

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Business & Professions  
 2 Subcommittee

3 Representative La Rosa offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (2) of section 468.431, Florida  
 8 Statutes, is amended to read:

9 468.431 Definitions.—As used in this part:

10 (2) "Community association management" or "community  
 11 association management services" means any of the following  
 12 practices requiring substantial specialized knowledge, judgment,  
 13 and managerial skill when done for remuneration and when the  
 14 association or associations served contain more than 10 units or  
 15 have an annual budget or budgets in excess of \$100,000:  
 16 controlling or disbursing funds of a community association,  
 17 preparing budgets or other financial documents for a community

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18 association, assisting in the noticing or conduct of community  
19 association meetings, determining the number of days required  
20 for statutory notices, determining amounts due to the  
21 association, collecting amounts due to the association before  
22 the filing of a civil action, calculating the votes required for  
23 a quorum or to approve a proposition or amendment, completing  
24 forms related to the management of a community association that  
25 have been created by statute or by a state agency, drafting  
26 meeting notices and agendas, calculating and preparing  
27 certificates of assessment and estoppel certificates, responding  
28 to requests for certificates of assessment and estoppel  
29 certificates, negotiating monetary or performance terms of a  
30 contract subject to approval by an association, drafting  
31 prearbitration demands, coordinating or performing maintenance  
32 for real or personal property and other related routine services  
33 involved in the operation of a community association, and  
34 complying with the association's governing documents and the  
35 requirements of law as necessary to perform such practices. A  
36 person who performs clerical or ministerial functions under the  
37 direct supervision and control of a licensed manager or who is  
38 charged only with performing the maintenance of a community  
39 association and who does not assist in any of the management  
40 services described in this subsection is not required to be  
41 licensed under this part.

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43 Section 2. Subsections (7) of section 718.103, Florida  
44 Statutes, is amended, to read:

45 718.103 Definitions.—As used in this chapter, the term:

46 (7) "Committee" means a group of board members, unit  
47 owners, or board members and unit owners appointed by the board  
48 or a member of the board to make recommendations to the board  
49 ~~regarding the proposed annual budget~~ or to take action on behalf  
50 of the board.

51 Section 3. Subsection (12) of section 718.111, Florida  
52 Statutes, is amended to read:

53 718.111 The association.—

54 (12) OFFICIAL RECORDS.—

55 (a) From the inception of the association, the association  
56 shall maintain each of the following items, if applicable, which  
57 constitutes the official records of the association:

58 1. A copy of the plans, specifications, permits, and  
59 warranties related to improvements to the common elements or  
60 other property that the association is obligated to maintain,  
61 repair, or replace, and other items provided by the developer  
62 pursuant to s. 718.301(4).

63 2. A photocopy of the recorded declaration of condominium  
64 of each condominium operated by the association and each  
65 amendment to each declaration.

66 3. A photocopy of the recorded bylaws of the association  
67 and each amendment to the bylaws.

68 4. A certified copy of the articles of incorporation of

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69 the association, or other documents creating the association,  
70 and each amendment thereto.

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

72 6. A book or books that contain the minutes of all  
73 meetings of the association, the board of administration, and  
74 the unit owners, which minutes must be retained for at least 7  
75 years.

76 7. A current roster of all unit owners and their mailing  
77 addresses, unit identifications, voting certifications, and, if  
78 known, telephone numbers. The association shall also maintain  
79 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of  
80 unit owners consenting to receive notice by electronic  
81 transmission. The e-mail ~~electronic mailing~~ addresses and  
82 facsimile numbers are not accessible to unit owners if consent  
83 to receive notice by electronic transmission is not provided in  
84 accordance with subparagraph (c)5. The e-mail addresses and  
85 facsimile numbers provided by unit owners to receive notice by  
86 electronic transmission shall not be accessible to unit owners  
87 if the unit owner revokes, in writing, his or her consent to  
88 receive notice by electronic transmission in writing. However,  
89 the association is not liable for an inadvertent disclosure of  
90 the electronic mail address or facsimile number for receiving  
91 electronic transmission of notices.

92 8. All current insurance policies of the association and  
93 condominiums operated by the association.

94 9. A current copy of any management agreement, lease, or

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95 other contract to which the association is a party or under  
96 which the association or the unit owners have an obligation or  
97 responsibility. Bids for materials, equipment, or services are  
98 official records and must be maintained by the association for a  
99 period of 1 year.

100 10. Bills of sale or transfer for all property owned by  
101 the association.

102 11. Financial and accounting records for the association  
103 and separate accounting records for each condominium that the  
104 association operates. All accounting records must be maintained  
105 for at least 7 years. Any person who knowingly or intentionally  
106 defaces or destroys such records, or who knowingly or  
107 intentionally fails to create or maintain such records, with the  
108 intent of causing harm to the association or one or more of its  
109 members, is personally subject to a civil penalty pursuant to s.  
110 718.501(1)(d). The financial and accounting records must  
111 include, but are not limited to:

112 a. Accurate, itemized, and detailed records of all  
113 receipts and expenditures.

114 b. A current account and a monthly, bimonthly, or  
115 quarterly statement of the account for each unit designating the  
116 name of the unit owner, the due date and amount of each  
117 assessment, the amount paid on the account, and the balance due.

118 c. All tax returns, audits, reviews, accounting  
119 statements, and financial reports of the association or  
120 condominium.

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121 d. Any records that identify, measure, record, or  
122 communicate financial information ~~All contracts for work to be~~  
123 ~~performed. Bids for work to be performed are also considered~~  
124 ~~official records and must be maintained by the association.~~

125 12. Ballots, sign-in sheets, voting proxies, and all other  
126 papers relating to voting by unit owners, which must be  
127 maintained for 1 year from the date of the election, vote, or  
128 meeting to which the document relates, notwithstanding paragraph  
129 (b).

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

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

134 15. All other written records of the association not  
135 specifically included in the foregoing which are related to the  
136 operation of the association.

137 16. A copy of the inspection report as described in s.  
138 718.301(4)(p).

139 (b) The official records of the association must be  
140 maintained within the state for at least 7 years. The records of  
141 the association shall be made available to a unit owner within  
142 45 miles of the condominium property or within the county in  
143 which the condominium property is located within 5 working days  
144 after receipt of a written request by the board or its designee.  
145 However, such distance requirement does not apply to an  
146 association governing a timeshare condominium. This paragraph

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147 may be complied with by having a copy of the official records of  
148 the association available for inspection or copying on the  
149 condominium property or association property, or the association  
150 may offer the option of making the records available to a unit  
151 owner electronically via the Internet or by allowing the records  
152 to be viewed in electronic format on a computer screen and  
153 printed upon request. The association is not responsible for the  
154 use or misuse of the information provided to an association  
155 member or his or her authorized representative pursuant to the  
156 compliance requirements of this chapter unless the association  
157 has an affirmative duty not to disclose such information  
158 pursuant to this chapter.

