

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WITHDRAWN	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: Judiciary Committee
 2 Representative Diaz, J. offered the following:

Amendment (with title amendment)

5 Remove everything after the enacting clause and insert:

6 Section 1. Paragraphs (a) and (d) of subsection (1),
 7 subsections (3) and (9), paragraphs (a) and (c) of subsection
 8 (12), and subsection (13) of section 718.111, Florida Statutes,
 9 are amended, and paragraph (g) is added to subsection (12), and
 10 subsection (15) is added to that section, to read:

11 718.111 The association.—

12 (1) CORPORATE ENTITY.—

13 (a) The operation of the condominium shall be by the
 14 association, which must be a Florida corporation for profit or a
 15 Florida corporation not for profit. However, any association
 16 which was in existence on January 1, 1977, need not be

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17 incorporated. The owners of units shall be shareholders or
18 members of the association. The officers and directors of the
19 association have a fiduciary relationship to the unit owners. It
20 is the intent of the Legislature that nothing in this paragraph
21 shall be construed as providing for or removing a requirement of
22 a fiduciary relationship between any manager employed by the
23 association and the unit owners. An officer, director, or
24 manager may not solicit, offer to accept, or accept any thing or
25 service of value or kickback for which consideration has not
26 been provided for his or her own benefit or that of his or her
27 immediate family, from any person providing or proposing to
28 provide goods or services to the association. Any such officer,
29 director, or manager who knowingly so solicits, offers to
30 accept, or accepts any thing or service of value or kickback is
31 subject to a civil penalty pursuant to s. 718.501(1)(d), and if
32 applicable, a criminal penalty as provided in paragraph (d).
33 However, this paragraph does not prohibit an officer, director,
34 or manager from accepting services or items received in
35 connection with trade fairs or education programs. An
36 association may operate more than one condominium.

37 (d) As required by s. 617.0830, an officer, director, or
38 agent shall discharge his or her duties in good faith, with the
39 care an ordinarily prudent person in a like position would
40 exercise under similar circumstances, and in a manner he or she
41 reasonably believes to be in the interests of the association.

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42 An officer, director, or agent shall be liable for monetary
43 damages as provided in s. 617.0834 if such officer, director, or
44 agent breached or failed to perform his or her duties and the
45 breach of, or failure to perform, his or her duties constitutes
46 a violation of criminal law as provided in s. 617.0834;
47 constitutes a transaction from which the officer or director
48 derived an improper personal benefit, either directly or
49 indirectly; or constitutes recklessness or an act or omission
50 that was in bad faith, with malicious purpose, or in a manner
51 exhibiting wanton and willful disregard of human rights, safety,
52 or property. Forgery of a ballot envelope used in a condominium
53 association election or voting certificate is punishable as
54 provided in s. 831.01, the theft or embezzlement of funds of a
55 condominium association is punishable as provided in s. 812.014,
56 and destruction of any document that is an official record of a
57 condominium association in furtherance of any crime is
58 punishable as provided in s. 918.13 as tampering with evidence
59 or as obstruction of justice as provided in s. 843.02. An
60 officer or director charged by information or indictment with a
61 crime referenced in this paragraph must be removed from office,
62 and the vacancy shall be filled as provided in s.
63 718.112(2)(d)2. until the earlier of the end of the officer's or
64 director's period of suspension or the end of his or her term of
65 office. While a criminal charge is pending against the officer
66 or director, he or she may not be appointed or elected to a

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67 position as an officer or director of any association and may
68 not have access to the official records of any association,
69 except pursuant to a court order. However, if the charges are
70 resolved without a finding of guilt, the officer or director
71 must be reinstated for the remainder of his or her term of
72 office, if any.

