

By Senator Latvala

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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;

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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; conforming cross-
35 references; providing an 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 reordered
57 and amended to read:

58 723.003 Definitions.—As used in this chapter, the term

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59 ~~following words and terms have the following meanings unless~~
60 ~~clearly indicated otherwise:~~

61 (2)~~(1)~~ ~~The term~~ "Division" means the Division of Florida
62 Condominiums, Timeshares, and Mobile Homes of the Department of
63 Business and Professional Regulation.

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

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

81 (5) "Homeowners' committee" means a committee, not to
82 exceed five persons in number, designated by a majority of the
83 affected homeowners in a mobile home park or a subdivision; or,
84 if a homeowners' association has been formed, designated by the
85 board of directors of the association. The homeowners' committee
86 is designated for the purpose of meeting with the park owner or
87 park developer to discuss lot rental increases, reduction in

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88 services or utilities, or changes in rules and regulations and
89 any other matter authorized by the homeowners' association, or
90 the majority of the affected home owners, and who are authorized
91 to enter into a binding agreement with the park owner or
92 subdivision developer, or a binding mediation agreement, on
93 behalf of the association, its members, and all other mobile
94 home owners in the mobile home park.

95 (6) ~~(2)~~ The term "Lot rental amount" means all financial
96 obligations, except user fees, which are required as a condition
97 of the tenancy.

98 (7) (a) "Mediation" means a process whereby a mediator
99 appointed by the Division of Florida Condominiums, Timeshares,
100 and Mobile Homes or mutually selected by the parties acts to
101 encourage and facilitate the resolution of a dispute. It is an
102 informal and nonadversarial process with the objective of
103 helping the disputing parties reach a mutually acceptable
104 agreement.

105 (b) For purposes of mediation, under s. 723.037 and s.
106 723.038, the term "parties" means a park owner as defined by s.
107 723.003(13) and a homeowners' committee selected pursuant to s.
108 723.037.

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

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

121 ~~(10)(4) The term~~ "Mobile home lot rental agreement" or
122 "rental agreement" means any mutual understanding or lease,
123 whether oral or written, between a mobile home owner and a
124 mobile home park owner in which the mobile home owner is
125 entitled to place his or her mobile home on a mobile home lot
126 for either direct or indirect remuneration of the mobile home
127 park owner.

128 ~~(11)(5) The term~~ "Mobile home owner," "mobile homeowner,"
129 ~~or~~ "home owner," or "homeowner" means a person who owns a mobile
130 home and rents or leases a lot within a mobile home park for
131 residential use.

132 ~~(12)(6) The term~~ "Mobile home park" or "park" means a use
133 of land in which lots or spaces are offered for rent or lease
134 for the placement of mobile homes and in which the primary use
135 of the park is residential.

136 ~~(13)(7) The term~~ "Mobile home park owner" or "park owner"
137 means an owner or operator of a mobile home park.

138 ~~(14)(8) The term~~ "Mobile home subdivision" means a
139 subdivision of mobile homes where individual lots are owned by
140 owners and where a portion of the subdivision or the amenities
141 exclusively serving the subdivision are retained by the
142 subdivision developer.

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

145 ~~(16)(9) The term~~ "Operator of a mobile home park" means

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146 either a person who establishes a mobile home park on land that
147 ~~which~~ is leased from another person or a person who has been
148 delegated the authority to act as the park owner in matters
149 relating to the administration and management of the mobile home
150 park, including, but not limited to, authority to make decisions
151 relating to the mobile home park.

152 (17) ~~(10)~~ The term "Pass-through charge" means the mobile
153 home owner's proportionate share of the necessary and actual
154 direct costs and impact or hookup fees for a governmentally
155 mandated capital improvement, which may include the necessary
156 and actual direct costs and impact or hookup fees incurred for
157 capital improvements required for public or private regulated
158 utilities.

159 (18) ~~(11)~~ The term "Proportionate share" as used in
160 subsection (17) ~~(10)~~ means an amount calculated by dividing
161 equally among the affected developed lots in the park the total
162 costs for the necessary and actual direct costs and impact or
163 hookup fees incurred for governmentally mandated capital
164 improvements serving the recreational and common areas and all
165 affected developed lots in the park.

166 (20) ~~(12)~~ The term "Unreasonable" means arbitrary,
167 capricious, or inconsistent with this chapter.

168 (21) ~~(13)~~ The term "User fees" means those amounts charged
169 in addition to the lot rental amount for nonessential optional
170 services provided by or through the park owner to the mobile
171 home owner under a separate written agreement between the mobile
172 home owner and the person furnishing the optional service or
173 services.

174 (1) ~~(14)~~ The term "Discrimination" or "discriminatory" means

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175 that a homeowner is being treated differently as to the rent
176 charged, the services rendered, or an action for possession or
177 other civil action being taken by the park owner, without a
178 reasonable basis for the different treatment.

179 (19) ~~(15)~~ The term "Resale agreement" means a contract in
180 which a mobile home owner authorizes the mobile home park owner,
181 or the park owner's designee, to act as exclusive agent for the
182 sale of the homeowner's mobile home for a commission or fee.