159 (c) Physical copies of the official records of the  
160 association are open to inspection by any association member or  
161 the authorized representative of such member at all reasonable  
162 times. The right to inspect the records includes the right to  
163 make or obtain copies, at the reasonable expense, if any, of the  
164 member. The association may adopt reasonable rules regarding the  
165 frequency, time, location, notice, and manner of record  
166 inspections and copying. The failure of an association to  
167 provide the records within 10 working days after receipt of a  
168 written request creates a rebuttable presumption that the  
169 association willfully failed to comply with this paragraph. A  
170 unit owner who is denied access to official records is entitled  
171 to the actual damages or minimum damages for the association's  
172 willful failure to comply. Minimum damages are \$50 per calendar

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173 day for up to 10 days, beginning on the 11th working day after  
174 receipt of the written request. The failure to permit inspection  
175 entitles any person prevailing in an enforcement action to  
176 recover reasonable attorney fees from the person in control of  
177 the records who, directly or indirectly, knowingly denied access  
178 to the records. Any person who knowingly or intentionally  
179 defaces or destroys accounting records that are required by this  
180 chapter to be maintained during the period for which such  
181 records are required to be maintained, or who knowingly or  
182 intentionally fails to create or maintain accounting records  
183 that are required to be created or maintained, with the intent  
184 of causing harm to the association or one or more of its  
185 members, is personally subject to a civil penalty pursuant to s.  
186 718.501(1)(d). The association shall maintain an adequate number  
187 of copies of the declaration, articles of incorporation, bylaws,  
188 and rules, and all amendments to each of the foregoing, as well  
189 as the question and answer sheet as described in s. 718.504 and  
190 year-end financial information required under this section, on  
191 the condominium property to ensure their availability to unit  
192 owners and prospective purchasers, and may charge its actual  
193 costs for preparing and furnishing these documents to those  
194 requesting the documents. An association shall allow a member or  
195 his or her authorized representative to use a portable device,  
196 including a smartphone, tablet, portable scanner, or any other  
197 technology capable of scanning or taking photographs, to make an  
198 electronic copy of the official records in lieu of the

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199 association's providing the member or his or her authorized  
200 representative with a copy of such records. The association may  
201 not charge a member or his or her authorized representative for  
202 the use of a portable device. Notwithstanding this paragraph,  
203 the following records are not accessible to unit owners:

204 1. Any record protected by the lawyer-client privilege as  
205 described in s. 90.502 and any record protected by the work-  
206 product privilege, including a record prepared by an association  
207 attorney or prepared at the attorney's express direction, which  
208 reflects a mental impression, conclusion, litigation strategy,  
209 or legal theory of the attorney or the association, and which  
210 was prepared exclusively for civil or criminal litigation or for  
211 adversarial administrative proceedings, or which was prepared in  
212 anticipation of such litigation or proceedings until the  
213 conclusion of the litigation or proceedings.

214 2. Information obtained by an association in connection  
215 with the approval of the lease, sale, or other transfer of a  
216 unit.

217 3. Personnel records of association or management company  
218 employees, including, but not limited to, disciplinary, payroll,  
219 health, and insurance records. For purposes of this  
220 subparagraph, the term "personnel records" does not include  
221 written employment agreements with an association employee or  
222 management company, or budgetary or financial records that  
223 indicate the compensation paid to an association employee.

224 4. Medical records of unit owners.

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225           5. Social security numbers, driver license numbers, credit  
226 card numbers, e-mail addresses, telephone numbers, facsimile  
227 numbers, emergency contact information, addresses of a unit  
228 owner other than as provided to fulfill the association's notice  
229 requirements, and other personal identifying information of any  
230 person, excluding the person's name, unit designation, mailing  
231 address, property address, and any address, e-mail address, or  
232 facsimile number provided to the association to fulfill the  
233 association's notice requirements. Notwithstanding the  
234 restrictions in this subparagraph, an association may print and  
235 distribute to parcel owners a directory containing the name,  
236 parcel address, and all telephone numbers of each parcel owner.  
237 However, an owner may exclude his or her telephone numbers from  
238 the directory by so requesting in writing to the association. An  
239 owner may consent in writing to the disclosure of other contact  
240 information described in this subparagraph. The association is  
241 not liable for the inadvertent disclosure of information that is  
242 protected under this subparagraph if the information is included  
243 in an official record of the association and is voluntarily  
244 provided by an owner and not requested by the association.

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

247           7. The software and operating system used by the  
248 association which allow the manipulation of data, even if the  
249 owner owns a copy of the same software used by the association.  
250 The data is part of the official records of the association.

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251 (d) The association shall prepare a question and answer  
252 sheet as described in s. 718.504, and shall update it annually.

253 (e)1. The association or its authorized agent is not  
254 required to provide a prospective purchaser or lienholder with  
255 information about the condominium or the association other than  
256 information or documents required by this chapter to be made  
257 available or disclosed. The association or its authorized agent  
258 may charge a reasonable fee to the prospective purchaser,  
259 lienholder, or the current unit owner for providing good faith  
260 responses to requests for information by or on behalf of a  
261 prospective purchaser or lienholder, other than that required by  
262 law, if the fee does not exceed \$150 plus the reasonable cost of  
263 photocopying and any attorney's fees incurred by the association  
264 in connection with the response.

265 2. An association and its authorized agent are not liable  
266 for providing such information in good faith pursuant to a  
267 written request if the person providing the information includes  
268 a written statement in substantially the following form: "The  
269 responses herein are made in good faith and to the best of my  
270 ability as to their accuracy."

271 (f) An outgoing board or committee member, or a board  
272 member who is recalled pursuant to s. 718.112(2)(j), must  
273 relinquish all official records and property of the association  
274 in his or her possession or under his or her control, including  
275 administrative rights or controls of an association's website or  
276 other digital or electronic asset of the association, to the

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277 incoming board within 5 days after the election or, in the case  
278 of a recall, within 5 days after the recall is effective as  
279 provided in s. 718.112(2)(j). The division shall impose a civil  
280 penalty as set forth in s. 718.501(1)(d)6. against an outgoing  
281 board or committee member who willfully and knowingly fails to  
282 relinquish such records and property.

283 Section 4. Section 718.1115, Florida Statutes, is created  
284 to read:

285 718.1115 Access to Association Documents and Records on an  
286 Association Website.— In addition to any other provision of law,  
287 a condominium association with 500 or more units, which does not  
288 manage timeshare units, must have a website and provide a  
289 digital copy of specified documents on the association's  
290 website.

291 (1) An association's website must be:

292 (a) An independent website or web portal, wholly owned and  
293 operated by the association; or

294 (b) A website or web portal operated by a third party  
295 provider with whom the association owns, leases, rents, or  
296 otherwise obtains the right to operate a web page, subpage, web  
297 portal, or collection of subpages or web portals dedicated to  
298 the association's activities and where required notices,  
299 records, and documents may be posted by the association; and

300 (c) Accessible through the Internet.

301 (2) The following documents must be placed in digital  
302 format on the website:

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303 (a) Copies of the official records described in s.  
304 718.111(12) (a). However, the current roster of all unit owners  
305 with their mailing addresses and parcel identifications may not  
306 be placed in digital format on the website. The website must  
307 include the following statement: "A current roster of all unit  
308 owners and their mailing addresses and parcel identifications is  
309 available at the request of any unit owner or unit owner  
310 representative, including the e-mail addresses of the unit  
311 owners who have consented to receive notice by electronic  
312 transmission." The notice shall include the e-mail address of  
313 the person to contact for a copy of the roster.