73 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
74 SUE, AND BE SUED; CONFLICT OF INTEREST.—

75 (a) The association may contract, sue, or be sued with
76 respect to the exercise or nonexercise of its powers. For these
77 purposes, the powers of the association include, but are not
78 limited to, the maintenance, management, and operation of the
79 condominium property. After control of the association is
80 obtained by unit owners other than the developer, the
81 association may institute, maintain, settle, or appeal actions
82 or hearings in its name on behalf of all unit owners concerning
83 matters of common interest to most or all unit owners,
84 including, but not limited to, the common elements; the roof and
85 structural components of a building or other improvements;
86 mechanical, electrical, and plumbing elements serving an
87 improvement or a building; representations of the developer
88 pertaining to any existing or proposed commonly used facilities;
89 and protesting ad valorem taxes on commonly used facilities and
90 on units; and may defend actions in eminent domain or bring
91 inverse condemnation actions. If the association has the

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92 authority to maintain a class action, the association may be
93 joined in an action as representative of that class with
94 reference to litigation and disputes involving the matters for
95 which the association could bring a class action. Nothing herein
96 limits any statutory or common-law right of any individual unit
97 owner or class of unit owners to bring any action without
98 participation by the association which may otherwise be
99 available.

100 (b) An association may not hire an attorney who represents
101 the management company of the association.

102 (9) PURCHASE OF UNITS.—The association has the power,
103 unless prohibited by the declaration, articles of incorporation,
104 or bylaws of the association, to purchase units in the
105 condominium and to acquire and hold, lease, mortgage, and convey
106 them. There shall be no limitation on the association's right to
107 purchase a unit at a foreclosure sale resulting from the
108 association's foreclosure of its lien for unpaid assessments, or
109 to take title by deed in lieu of foreclosure. However, except
110 for a timeshare condominium, a board member, manager, or
111 management company may not purchase a unit at a foreclosure sale
112 resulting from the association's foreclosure of its lien for
113 unpaid assessments or take title by deed in lieu of foreclosure.

114 (12) OFFICIAL RECORDS.—

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115 (a) From the inception of the association, the association
116 shall maintain each of the following items, if applicable, which
117 constitutes the official records of the association:

118 1. A copy of the plans, permits, warranties, and other
119 items provided by the developer pursuant to s. 718.301(4).

120 2. A photocopy of the recorded declaration of condominium
121 of each condominium operated by the association and each
122 amendment to each declaration.

123 3. A photocopy of the recorded bylaws of the association
124 and each amendment to the bylaws.

125 4. A certified copy of the articles of incorporation of
126 the association, or other documents creating the association,
127 and each amendment thereto.

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

129 6. A book or books that contain the minutes of all
130 meetings of the association, the board of administration, and
131 the unit owners, which minutes must be retained for at least 7
132 years.

133 7. A current roster of all unit owners and their mailing
134 addresses, unit identifications, voting certifications, and, if
135 known, telephone numbers. The association shall also maintain
136 the electronic mailing addresses and facsimile numbers of unit
137 owners consenting to receive notice by electronic transmission.
138 The electronic mailing addresses and facsimile numbers are not
139 accessible to unit owners if consent to receive notice by

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140 electronic transmission is not provided in accordance with sub-
141 subparagraph (c)5.e. subparagraph (e)5. However, the association
142 is not liable for an inadvertent disclosure of the electronic
143 mail address or facsimile number for receiving electronic
144 transmission of notices.

145 8. All current insurance policies of the association and
146 condominiums operated by the association.

147 9. A current copy of any management agreement, lease, or
148 other contract to which the association is a party or under
149 which the association or the unit owners have an obligation or
150 responsibility.

151 10. Bills of sale or transfer for all property owned by
152 the association.

153 11. Accounting records for the association and separate
154 accounting records for each condominium that the association
155 operates. All accounting records must be maintained for at least
156 7 years. Any person who knowingly or intentionally defaces or
157 destroys such records, or who knowingly or intentionally fails
158 to create or maintain such records, with the intent of causing
159 harm to the association or one or more of its members, is
160 personally subject to a civil penalty pursuant to s.

161 718.501(1)(d). The accounting records must include, but are not
162 limited to:

163 a. Accurate, itemized, and detailed records of all
164 receipts and expenditures.

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165 b. A current account and a monthly, bimonthly, or
166 quarterly statement of the account for each unit designating the
167 name of the unit owner, the due date and amount of each
168 assessment, the amount paid on the account, and the balance due.

169 c. All audits, reviews, accounting statements, and
170 financial reports of the association or condominium.

171 d. All contracts for work to be performed. Bids for work
172 to be performed are also considered official records and must be
173 maintained by the association.

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

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

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

183 15. All other written records of the association not
184 specifically included in the foregoing which are related to the
185 operation of the association.

