chapter. The rules must provide  
640 procedures governing the conduct of the recall election as well  
641 as the operation of the association during the period after a  
642 recall but before the recall election.

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

648 8. The division may not accept for filing a recall  
649 petition, whether or not filed pursuant to this subsection, and  
650 regardless of whether the recall was certified, when there are

651 60 or fewer days until the scheduled reelection of the board  
652 member sought to be recalled or when 60 or fewer days have not  
653 elapsed since the election of the board member sought to be  
654 recalled.

655 (3) The bylaws may provide the following:

656 (a) A method of adopting and of amending administrative  
657 rules and regulations governing the details of the operation and  
658 use of the park property.

659 (b) Restrictions on, and requirements respecting, the use  
660 and maintenance of mobile homes located within the park, and the  
661 use of the park property, which restrictions and requirements  
662 are not inconsistent with the articles of incorporation.

663 (c) Other provisions not inconsistent with this chapter or  
664 with other documents governing the park property or mobile homes  
665 located therein.

666 (d) The board of directors may, in any event, propose a  
667 budget to the members at a meeting of members or in writing,  
668 and, if the budget or proposed budget is approved by the members  
669 at the meeting or by a majority of their whole number in  
670 writing, that budget shall be adopted.

671 (e) The manner of collecting from the members their shares  
672 of the expenses for maintenance of the park property shall be  
673 stated. Assessments shall be made against members not less  
674 frequently than quarterly, in amounts no less than are required  
675 to provide funds in advance for payments of all of the  
676 anticipated current operating expenses and for all of the unpaid

677 operating expense previously incurred.

678 (4) No amendment may change the proportion or percentage  
679 by which members share in the assessments and expenses as  
680 initially established unless all the members affected by such  
681 change approve the amendment.

682 (5) Upon purchase of the mobile home park, the association  
683 organized under this chapter may convert to a condominium,  
684 cooperative, or subdivision. The directors shall have the  
685 authority to amend and restate the articles of incorporation and  
686 bylaws in order to comply with the requirements of chapter 718,  
687 chapter 719, or other applicable sections of the Florida  
688 Statutes.

689 (6) Notwithstanding the provisions of s. 723.075(1), upon  
690 purchase of the park by the association, and conversion of the  
691 association to a condominium, cooperative, or subdivision, the  
692 mobile home owners who were members of the association prior to  
693 the conversion and who no longer meet the requirements for  
694 membership, as established by the amended or restated articles  
695 of incorporation and bylaws, shall no longer be members of the  
696 converted association. Mobile home owners, as defined in this  
697 chapter, who no longer are eligible for membership in the  
698 converted association may form an association pursuant to s.  
699 723.075.

700 Section 10. Section 723.1255, Florida Statutes, is created  
701 to read:

702 723.1255 Alternative resolution of recall disputes.—The

703 Division of Florida Condominiums, Timeshares, and Mobile Homes  
704 of the Department of Business and Professional Regulation shall  
705 adopt rules of procedure to govern binding recall arbitration  
706 proceedings.

707 Section 11. Section 723.0781, Florida Statutes, is created  
708 to read:

709 723.0781 Board member training programs.—Within 90 days  
710 after being elected or appointed to the board, a newly elected  
711 or appointed director shall certify by an affidavit in writing  
712 to the secretary of the association that he or she has read the  
713 association's current articles of incorporation, bylaws, and the  
714 mobile home park's prospectus, rental agreement, rules,  
715 regulations, and written policies; that he or she will work to  
716 uphold such documents and policies to the best of his or her  
717 ability; and that he or she will faithfully discharge his or her  
718 fiduciary responsibility to the association's members. In lieu  
719 of this written certification, within 90 days after being  
720 elected or appointed to the board, the newly elected or  
721 appointed director may submit a certificate of having  
722 satisfactorily completed the educational curriculum approved by  
723 the division within 1 year before or 90 days after the date of  
724 election or appointment. The educational certificate is valid  
725 and does not have to be resubmitted as long as the director  
726 serves on the board without interruption. A director who fails  
727 to timely file the written certification or educational  
728 certificate is suspended from service on the board until he or

729 she complies with this section. The board may temporarily fill  
730 the vacancy during the period of suspension. The secretary of  
731 the association shall retain a director's written certification  
732 or educational certificate for inspection by the members for 5  
733 years after the director's election or the duration of the  
734 director's uninterrupted tenure, whichever is longer. Failure to  
735 have such written certification or educational certificate on  
736 file does not affect the validity of any board action.

737 Section 12. Section 723.079, Florida Statutes, is amended  
738 to read:

739 723.079 Powers and duties of homeowners' association.—

740 (1) An association may contract, sue, or be sued with  
741 respect to the exercise or nonexercise of its powers. For these  
742 purposes, the powers of the association include, but are not  
743 limited to, the maintenance, management, and operation of the  
744 park property.

745 (2) The powers and duties of an association include those  
746 set forth in this section and ss. 723.075 and 723.077 and those  
747 set forth in the articles of incorporation and bylaws and any  
748 recorded declarations or restrictions encumbering the park  
749 property, if not inconsistent with this chapter.

