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1
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;

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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

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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

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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,

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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

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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.

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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.

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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

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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

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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:

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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

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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

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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

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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

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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

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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

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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

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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

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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,

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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.—

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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.

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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

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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.

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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

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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,

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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

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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.