314 (b) The annual budget required by s. 718.112(2) (f), and  
315 any proposed budget to be considered at the annual meeting.

316 (c) The financial report required by s. 718.111(13), and  
317 any proposed financial report to be considered at a meeting.

318 (d) Any document created by the association or a board  
319 member relating to the recall of a director, pursuant to s.  
320 718.112(2) (j), or any document created for or filed by the  
321 association in an arbitration proceeding conducted by the  
322 division regarding the recall of a director.

323 (e) The certification of each director required by s.  
324 718.112(2) (d) 4.b.

325 (f) A list of all contracts or transactions between the  
326 association and any director, officer, corporation, firm, or  
327 association that is not an affiliated condominium association,  
328 or other entity in which an association director is also a

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329 director or officer and financially interested.

330 (g) Any fidelity bond entered into by the association.

331 (h) Any contract or document regarding a conflict of  
332 interest or possible conflict of interest as provided in ss.  
333 468.436(2) and 718.3026(3).

334 (i) Notice of any board meeting and the agenda for the  
335 meeting, as required by s. 718.112(2)(d)3., placed online no  
336 later than 14 days before the meeting posted in plain view on  
337 the front page, or on a separate subpage labeled "Notices" which  
338 is conspicuously visible and linked from the front page of the  
339 association's website. The association must post on the  
340 association's website any documents to be considered during the  
341 meeting or listed on the agenda at least 7 days before the  
342 meeting at which the document or the information within the  
343 document will be considered, unless otherwise stated, including  
344 the following documents:

345 1. The proposed annual budget required by s.  
346 718.112(2)(e), which must be provided at least 14 days before  
347 the meeting.

348 2. The proposed financial report required by s.  
349 718.111(13).

350 3. A list of persons seeking to be elected to the board.

351 (3) The association shall ensure that the information and  
352 records described in s. 718.111(12)(c), which are not permitted  
353 to be accessible to unit owners, are not placed on the  
354 association's website. If protected information, or information

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355 restricted from being accessible to unit owners, is included in  
356 documents that are required to be placed on the association's  
357 website, the association shall ensure the information is  
358 redacted before placing the documents online.

359 Section 5. Subsections (5) through (11) of section  
360 718.116, Florida Statutes, are renumbered as subsections (6),  
361 through (12), respectively, a new subsection (5) is added to  
362 that section, and paragraph (a) of renumbered subsection (7) is  
363 amended to read:

364 718.116 Assessments; liability; lien and priority;  
365 interest; collection.—

366 (5) Collection of Past Due Assessments

367 (a) Associations may not use a third party or otherwise  
368 take legal action to collect unpaid assessments unless the  
369 association has adopted and follows a written collection policy  
370 governing the collection of unpaid assessments, which must  
371 include:

372 1. The date on which assessments must be paid to the  
373 association and when an assessment is considered past due and  
374 delinquent.

375 2. Any late fees and interest the association is entitled  
376 to impose on a delinquent unit owner's account.

377 3. Any returned check charges the association is entitled  
378 to impose.

379 4. The circumstances under which a unit owner is entitled  
380 to enter into a payment plan pursuant to this section, and the

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381 minimum terms of the payment plan.

382 5. The method by which payments may be applied on the  
383 delinquent account of a unit owner.

384 6. The legal remedies available to the association to  
385 collect on a unit owner's delinquent account.

386 (b) No less than 30 days before the association intends to  
387 transfer the right to collect past due assessments or a lien to  
388 a third party or refers it to an attorney for legal action, the  
389 association must send the member a notice of delinquency  
390 specifying:

391 1. The total amount due, with an accounting of how the  
392 total was determined.

393 2. Whether the opportunity to enter into a payment plan  
394 exists pursuant to this section, and instructions for contacting  
395 the entity to enter into a payment plan.

396 3. The name and contact information for the individual that  
397 may be contacted to request a copy of the unit owner's ledger in  
398 order to verify the amount of the debt.

399 4. That action is required to cure the delinquency and that  
400 failure to do so within 30 days may result in the past due  
401 assessments being transferred to a third party for collection, a  
402 lawsuit being filed against the member, the filing and  
403 foreclosure of a lien against the unit owner's property, or  
404 other remedies available under Florida law.

405 (c) Payment Plans. -

406 1. In collecting past-due assessments and other delinquent



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407 payments, an association or third party authorized to collect  
408 past due assessments shall make a documented, good faith effort  
409 to coordinate with the unit owner to set up a payment plan that  
410 meets the requirements of this paragraph.

411 2. The payment plan negotiated between the association and  
412 the unit owner or the third party holder of the past due  
413 assessments and the unit owner, must provide a period of at  
414 least six months to pay off the past due assessments in equal  
415 installments.

416 a. Nothing in this section prohibits an association or a  
417 third party holder of past due assessments from pursuing legal  
418 action against a unit owner if the unit owner fails to comply  
419 with the terms of his or her payment plan.

420 b. A unit owner's failure to remit payment of an agreed-  
421 upon installment, or to remain current with regular assessments  
422 as they come due during the time period provided for in the  
423 payment plan, constitutes a failure to comply with the terms of  
424 his or her payment plan, and shall require the immediate payment  
425 of all past due assessments owed to the association or third  
426 party holder of the past due assessments by the unit owner.

427 (d) Associations and third parties authorized to collect  
428 past due assessments are not required to offer a payment plan if  
429 the following occurs:

430 1. If the unit owner does not occupy the parcel and has  
431 acquired the property as a result of:

432 a. Default of a security interest encumbering the parcel;

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433 or434 b. Foreclosure of the association's lien.435 2. The association or third party holder of the past due  
436 assessment has entered into a payment plan with a unit owner  
437 previously under this paragraph.438 (7) (a) ~~(6) (a)~~ The association may bring an action in its  
439 name to foreclose a lien for assessments in the manner a  
440 mortgage of real property is foreclosed and may also bring an  
441 action to recover a money judgment for the unpaid assessments  
442 without waiving any claim of lien. The association is entitled  
443 to recover its reasonable attorney's fees incurred in either a  
444 lien foreclosure action or an action to recover a money judgment  
445 for unpaid assessments. The association may only foreclose on  
446 the lien if:447 1. The balance of the assessments and charges secured by  
448 the lien equals or exceeds 6 months of common expense  
449 assessments based on a periodic budget adopted by the  
450 association; and451 2. The association's board has formally resolved, by a  
452 recorded vote, to authorize the filing of a legal action against  
453 the specific unit on an individual basis. The board may not  
454 delegate its duty to act under this subparagraph to any  
455 attorney, insurer, manager, or third party, and any legal action  
456 filed without evidence of the required recorded vote authorizing  
457 the action shall be dismissed by the court in which the action  
458 was filed. No attorneys' fees, court costs, or other charges

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459 incurred by the association, holder of the lien, or third party  
460 in connection with an action that is dismissed for this reason  
461 may be assessed against the unit owner.