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 curriculums 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 list 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

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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 all
209 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 to
224 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 code.

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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

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262 utilities; change in rules and regulations; mediation.—

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

290 (4) (a) A committee, not to exceed five in number,

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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

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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.

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349 Section 9. Section 723.078, Florida Statutes, is amended to
350 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~~

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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.

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

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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 paragraph (i), a vacancy occurring
449 on the board of directors may be filled by the affirmative vote
450 of the majority of the remaining directors, even though the
451 remaining directors constitute less than a quorum; by the sole
452 remaining director; if the vacancy is not so filled or if no
453 director remains, by the members; or, on the application of any
454 person, by the circuit court of the county in which the
455 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

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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 on
474 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 who
478 the director reasonably believes to be reliable and competent in
479 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 she
484 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 has
487 knowledge concerning the matter in question that makes reliance
488 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.—Members shall meet at least once each

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

519 (e) Minutes of meetings.—

520 1. Minutes of all meetings of members of an association,
521 the board of directors, and a committee must be maintained in
522 written form and approved by the members, board, or committee,

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523 as applicable. A vote or abstention from voting on each matter
524 voted upon for each director present at a board meeting must be
525 recorded in the minutes.

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

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

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

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

547 1. The method by which the articles of incorporation and
548 bylaws may be amended consistent with the provisions of this
549 chapter shall be stated. If the bylaws fail to provide a method
550 of amendment, the bylaws may be amended by the board of
551 directors and approved by a majority of members at a meeting at

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552 which a quorum is present ~~of the membership~~. No bylaw shall be
553 revised or amended by reference to its title or number only.

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

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

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

574 1. If the recall is approved by a majority of all members
575 by a vote at a meeting, the recall is effective as provided in
576 this paragraph. The board shall duly notice and hold a board
577 meeting within 5 full business days after the adjournment of the
578 member meeting to recall one or more board members. At the
579 meeting, the board shall either certify the recall, in which
580 case such member or members shall be recalled effective

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581 immediately and shall turn over to the board within 5 full
582 business days any and all records and property of the
583 association in their possession, or shall proceed under
584 subparagraph 3.

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

598 3. If the board determines not to certify the written
599 agreement to recall members of the board, or does not certify
600 the recall by a vote at a meeting, the board shall, within 5
601 full business days after the board meeting, file with the
602 division a petition for binding arbitration pursuant to the
603 procedures of s. 723.1255. For purposes of this paragraph, the
604 members who voted at the meeting or who executed the agreement
605 in writing shall constitute one party under the petition for
606 arbitration. If the arbitrator certifies the recall of a member
607 of the board, the recall shall be effective upon mailing of the
608 final order of arbitration to the association. If the
609 association fails to comply with the order of the arbitrator,

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610 the division may take action under s. 723.006. A member so
611 recalled shall deliver to the board any and all records and
612 property of the association in the member's possession within 5
613 full business days after the effective date of the recall.

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

621 5. If the board fails to duly notice and hold the required
622 meeting or fails to file the required petition, the member's
623 representative may file a petition pursuant to s. 723.1255
624 challenging the board's failure to act. The petition must be
625 filed within 60 days after expiration of the applicable 5-full-
626 business-day period. The review of a petition under this
627 subparagraph is limited to the sufficiency of service on the
628 board and the facial validity of the written agreement or
629 ballots filed.

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

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639 governing the conduct of the recall election as well as the
640 operation of the association during the period after a recall
641 but before the recall election.

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

647 8. The division may not accept for filing a recall
648 petition, whether or not filed pursuant to this subsection, and
649 regardless of whether the recall was certified, when there are
650 60 or fewer days until the scheduled reelection of the board
651 member sought to be recalled or when 60 or fewer days have not
652 elapsed since the election of the board member sought to be
653 recalled.

654 (3) The bylaws may provide the following:

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

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

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

665 (d) The board of directors may, in any event, propose a
666 budget to the members at a meeting of members or in writing,
667 and, if the budget or proposed budget is approved by the members

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668 at the meeting or by a majority of their whole number in
669 writing, that budget shall be adopted.

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

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

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

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

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697 converted association may form an association pursuant to s.
698 723.075.

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

701 723.1255 Alternative resolution of recall disputes.—The
702 Division of Florida Condominiums, Timeshares, and Mobile Homes
703 of the Department of Business and Professional Regulation shall
704 adopt rules of procedure to govern binding recall arbitration
705 proceedings.

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

708 723.0781 Board member training programs.—Within 90 days
709 after being elected or appointed to the board, a newly elected
710 or appointed director shall certify by an affidavit in writing
711 to the secretary of the association that he or she has read the
712 association's current articles of incorporation, bylaws, and the
713 mobile home park's prospectus, rental agreement, rules,
714 regulations, and written policies; that he or she will work to
715 uphold such documents and policies to the best of his or her
716 ability; and that he or she will faithfully discharge his or her
717 fiduciary responsibility to the association's members. In lieu
718 of this written certification, within 90 days after being
719 elected or appointed to the board, the newly elected or
720 appointed director may submit a certificate of having
721 satisfactorily completed the educational curriculum approved by
722 the division within 1 year before or 90 days after the date of
723 election or appointment. The educational certificate is valid
724 and does not have to be resubmitted as long as the director
725 serves on the board without interruption. A director who fails

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

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

738 723.079 Powers and duties of homeowners' association.—

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

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

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

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

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

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

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

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

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

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

777 (g) A copy of all contracts or agreements to which the
778 association is a party, including, without limitation, any
779 written agreements with the park owner, lease, or other
780 agreements or contracts under which the association or its
781 members have any obligation or responsibility, which must be
782 retained for at least 7 years.