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

753 (4) The association shall maintain the following items,  
754 when applicable, which constitute the official records of the

755 association:

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

758 (b) A copy of the bylaws of the association and each  
759 amendment to the bylaws.

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

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

765 (e) A current roster of all members and their mailing  
766 addresses and lot identifications. The association shall also  
767 maintain the e-mail addresses and the numbers designated by  
768 members for receiving notice sent by electronic transmission of  
769 those members consenting to receive notice by electronic  
770 transmission. The e-mail addresses and numbers provided by  
771 members to receive notice by electronic transmission shall be  
772 removed from association records when consent to receive notice  
773 by electronic transmission is revoked. However, the association  
774 is not liable for an erroneous disclosure of the e-mail address  
775 or the number for receiving electronic transmission of notices.

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

778 (g) A copy of all contracts or agreements to which the  
779 association is a party, including, without limitation, any  
780 written agreements with the park owner, lease, or other

781 agreements or contracts under which the association or its  
782 members has any obligation or responsibility, which must be  
783 retained for at least 7 years.

784 (h) The financial and accounting records of the  
785 association, kept according to good accounting practices. All  
786 financial and accounting records must be maintained for a period  
787 of at least 7 years. The financial and accounting records must  
788 include:

789 1. Accurate, itemized, and detailed records of all  
790 receipts and expenditures.

791 2. A current account and a periodic statement of the  
792 account for each member, designating the name and current  
793 address of each member who is obligated to pay dues or  
794 assessments, the due date and amount of each assessment or other  
795 charge against the member, the date and amount of each payment  
796 on the account, and the balance due.

797 3. All tax returns, financial statements, and financial  
798 reports of the association.

799 4. Any other records that identify, measure, record, or  
800 communicate financial information.

801 (i) All other written records of the association not  
802 specifically included in the foregoing which are related to the  
803 operation of the association.

804 (5) The official records shall be maintained within the  
805 state for at least 7 years and shall be made available to a  
806 member for inspection or photocopying within 10 business days

807 after receipt by the board or its designee of a written request  
808 submitted by certified mail, return receipt requested. The  
809 requirements of this subsection are satisfied by having a copy  
810 of the official records available for inspection or copying in  
811 the park or, at the option of the association, by making the  
812 records available to a member electronically via the Internet or  
813 by allowing the records to be viewed in electronic format on a  
814 computer screen and printed upon request. If the association has  
815 a photocopy machine available where the records are maintained,  
816 it must provide a member with copies on request during the  
817 inspection if the entire request is no more than 25 pages. An  
818 association shall allow a member or his or her authorized  
819 representative to use a portable device, including a smartphone,  
820 tablet, portable scanner, or any other technology capable of  
821 scanning or taking photographs, to make an electronic copy of  
822 the official records in lieu of the association's providing the  
823 member or his or her authorized representative with a copy of  
824 such records. The association may not charge a fee to a member  
825 or his or her authorized representative for the use of a  
826 portable device.

827 (a) The failure of an association to provide access to the  
828 records within 10 business days after receipt of a written  
829 request submitted by certified mail, return receipt requested,  
830 creates a rebuttable presumption that the association willfully  
831 failed to comply with this subsection.

832 (b) A member who is denied access to official records is



833 entitled to the actual damages or minimum damages for the  
834 association's willful failure to comply with this subsection.  
835 The minimum damages are to be \$10 per calendar day up to 10  
836 days, the calculation to begin on the 11th business day after  
837 receipt of the written request, submitted by certified mail,  
838 return receipt requested.

839 (c) The association may adopt reasonable written rules  
840 governing the frequency, time, location, notice, records to be  
841 inspected, and manner of inspections, but may not require a  
842 member to demonstrate a proper purpose for the inspection, state  
843 a reason for the inspection, or limit a member's right to  
844 inspect records to less than 1 business day per month. The  
845 association may impose fees to cover the costs of providing  
846 copies of the official records, including the costs of copying  
847 and for personnel to retrieve and copy the records if the time  
848 spent retrieving and copying the records exceeds 30 minutes and  
849 if the personnel costs do not exceed \$20 per hour. Personnel  
850 costs may not be charged for records requests that result in the  
851 copying of 25 or fewer pages. The association may charge up to  
852 25 cents per page for copies made on the association's  
853 photocopier. If the association does not have a photocopy  
854 machine available where the records are kept, or if the records  
855 requested to be copied exceed 25 pages in length, the  
856 association may have copies made by an outside duplicating  
857 service and may charge the actual cost of copying, as supported  
858 by the vendor invoice. The association shall maintain an

859 adequate number of copies of the recorded governing documents,  
860 to ensure their availability to members and prospective members.  
861 Notwithstanding this paragraph, the following records are not  
862 accessible to members or home owners:

863 1. A record protected by the lawyer-client privilege as  
864 described in s. 90.502 and a record protected by the work-  
865 product privilege, including, but not limited to, a record  
866 prepared by an association attorney or prepared at the  
867 attorney's express direction which reflects a mental impression,  
868 conclusion, litigation strategy, or legal theory of the attorney  
869 or the association and which was prepared exclusively for civil  
870 or criminal litigation, for adversarial administrative  
871 proceedings, or in anticipation of such litigation or  
872 proceedings until the conclusion of the litigation or  
873 proceedings.