462 Section 6. Section 718.3027, Florida Statutes, is created  
463 to read:

464 718.3027 Conflict of Interest.-

465 (1) Directors and officers of the board of an association  
466 that is not a timeshare condominium association must disclose to  
467 the board any activity that may reasonably be construed as a  
468 conflict of interest. A rebuttable presumption of a conflict of  
469 interest exists if any of the following occurs without prior  
470 notice, as required in paragraph (b), or board approval taken at  
471 a properly noticed meeting of the unit owners:

472 (a) The director, officer, or a relative of a director or  
473 officer has entered into a contract for goods or services with  
474 the association.

475 (b) The director, officer, or a relative of a director or  
476 officer holds an interest in any corporation, limited liability  
477 corporation, partnership, limited liability partnership, or  
478 other business entity that conducts business with the  
479 association or proposes to enter into a contract or other  
480 transaction with the association.

481 (2) If a director, officer, or a relative of a director or  
482 officer proposes to engage in an activity that is a conflict of  
483 interest, as described in subsection (1), the proposed activity  
484 must be placed on a meeting agenda, including any proposed

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485 contract or transactional documents. If the board votes against  
486 the proposed activity, the director, officer, or relative shall  
487 notify the board in writing of his or her intention not to  
488 pursue the proposed activity or to withdraw from the position as  
489 director or officer. If the board finds that an officer or  
490 director has violated this subsection, the board shall  
491 immediately remove the affected officer or director from office.  
492 The vacancy shall be filled according to general law.

493 (3) A director, officer, or relative of a director or  
494 officer who is party to, or has an interest in, the transaction  
495 or arrangement involving the possible conflict of interest may  
496 attend the meeting at which the transaction or arrangement is  
497 considered by the board. The director, officer, or relative of a  
498 director or officer shall be allowed to make a presentation to  
499 the board or committee regarding the transaction or arrangement.  
500 After the presentation, the director, officer, or relative of  
501 the director or officer must leave the meeting during the  
502 discussion of, and the vote upon, the transaction or arrangement  
503 involving the possible conflict of interest. Any director or  
504 officer who is party to or has an interest in such transaction  
505 or arrangement shall recuse himself or herself from the vote.

506 (4) (a) The board must provide notice to unit owners of any  
507 possible conflict of interest described in subsection (1), under  
508 the same procedures pursuant to s. 718.112(2) (c) for notices of  
509 meetings where a special assessments is to be considered. Any  
510 related proposed contracts or proposed transactional documents

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511 related to the conflict must be attached to the agenda and made  
512 available with the meeting agenda.

513 (b) An association with 500 or more units must place the  
514 notice required in paragraph (a) on the front page of the  
515 association's website. Any related proposed contracts or  
516 proposed transactional documents must be attached to the agenda  
517 provided on the association's website. The notice and related  
518 proposed contracts or proposed transactional documents related  
519 to the conflict must be posted on the association's website at  
520 least 7 days before the meeting at which the possible conflict  
521 of interest will be considered or voted upon by the board.

522 Section 7. Subsections (4) and (13), and paragraph (a) of  
523 subsection (2) of section 720.303, Florida Statutes, are amended  
524 to read:

525 720.303 Association powers and duties; meetings of board;  
526 official records; budgets; financial reporting; association  
527 funds; recalls.—

528 (2) BOARD MEETINGS.—

529 (a) A meeting of the board of directors of an association  
530 occurs whenever a quorum of the board gathers to conduct  
531 association business. Meetings of the board must be open to all  
532 members, except for meetings between the board and its attorney  
533 with respect to proposed or pending litigation where the  
534 contents of the discussion would otherwise be governed by the  
535 attorney-client privilege. A meeting of the board must be held  
536 at a location that is accessible to a physically handicapped

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537 person if requested by a physically handicapped person who has a  
538 right to attend the meeting. The provisions of this subsection  
539 shall also apply to the meetings of any committee or other  
540 similar body when a final decision will be made regarding the  
541 expenditure of association funds and to meetings of any body  
542 vested with the power to approve or disapprove architectural  
543 decisions with respect to a specific parcel of residential  
544 property owned by a member of the community. Meetings of a  
545 committee or similar body that does not take final action on  
546 behalf of the board or make recommendations to the board  
547 regarding the association budget are subject to this section,  
548 unless those meetings are exempted from this section.

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

552 (a) Copies of any plans, specifications, permits, and  
553 warranties related to improvements constructed on the common  
554 areas or other property that the association is obligated to  
555 maintain, repair, or replace, and other items provided by the  
556 developer pursuant to s. 720.307(4).

557 (b) A copy of the bylaws of the association and of each  
558 amendment to the bylaws.

559 (c) A certified copy of the articles of incorporation of  
560 the association and of each amendment thereto.

561 (d) A copy of the declaration of covenants and a copy of  
562 each amendment thereto.

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563 (e) A copy of the current rules of the homeowners'  
564 association.

565 (f) The minutes of all meetings of the board of directors  
566 and of the members, which minutes must be retained for at least  
567 7 years.

568 (g) A current roster of all members and their mailing  
569 addresses and parcel identifications. The association shall also  
570 maintain the electronic mailing addresses and the numbers  
571 designated by members for receiving notice sent by electronic  
572 transmission of those members consenting to receive notice by  
573 electronic transmission. The electronic mailing addresses and  
574 numbers provided by members ~~unit-owners~~ to receive notice by  
575 electronic transmission shall not be accessible to members ~~shall~~  
576 ~~be removed from association records~~ when consent to receive  
577 notice by electronic transmission is revoked in writing.  
578 However, the association is not liable for an erroneous  
579 disclosure of the electronic mail address or the number for  
580 receiving electronic transmission of notices.

581 (h) All of the association's insurance policies or a copy  
582 thereof, which policies must be retained for at least 7 years.

583 (i) A current copy of all contracts to which the  
584 association is a party, including, without limitation, any  
585 management agreement, lease, or other contract under which the  
586 association has any obligation or responsibility. Bids received  
587 by the association for materials, equipment, or services, ~~work~~  
588 ~~to be performed~~ must also be considered official records and

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589 must be maintained ~~kept~~ for a period of 1 year.

590 (j) The financial and accounting records of the  
591 association, kept according to good accounting practices. All  
592 financial and accounting records must be maintained for a period  
593 of at least 7 years. The financial and accounting records must  
594 include:

595 1. Accurate, itemized, and detailed records of all  
596 receipts and expenditures.

597 2. A current account and a periodic statement of the  
598 account for each member, designating the name and current  
599 address of each member who is obligated to pay assessments, the  
600 due date and amount of each assessment or other charge against  
601 the member, the date and amount of each payment on the account,  
602 and the balance due.

603 3. All tax returns, audits, reviews, financial statements,  
604 and financial reports of the association.

605 4. Any other records that identify, measure, record, or  
606 communicate financial information.

607 (k) A copy of the disclosure summary described in s.  
608 720.401(1).

609 (l) Ballots, sign-in sheets, voting proxies, and all other  
610 papers relating to voting by members, which must be maintained  
611 for 1 year after the date of the election, vote, or meeting to  
612 which the document relates.