783 (h) The financial and accounting records of the

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

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

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

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

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

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

803 (5) The official records shall be maintained within the
804 state for at least 7 years and shall be made available to a
805 member for inspection or photocopying within 10 business days
806 after receipt by the board or its designee of a written request
807 submitted by certified mail, return receipt requested. The
808 requirements of this subsection are satisfied by having a copy
809 of the official records available for inspection or copying at
810 the park or, at the option of the association, by making the
811 records available to a member electronically via the Internet or
812 by allowing the records to be viewed in electronic format on a

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813 computer screen and printed upon request. If the association has
814 a photocopy machine available where the records are maintained,
815 it must provide a member with copies on request during the
816 inspection if the entire request is no more than 25 pages. An
817 association shall allow a member or his or her authorized
818 representative to use a portable device, including a smartphone,
819 tablet, portable scanner, or any other technology capable of
820 scanning or taking photographs, to make an electronic copy of
821 the official records in lieu of the association's providing the
822 member or his or her authorized representative with a copy of
823 such records. The association may not charge a fee to a member
824 or his or her authorized representative for the use of a
825 portable device.

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

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

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

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

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

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871 proceedings until the conclusion of the litigation or
872 proceedings.

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

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

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

895 (6) An outgoing board or committee member must relinquish
896 all official records and property of the association in his or
897 her possession or under his or her control to the incoming board
898 within 5 days after the election or removal ~~An association shall~~
899 ~~maintain accounting records in the county where the property is~~

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900 ~~located, according to good accounting practices. The records~~
901 ~~shall be open to inspection by association members or their~~
902 ~~authorized representatives at reasonable times, and written~~
903 ~~summaries of such records shall be supplied at least annually to~~
904 ~~such members or their authorized representatives. The failure of~~
905 ~~the association to permit inspection of its accounting records~~
906 ~~by members or their authorized representatives entitles any~~
907 ~~person prevailing in an enforcement action to recover reasonable~~
908 ~~attorney's fees from the person in control of the books and~~
909 ~~records who, directly or indirectly, knowingly denied access to~~
910 ~~the books and records for inspection. The records shall include,~~
911 ~~but shall not be limited to:~~

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

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

918 ~~(7)~~(5) An association has the power to purchase lots in the
919 park and to acquire, hold, lease, mortgage, and convey them.

920 ~~(8)~~(6) An association shall use its best efforts to obtain
921 and maintain adequate insurance to protect the association and
922 the park property upon purchase of the mobile home park. A copy
923 of each policy of insurance in effect shall be made available
924 for inspection by owners at reasonable times.

925 ~~(9)~~(7) An association has the authority, without the
926 joinder of any home owner, to modify, move, or create any
927 easement for ingress and egress or for the purpose of utilities
928 if the easement constitutes part of or crosses the park property

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929 upon purchase of the mobile home park. This subsection does not
930 authorize the association to modify or move any easement created
931 in whole or in part for the use or benefit of anyone other than
932 the members, or crossing the property of anyone other than the
933 members, without his or her consent or approval as required by
934 law or the instrument creating the easement. Nothing in this
935 subsection affects the rights of ingress or egress of any member
936 of the association.

937 (10)~~(8)~~ Any mobile home owners' association or group of
938 residents of a mobile home park as defined in this chapter may
939 conduct bingo games as provided in s. 849.0931.

940 (11)~~(9)~~ An association organized under this chapter may
941 offer subscriptions, for the purpose of raising the necessary
942 funds to purchase, acquire, and operate the mobile home park, to
943 its members or other owners of mobile homes within the park.
944 Subscription funds collected for the purpose of purchasing the
945 park shall be placed in an association or other escrow account
946 prior to purchase, which funds shall be held according to the
947 terms of the subscription agreement. The directors shall
948 maintain accounting records according to generally accepted
949 accounting practices and shall, upon written request by a
950 subscriber, furnish an accounting of the subscription fund
951 escrow account within 60 days of the purchase of the park or the
952 ending date as provided in the subscription agreement, whichever
953 occurs first.

954 (12)~~(10)~~ For a period of 180 days after the date of a
955 purchase of a mobile home park by the association, the
956 association shall not be required to comply with the provisions
957 of part V of chapter 718, ~~or~~ part V of chapter 719, or part II

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958 of chapter 720, as to mobile home owners or persons who have
959 executed contracts to purchase mobile homes in the park.

960 (13)~~(11)~~ The provisions of subsections ~~subsection~~ (4) and
961 (7) shall not apply to records relating to subscription funds
962 collected pursuant to subsection (11) ~~(9)~~.

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