874 2. E-mail addresses, telephone numbers, facsimile numbers,  
875 emergency contact information, any addresses for a home owner  
876 other than as provided for association notice requirements, and  
877 other personal identifying information of any person, excluding  
878 the person's name, lot designation, mailing address, and  
879 property address. Notwithstanding the restrictions in this  
880 subparagraph, an association may print and distribute to home  
881 owners a directory containing the name, park address, and  
882 telephone number of each home owner. However, a home owner may  
883 exclude his or her telephone number from the directory by so  
884 requesting in writing to the association. The association is not

885 liable for the disclosure of information that is protected under  
886 this subparagraph if the information is included in an official  
887 record of the association and is voluntarily provided by a home  
888 owner and not requested by the association.

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

891 4. The software and operating system used by the  
892 association which allows the manipulation of data, even if the  
893 home owner owns a copy of the same software used by the  
894 association. The data is part of the official records of the  
895 association.

896 (6) An outgoing board or committee member must relinquish  
897 all official records and property of the association in his or  
898 her possession or under his or her control to the incoming board  
899 within 5 days after the election or removal. ~~An association~~  
900 ~~shall maintain accounting records in the county where the~~  
901 ~~property is located, according to good accounting practices. The~~  
902 ~~records shall be open to inspection by association members or~~  
903 ~~their authorized representatives at reasonable times, and~~  
904 ~~written summaries of such records shall be supplied at least~~  
905 ~~annually to such members or their authorized representatives.~~  
906 ~~The failure of the association to permit inspection of its~~  
907 ~~accounting records by members or their authorized~~  
908 ~~representatives entitles any person prevailing in an enforcement~~  
909 ~~action to recover reasonable attorney's fees from the person in~~  
910 ~~control of the books and records who, directly or indirectly,~~

911 ~~knowingly denied access to the books and records for inspection.~~

912 ~~The records shall include, but shall not be limited to:~~

913 ~~(a) A record of all receipts and expenditures.~~

914 ~~(b) An account for each member, designating the name and~~  
 915 ~~current mailing address of the member, the amount of each~~  
 916 ~~assessment, the dates on which and amounts in which the~~  
 917 ~~assessments come due, the amount paid upon the account, and the~~  
 918 ~~balance due.~~

919 (7)~~(5)~~ An association has the power to purchase lots in  
 920 the park and to acquire, hold, lease, mortgage, and convey them.

921 (8)~~(6)~~ An association shall use its best efforts to obtain  
 922 and maintain adequate insurance to protect the association and  
 923 the park property upon purchase of the mobile home park. A copy  
 924 of each policy of insurance in effect shall be made available  
 925 for inspection by owners at reasonable times.

926 (9)~~(7)~~ An association has the authority, without the  
 927 joinder of any home owner, to modify, move, or create any  
 928 easement for ingress and egress or for the purpose of utilities  
 929 if the easement constitutes part of or crosses the park property  
 930 upon purchase of the mobile home park. This subsection does not  
 931 authorize the association to modify or move any easement created  
 932 in whole or in part for the use or benefit of anyone other than  
 933 the members, or crossing the property of anyone other than the  
 934 members, without his or her consent or approval as required by  
 935 law or the instrument creating the easement. Nothing in this  
 936 subsection affects the rights of ingress or egress of any member

937 of the association.

938 (10)~~(8)~~ Any mobile home owners' association or group of  
 939 residents of a mobile home park as defined in this chapter may  
 940 conduct bingo games as provided in s. 849.0931.

941 (11)~~(9)~~ An association organized under this chapter may  
 942 offer subscriptions, for the purpose of raising the necessary  
 943 funds to purchase, acquire, and operate the mobile home park, to  
 944 its members or other owners of mobile homes within the park.  
 945 Subscription funds collected for the purpose of purchasing the  
 946 park shall be placed in an association or other escrow account  
 947 prior to purchase, which funds shall be held according to the  
 948 terms of the subscription agreement. The directors shall  
 949 maintain accounting records according to generally accepted  
 950 accounting practices and shall, upon written request by a  
 951 subscriber, furnish an accounting of the subscription fund  
 952 escrow account within 60 days of the purchase of the park or the  
 953 ending date as provided in the subscription agreement, whichever  
 954 occurs first.

955 (12)~~(10)~~ For a period of 180 days after the date of a  
 956 purchase of a mobile home park by the association, the  
 957 association shall not be required to comply with the provisions  
 958 of part V of chapter 718, ~~or~~ part V of chapter 719, or part II  
 959 of chapter 720, as to mobile home owners or persons who have  
 960 executed contracts to purchase mobile homes in the park.

961 (13)~~(11)~~ The provisions of subsections ~~subsection~~ (4) and  
 962 (7) shall not apply to records relating to subscription funds

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963 collected pursuant to subsection (11) ~~(9)~~.

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