613 (m) ~~(l)~~ All other written records of the association not  
614 specifically included in the foregoing which are related to the



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615 operation of the association.

616 (13) REPORTING REQUIREMENT.—The community association  
617 manager or management firm, ~~or the association when there is no~~  
618 ~~community association manager or management firm,~~ shall report  
619 to the division ~~by November 22, 2013,~~ in a manner and form  
620 prescribed by the division.

621 (a) The report shall include the association's:

- 622 1. Legal name.
- 623 2. Federal employer identification number.
- 624 3. Mailing and physical addresses.
- 625 4. Total number of parcels.
- 626 5. Total amount of revenues and expenses from the  
627 association's annual budget.

628 6. Community association management firm or community  
629 association manager.

630 (b) For associations in which control of the association  
631 has not been transitioned to nondeveloper members, as set forth  
632 in s. 720.307, the report shall also include the developer's:

- 633 1. Legal name.
- 634 2. Mailing address.
- 635 3. Total number of parcels owned on the date of reporting.

636 (c) The reporting requirement provided in this subsection  
637 shall be a continuing obligation on each association until the  
638 required information is reported to the division. Any change in  
639 the reported information must be updated on the registration  
640 system provided for in paragraph (d).

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641 (d) ~~By October 1, 2013,~~ The department shall use ~~establish~~  
642 ~~and implement~~ a registration system through an Internet website  
643 that provides for the reporting requirements of paragraphs (a)  
644 and (b).

645 (e) The department shall prepare an annual report of the  
646 data reported pursuant to this subsection and present it to the  
647 Governor, the President of the Senate, and the Speaker of the  
648 House of Representatives by December 1, 2013, and each year  
649 thereafter.

650 (f) The division shall adopt rules pursuant to ss.  
651 120.536(1) and 120.54 to implement the provisions of this  
652 subsection.

653 ~~(g) This subsection shall expire on July 1, 2016, unless~~  
654 ~~reenacted by the Legislature.~~

655 Section 8. Section 720.3031, Florida Statutes, is created  
656 to read:

657 720.3031 Access to Association documents and Records on an  
658 Association Website.— In addition to any other provision of  
659 general law, associations with 7,500 or more parcels must have a  
660 website and provide a digital copy of specified documents on the  
661 website. An association with fewer than 7,500 parcels located  
662 within the physical boundaries of an affiliated association that  
663 has more than 7,500 or more parcels must provide digital copies  
664 of specified documents on the larger affiliated association's  
665 website. An association with fewer than 7,500 parcels located  
666 within the physical boundaries of an association with more than

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667 7,500 or more parcels, but that is not affiliated with the  
668 larger association, may provide digital copies of certain  
669 documents on its website if the association chooses to do so.

670 (1) An association's website must be:

671 (a) An independent website or web portal, wholly owned and  
672 operated by the association; or

673 (b) A website or web portal that is operated by a third-  
674 party provider with whom the association owns, leases, rents, or  
675 otherwise obtains the right to operate a web page, subpage, web  
676 portal, or collection of subpages or web portals dedicated to  
677 the association's activities and where required notices,  
678 records, and documents may be posted by the association.

679 (c) Accessible through the Internet.

680 (2) The following documents must be placed in digital  
681 format on the website:

682 (a) Copies of the official records in s. 720.303(4). The  
683 current roster of all members with their mailing addresses and  
684 parcel identifications may not be placed in digital format on  
685 the website. The website must include the following statement:  
686 "A current roster of all members and their mailing addresses and  
687 parcel identifications is available at the request of any  
688 association member." The notice shall include the e-mail address  
689 of the person to contact for a copy of the roster.

690 (b) The annual budget required by s. 720.303(6) and any  
691 proposed budget to be considered at the annual meeting.

692 (c) The financial report required by s. 720.303(7) and any

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693 proposed financial report to be considered at a meeting.

694 (d) Any document created by the association or a board  
695 member relating to the recall of a director, pursuant to s.  
696 720.303(10), or any document created for or filed by the  
697 association in an arbitration proceeding conducted by the  
698 division regarding the recall of a director.

699 (e) A copy of the information submitted to the division to  
700 comply with the reporting requirement in s. 720.303(13).

701 (f) Documentation reporting the compensation of directors,  
702 officers, or members authorized under s. 720.303(12).

703 (g) The certification of each director required by s.  
704 720.3033(1).

705 (h) A list of all contracts or transactions between the  
706 association and any director, officer, corporation, firm, or  
707 association that is not an affiliated homeowners' association,  
708 or other entity in which an association director is also a  
709 director or officer is financially interested.

710 (i) Any fidelity bond entered into by the association.

711 (j) A map of the area governed by the association,  
712 including association boundaries.

713 (k) Any contract or document regarding a conflict of  
714 interest or possible conflict of interest as provided in ss.  
715 468.436(2) and 720.3033.

716 (l) Notice of any board meeting and the agenda for the  
717 meeting, as required by s. 720.303(2), placed online no later  
718 than 14 days before the meeting posted in plain view on the

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719 front page, or on a separate subpage labeled "Notices" which is  
720 conspicuously visible and linked from the front page of the  
721 association's website. The association must post on the  
722 association's website any documents to be considered during the  
723 meeting or listed on the agenda no later than 7 days before the  
724 meeting at which the document or the information within the  
725 document will be considered, including the following documents:  
726 1. The proposed annual budget required by s. 720.303(6);  
727 2. The proposed financial report required by s.  
728 720.303(7).  
729 3. A list of persons seeking to be elected to the board.  
730 4. A copy of contracts or transactions listed in paragraph  
731 (1).  
732 5. Any competitive bids for materials, equipment, or  
733 services.  
734 6. Any proposed contracts or proposed transactional  
735 documents related to any possible conflict of interest set forth  
736 in ss. 468.436(2) and 720.3033.  
737 (3) The association shall ensure that the information and  
738 records described in s. 720.303(5)(c), which are not permitted  
739 to be accessible to members or parcel owners, are not placed on  
740 the association's website. If protected information, or  
741 information restricted from being accessible to members or  
742 parcel owners, is included in documents that are required to be  
743 placed on the association's website, the association shall  
744 ensure the information is redacted before placing the documents

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745 online.

746 Section 9. Subsections (2) through (5) of section  
747 720.3033, Florida Statutes, are renumbered as subsections (3)  
748 through (6), respectively, and subsections (2) and (7) are added  
749 to that section, to read:

750 720.3033 Officers and directors.—

751 (2) (a) Directors and officers of the board must disclose  
752 to the board any activity that may reasonably be construed as a  
753 conflict of interest. A rebuttable presumption of a conflict of  
754 interest exists if any of the following occurs without prior  
755 notice, as required in paragraph (b), or board approval taken at  
756 a properly noticed meeting of the members:

757 1. The director, officer, or a relative of a director or  
758 officer enters into a contract for goods or services with the  
759 association.

760 2. The director, officer, or a relative of a director or  
761 officer holds an interest in any corporation, limited liability  
762 corporation, partnership, limited liability partnership, or  
763 other business entity that conducts business with the  
764 association or proposes to enter into a contract or other  
765 transaction with the association.

766 3. A corporation, limited liability corporation,  
767 partnership, limited liability partnership, or other business  
768 entity that, directly or indirectly, owns or controls the  
769 director or officer, or otherwise influences any decisions made  
770 by the director or officer, intends to conduct business with the

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771 association or proposes to enter into a contract or other  
772 transaction with the association.

773 (b) If a director, officer, or a relative of a director or  
774 officer proposes to engage in an activity that is a conflict of  
775 interest, as described in paragraph (a), the proposed activity  
776 must be placed on a meeting agenda, including any proposed  
777 contract or transactional documents. If the board votes against  
778 the proposed activity, the director, officer, or relative of the  
779 director or officer shall notify the board in writing of his or  
780 her intention not to pursue the proposed activity or withdraw  
781 from the position as director or officer. If the board finds  
782 that an officer or director has violated this subsection, the  
783 board shall immediately remove the affected officer or director  
784 from office. The vacancy shall be filled according to general  
785 law until.

786 (c) A director, officer, or relative of a director or  
787 officer who is party to or has an interest in the transaction or  
788 arrangement involving the possible conflict of interest may  
789 attend the meeting at which the transaction or arrangement is  
790 considered by the board. The director, officer, or relative of  
791 the director or officer shall be allowed to make a presentation  
792 to the board or committee regarding the transaction or  
793 arrangement. After the presentation, the director, officer, or  
794 relative of the director or officer must leave the meeting  
795 during the discussion of, and the vote upon, the transaction or  
796 arrangement involving the possible conflict of interest. A

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797 director or officer who is party to or has an interest in such  
798 transaction or arrangement shall recuse him or herself from the  
799 vote.

800 (d)1. The board must provide notice to members of any  
801 possible conflict of interest described in paragraph (a), under  
802 the same procedures pursuant to s. 720.303(2)(c), for notices of  
803 meetings where a special assessments is to be considered. Any  
804 related proposed contracts or proposed transactional documents  
805 related to the conflict must be attached to the agenda and made  
806 available with the meeting agenda.

807 2. An association with 7,500 or more parcels must place  
808 the notice required in subparagraph 1. on the front page of the  
809 association's website. Any related proposed contracts or  
810 proposed transactional documents related to the conflict must be  
811 attached to the agenda provided on the association's website.  
812 The notice and related proposed contracts or proposed  
813 transactional documents must be posted on the association's  
814 website at least 7 days before the meeting at which the possible  
815 conflict of interest will be considered or voted upon by the  
816 board.

817 (7) If an association consists of 7,500 or more parcels,  
818 any committee to hear appeals as identified in s.720.305(2)(b),  
819 must consist of at least five members appointed by the board who  
820 are not officers, directors, or employees of the association, or  
821 the spouse, parent, child, brother, or sister of an officer,  
822 director, or employee of the association.



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823 Section 10. Paragraphs (c) and (d) are added to subsection  
824 (2) of section 720.305, Florida Statutes, to read:

825 720.305 Obligations of members; remedies at law or in  
826 equity; levy of fines and suspension of use rights.—

827 (2) The association may levy reasonable fines. A fine may  
828 not exceed \$100 per violation against any member or any member's  
829 tenant, guest, or invitee for the failure of the owner of the  
830 parcel or its occupant, licensee, or invitee to comply with any  
831 provision of the declaration, the association bylaws, or  
832 reasonable rules of the association unless otherwise provided in  
833 the governing documents. A fine may be levied by the board for  
834 each day of a continuing violation, with a single notice and  
835 opportunity for hearing, except that the fine may not exceed  
836 \$1,000 in the aggregate unless otherwise provided in the  
837 governing documents. A fine of less than \$1,000 may not become a  
838 lien against a parcel. In any action to recover a fine, the  
839 prevailing party is entitled to reasonable attorney fees and  
840 costs from the nonprevailing party as determined by the court.

841 (c) An association may not enforce traffic laws provided in  
842 chapter 316. An association may not place requirements in the  
843 governing documents regarding compliance with traffic laws in  
844 chapter 316. An association may not levy fines or assessments  
845 for violations of traffic laws enforced under s. 316.640. An  
846 association may not suspend the right of a member, or a member's  
847 tenant, guest, or invitee, to use common areas and facilities  
848 for failure to comply with traffic laws.

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849 (d) An association may not enforce criminal laws provided  
850 in chapters 775-896 or relevant federal law. An association may  
851 not place requirements in the governing documents regarding  
852 compliance with criminal laws in chapters 775-896 or relevant  
853 federal law. An association may not levy fines or assessments  
854 for violations of criminal laws provided in chapters 775-896 or  
855 relevant federal law. An association may not suspend the right  
856 of a member, or a member's tenant, guest, or invitee, to use  
857 common areas and facilities for failure to comply with such  
858 criminal laws.

859 Section 11. Paragraph (d) of subsection (1) of section  
860 720.306, Florida Statutes, is redesignated as paragraph (h),  
861 paragraphs (d) through (g) are added to that subsection, and  
862 subsections (5) and (9) of that section are amended, to read:

863 720.306 Meetings of members; voting and election  
864 procedures; amendments.—

865 (1) QUORUM; AMENDMENTS.—

866 (d) A proposal to amend an existing provision of the  
867 declaration must contain the full text of the provision to be  
868 amended and may not be revised or amended by reference only to  
869 the declaration title or number. Words to be added must be  
870 inserted in the text and underlined, and words to be deleted  
871 must be stricken with hyphens. However, if the proposed change  
872 is so extensive that this procedure would hinder, rather than  
873 assist, the understanding of the proposed amendment, it is not  
874 necessary to use underlined and stricken text as indicators of

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875 words added or deleted. Instead, a notation must be inserted  
876 immediately preceding the proposed amendment in substantially  
877 the following language: "Substantial rewording of declaration.  
878 See provision for present text." An amendment to a declaration  
879 is effective when properly recorded in the public records of the  
880 county where the declaration is recorded.

881 (e) Nonmaterial errors or omissions in the amendment  
882 process do not invalidate an otherwise properly adopted  
883 amendment.

884 (f) An amendment to any recorded governing document is  
885 effective when properly recorded in the public records of the  
886 county where the governing document is recorded.

887 (g) An amendment prohibiting parcel owners from renting  
888 their homes, altering the duration of the rental term, or  
889 specifying or limiting the number of times that parcel owners  
890 are entitled to rent their homes during a specified period  
891 applies only to parcel owners who acquire title to their homes  
892 after the effective date of that amendment or to parcel owners  
893 who consent, individually or through their representative, to  
894 the amendment.

895 (5) NOTICE OF MEETINGS.—The bylaws shall provide for  
896 giving notice to members of all member meetings, and if they do  
897 not do so shall be deemed to provide the following: The  
898 association shall give all parcel owners and members actual  
899 notice of all membership meetings, which shall be mailed,  
900 delivered, or electronically transmitted to the members not less

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901 than 14 days prior to the meeting. Evidence of compliance with  
902 this 14-day notice shall be made by an affidavit executed by the  
903 person providing the notice and filed upon execution among the  
904 official records of the association. In addition to mailing,  
905 delivering, or electronically transmitting the notice of any  
906 meeting, the association may, by reasonable rule, adopt a  
907 procedure for conspicuously posting and repeatedly broadcasting  
908 the notice and the agenda on a closed-circuit cable television  
909 system serving the association. When broadcast notice is  
910 provided, the notice and agenda must be broadcast in a manner  
911 and for a sufficient continuous length of time so as to allow an  
912 average reader to observe the notice and read and comprehend the  
913 entire content of the notice and the agenda. Pursuant to s.  
914 720.303, associations with 7,500 parcels or more must place a  
915 copy of all notices of meetings on the association's website at  
916 least 14 days before the hearing.

## (9) ELECTIONS AND BOARD VACANCIES.—

918 (a) Elections of directors must be conducted in accordance  
919 with the procedures set forth in the governing documents of the  
920 association. An association with 7,500 parcels or more must  
921 allow association members to vote in the election of directors  
922 at a designated location from 7 a.m. to 7 p.m. on the day of the  
923 election.

924 (b) Except as provided in paragraph (c) ~~(b)~~, all members  
925 of the association are eligible to serve on the board of  
926 directors, and a member may nominate himself or herself as a

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927 candidate for the board at a meeting where the election is to be  
928 held; provided, however, that if the election process allows  
929 candidates to be nominated in advance of the meeting, the  
930 association is not required to allow nominations at the meeting.  
931 An election is not required unless more candidates are nominated  
932 than vacancies exist. Except as otherwise provided in the  
933 governing documents, boards of directors must be elected by a  
934 plurality of the votes cast by eligible voters. Any challenge to  
935 the election process must be commenced within 60 days after the  
936 election results are announced.

937 (c) ~~(b)~~ A person who is delinquent in the payment of any  
938 fee, fine, or other monetary obligation to the association on  
939 the day that he or she could last nominate himself or herself or  
940 be nominated for the board may not seek election to the board,  
941 and his or her name shall not be listed on the ballot. A person  
942 serving as a board member who becomes more than 90 days  
943 delinquent in the payment of any fee, fine, or other monetary  
944 obligation to the association shall be deemed to have abandoned  
945 his or her seat on the board, creating a vacancy on the board to  
946 be filled according to law. For purposes of this paragraph, the  
947 term "any fee, fine, or other monetary obligation" means any  
948 delinquency to the association with respect to any parcel. A  
949 person who has been convicted of any felony in this state or in  
950 a United States District or Territorial Court, or has been  
951 convicted of any offense in another jurisdiction which would be  
952 considered a felony if committed in this state, may not seek

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953 election to the board and is not eligible for board membership  
954 unless such felon's civil rights have been restored for at least  
955 5 years as of the date on which such person seeks election to  
956 the board. The validity of any action by the board is not  
957 affected if it is later determined that a person was ineligible  
958 to seek election to the board or that a member of the board is  
959 ineligible for board membership.

960 (d)~~(e)~~ Any election dispute between a member and an  
961 association must be submitted to mandatory binding arbitration  
962 with the division. Such proceedings must be conducted in the  
963 manner provided by s. 718.1255 and the procedural rules adopted  
964 by the division. Unless otherwise provided in the bylaws, any  
965 vacancy occurring on the board before the expiration of a term  
966 may be filled by an affirmative vote of the majority of the  
967 remaining directors, even if the remaining directors constitute  
968 less than a quorum, or by the sole remaining director. In the  
969 alternative, a board may hold an election to fill the vacancy,  
970 in which case the election procedures must conform to the  
971 requirements of the governing documents. Unless otherwise  
972 provided in the bylaws, a board member appointed or elected  
973 under this section is appointed for the unexpired term of the  
974 seat being filled. Filling vacancies created by recall is  
975 governed by s. 720.303(11) ~~720.303(10)~~ and rules adopted by the  
976 division.

977 (e) An outgoing board member, or a board member who is  
978 recalled pursuant to s. 720.303(11), must relinquish all

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979 official records and property of the association in his or her  
980 possession or under his or her control, including administrative  
981 rights or controls of an association's website or other digital  
982 or electronic asset of the association, to the incoming board  
983 within 5 days after the election or, in the case of a recall,  
984 within 5 days after the recall is effective as provided in s.  
985 718.303(11).

986 Section 12. Paragraph (u) is added to subsection (4) of  
987 section 720.307, Florida Statutes, to read:

988 720.307 Transition of association control in a community.-  
989 With respect to homeowners' associations:

990 (4) At the time the members are entitled to elect at least  
991 a majority of the board of directors of the homeowners'  
992 association, the developer shall, at the developer's expense,  
993 within no more than 90 days deliver the following items  
994 ~~documents~~ to the board:

995 (u) Administrative rights or controls of the association's  
996 website or other digital or electronic asset of the association.

997 Section 13. Subsections (2) through (6) of section  
998 720.308, Florida Statutes, are renumbered as subsections (3)  
999 through (7), respectively, and a new subsection (2) is added to  
1000 that section, to read:

1001 720.308 Assessments and charges.-

1002 (2) COLLECTION OF PAST DUE ASSESSMENTS.-

1003 (a) Associations may not use a third party or otherwise  
1004 take legal action to collect unpaid assessments unless the

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1005 association has adopted and follows a written collection policy  
1006 governing the collection of unpaid assessments, which must  
1007 include:

1008 1. The date on which assessments must be paid to the  
1009 association and when an assessment is considered past due and  
1010 delinquent.

1011 2. Any late fees and interest the association is entitled  
1012 to impose on a delinquent member's account.

1013 3. Any returned check charges the association is entitled  
1014 to impose.

1015 4. The circumstances under which a member is entitled to  
1016 enter into a payment plan pursuant to this section, and the  
1017 minimum terms of the payment plan.

1018 5. The method by which payments may be applied on the  
1019 delinquent account of a member.

1020 6. The legal remedies available to the association to  
1021 collect on a member's delinquent account.

1022 (b) No less than 30 days before the association intends to  
1023 transfer the right to collect past due assessments or a lien to  
1024 a third party or refers it to an attorney for legal action, the  
1025 association must send the member a notice of delinquency  
1026 specifying:

1027 1. The total amount due, with an accounting of how the  
1028 total was determined.

1029 2. Whether the opportunity to enter into a payment plan  
1030 exists pursuant to this section, and instructions for contacting



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1031 the entity to enter into a payment plan.

1032 3. The name and contact information for the individual that  
1033 may be contacted to request a copy of the member's ledger in  
1034 order to verify the amount of the debt.

1035 4. That action is required to cure the delinquency and that  
1036 failure to do so within 30 days may result in the past due  
1037 assessments being transferred to a third party for collection, a  
1038 lawsuit being filed against the member, the filing and  
1039 foreclosure of a lien against the member's property, or other  
1040 remedies available under Florida law.

1041 (c) Payment Plans. -

1042 1. In collecting past-due assessments and other delinquent  
1043 payments, an association or third party authorized to collect  
1044 past due assessments shall make a documented, good faith effort  
1045 to coordinate with the member to set up a payment plan that  
1046 meets the requirements of this paragraph.

1047 2. The payment plan negotiated between the association and  
1048 the member or the third party holder of the past due assessments  
1049 and the member, must provide a period of at least six months to  
1050 pay off the past due assessments in equal installments.

1051 a. Nothing in this section prohibits an association or a  
1052 third party holder of past due assessments from pursuing legal  
1053 action against a member if the member fails to comply with the  
1054 terms of his or her payment plan.

1055 b. A member's failure to remit payment of an agreed-upon  
1056 installment, or to remain current with regular assessments as

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1057 they come due during the time period provided for in the payment  
1058 plan, constitutes a failure to comply with the terms of his or  
1059 her payment plan, and shall require the immediate payment of all  
1060 past due assessments owed to the association or third party  
1061 holder of the past due assessments by the member.

1062 (d) Associations and third parties authorized to collect  
1063 past due assessments are not required to offer a payment plan if  
1064 the following occurs:

1065 1. If the member does not occupy the parcel and has  
1066 acquired the property as a result of:

1067 a. Default of a security interest encumbering the parcel;

1068 or

1069 b. Foreclosure of the association's lien.

1070 2. The association or third party holder of the past due  
1071 assessment has entered into a payment plan with a member  
1072 previously under this paragraph.

1073 Section 14. Paragraph (c) subsection (1) of section  
1074 720.3085, Florida Statutes, is amended to read:

1075 720.3085 Payment for assessments; lien claims.—

1076 (1) When authorized by the governing documents, the  
1077 association has a lien on each parcel to secure the payment of  
1078 assessments and other amounts provided for by this section.  
1079 Except as otherwise set forth in this section, the lien is  
1080 effective from and shall relate back to the date on which the  
1081 original declaration of the community was recorded. However, as  
1082 to first mortgages of record, the lien is effective from and

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1083 after recording of a claim of lien in the public records of the  
1084 county in which the parcel is located. This subsection does not  
1085 bestow upon any lien, mortgage, or certified judgment of record  
1086 on July 1, 2008, including the lien for unpaid assessments  
1087 created in this section, a priority that, by law, the lien,  
1088 mortgage, or judgment did not have before July 1, 2008.

1089 (c) The association may bring an action in its name to  
1090 foreclose a lien for assessments in the same manner in which a  
1091 mortgage of real property is foreclosed and may also bring an  
1092 action to recover a money judgment for the unpaid assessments  
1093 without waiving any claim of lien. The association is entitled  
1094 to recover its reasonable attorney's fees incurred in an action  
1095 to foreclose a lien or an action to recover a money judgment for  
1096 unpaid assessments. The association may only foreclose on the  
1097 lien if:

1098 1. The balance of the assessments and charges secured by  
1099 the lien equals or exceeds 6 months of common expense  
1100 assessments based on a periodic budget adopted by the  
1101 association; and

1102 2. The association's board has formally resolved, by a  
1103 recorded vote, to authorize the filing of a legal action against  
1104 the specific parcel on an individual basis. The board may not  
1105 delegate its duty to act under this subparagraph to any  
1106 attorney, insurer, manager, or third party, and any legal action  
1107 filed without evidence of the required recorded vote authorizing  
1108 the action shall be dismissed by the court in which the action

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1109 was filed. No attorneys' fees, court costs, or other charges  
1110 incurred by the association, holder of the lien, or third party  
1111 in connection with an action that is dismissed for this reason  
1112 may be assessed against the member.

1113 Section 15. Subsection (1) of section 720.311, Florida  
1114 Statutes, is amended to read:

1115 720.311 Dispute resolution.—

1116 (1) The Legislature finds that alternative dispute  
1117 resolution has made progress in reducing court dockets and  
1118 trials and in offering a more efficient, cost-effective option  
1119 to litigation. The filing of any petition for arbitration or the  
1120 serving of a demand for presuit mediation as provided for in  
1121 this section shall toll the applicable statute of limitations.  
1122 Any recall dispute filed with the department pursuant to s.  
1123 720.303(11) ~~720.303(10)~~ shall be conducted by the department in  
1124 accordance with the provisions of ss. 718.112(2)(j) and 718.1255  
1125 and the rules adopted by the division. In addition, the  
1126 department shall conduct mandatory binding arbitration of  
1127 election disputes between a member and an association pursuant  
1128 to s. 718.1255 and rules adopted by the division. Neither  
1129 election disputes nor recall disputes are eligible for presuit  
1130 mediation; these disputes shall be arbitrated by the department.  
1131 At the conclusion of the proceeding, the department shall charge  
1132 the parties a fee in an amount adequate to cover all costs and  
1133 expenses incurred by the department in conducting the  
1134 proceeding. Initially, the petitioner shall remit a filing fee

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1135 of at least \$200 to the department. The fees paid to the  
1136 department shall become a recoverable cost in the arbitration  
1137 proceeding, and the prevailing party in an arbitration  
1138 proceeding shall recover its reasonable costs and attorney's  
1139 fees in an amount found reasonable by the arbitrator. The  
1140 department shall adopt rules to effectuate the purposes of this  
1141 section.

1142 Section 16. This act shall take effect July 1, 2016.  
1143

1144 -----  
1145 **T I T L E A M E N D M E N T**

1146 Remove everything before the enacting clause and insert:  
1147 An act relating to community associations; amending s. 468.431,  
1148 F.S.; revising a definition; amending s. 718.103, F.S.; revising  
1149 a definition; amending s. 718.111, F.S.; revising records  
1150 required to be maintained by a condominium association; revising  
1151 duties of an outgoing and recalled board or committee member;  
1152 creating s. 718.1115, F.S.; providing requirements relating to  
1153 the provision of specified documents on an association's  
1154 website; amending s. 718.116, F.S.; providing requirements for  
1155 collection of past due assessments and the filing of liens;  
1156 creating s. 718.3027, F.S.; providing requirements relating to  
1157 director and officer conflicts of interest; amending s. 720.303,  
1158 F.S.; revising records required to be maintained by a  
1159 homeowners' association; revising reporting requirements;  
1160 deleting a provision relating the future expiration of the

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1357 (2016)

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1161 reporting requirements; creating s. 720.3031, F.S.; providing  
1162 requirements relating to the provision of specified documents on  
1163 an association's website; amending s. 720.3033, F.S.; providing  
1164 requirements relating to director and officer conflicts of  
1165 interest; providing requirements for board membership; amending  
1166 s. 720.305, F.S.; prohibiting an association from enforcing  
1167 certain traffic and criminal laws; amending s. 720.306, F.S.;  
1168 providing requirements for amendment of the association  
1169 declaration; providing meeting notice requirements; providing  
1170 election requirements; providing duties of an outgoing or  
1171 recalled board member; amending s. 720.307, F.S.; requiring a  
1172 developer to deliver certain information to the association;  
1173 amending s. 720.308, F.S.; providing requirements related to  
1174 past due assessments owed by a member; providing notice  
1175 requirements for an association transferring the right to  
1176 collect past due assessments or a third party to a third party;  
1177 amending s. 720.3085, F.S.; providing requirements for an  
1178 association filing for foreclosure; amending s. 720.311, F.S.;  
1179 conforming a cross-reference; providing an effective date.

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