186 16. A copy of the inspection report as described in s.
187 718.301(4)(p).

188 17. Bids for materials, equipment, or services.

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189 (c)1. The official records of the association are open to
190 inspection by any association member or the authorized
191 representative of such member at all reasonable times. The right
192 to inspect the records includes the right to make or obtain
193 copies, at the reasonable expense, if any, of the member or
194 authorized representative of such member. A renter of a unit has
195 a right to inspect and copy the association's bylaws and rules.

196 The association may adopt reasonable rules regarding the
197 frequency, time, location, notice, and manner of record
198 inspections and copying. The failure of an association to
199 provide the records within 10 working days after receipt of a
200 written request creates a rebuttable presumption that the
201 association willfully failed to comply with this paragraph. A
202 unit owner who is denied access to official records is entitled
203 to the actual damages or minimum damages for the association's
204 willful failure to comply. Minimum damages are \$50 per calendar
205 day for up to 10 days, beginning on the 11th working day after
206 receipt of the written request. The failure to permit inspection
207 entitles any person prevailing in an enforcement action to
208 recover reasonable attorney fees from the person in control of
209 the records who, directly or indirectly, knowingly denied access
210 to the records.

211 2. Any person who knowingly or intentionally defaces or
212 destroys accounting records that are required by this chapter to
213 be maintained during the period for which such records are

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214 required to be maintained, or who knowingly or intentionally
215 fails to create or maintain accounting records that are required
216 to be created or maintained, with the intent of causing harm to
217 the association or one or more of its members, is personally
218 subject to a civil penalty pursuant to s. 718.501(1)(d).

219 3. The association shall maintain an adequate number of
220 copies of the declaration, articles of incorporation, bylaws,
221 and rules, and all amendments to each of the foregoing, as well
222 as the question and answer sheet as described in s. 718.504 and
223 year-end financial information required under this section, on
224 the condominium property to ensure their availability to unit
225 owners and prospective purchasers, and may charge its actual
226 costs for preparing and furnishing these documents to those
227 requesting the documents. An association shall allow a member or
228 his or her authorized representative to use a portable device,
229 including a smartphone, tablet, portable scanner, or any other
230 technology capable of scanning or taking photographs, to make an
231 electronic copy of the official records in lieu of the
232 association's providing the member or his or her authorized
233 representative with a copy of such records. The association may
234 not charge a member or his or her authorized representative for
235 the use of a portable device. Notwithstanding this paragraph,
236 the following records are not accessible to unit owners:

237 a.1. Any record protected by the lawyer-client privilege
238 as described in s. 90.502 and any record protected by the work-

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239 product privilege, including a record prepared by an association
240 attorney or prepared at the attorney's express direction, which
241 reflects a mental impression, conclusion, litigation strategy,
242 or legal theory of the attorney or the association, and which
243 was prepared exclusively for civil or criminal litigation or for
244 adversarial administrative proceedings, or which was prepared in
245 anticipation of such litigation or proceedings until the
246 conclusion of the litigation or proceedings.

247 ~~b.2.~~ Information obtained by an association in connection
248 with the approval of the lease, sale, or other transfer of a
249 unit.

250 ~~c.3.~~ Personnel records of association or management
251 company employees, including, but not limited to, disciplinary,
252 payroll, health, and insurance records. For purposes of this
253 sub-subparagraph ~~subparagraph~~, the term "personnel records" does
254 not include written employment agreements with an association
255 employee or management company, or budgetary or financial
256 records that indicate the compensation paid to an association
257 employee.

258 ~~d.4.~~ Medical records of unit owners.

259 ~~e.5.~~ Social security numbers, driver license numbers,
260 credit card numbers, e-mail addresses, telephone numbers,
261 facsimile numbers, emergency contact information, addresses of a
262 unit owner other than as provided to fulfill the association's
263 notice requirements, and other personal identifying information

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264 of any person, excluding the person's name, unit designation,
265 mailing address, property address, and any address, e-mail
266 address, or facsimile number provided to the association to
267 fulfill the association's notice requirements. Notwithstanding
268 the restrictions in this sub-subparagraph ~~subparagraph~~, an
269 association may print and distribute to parcel owners a
270 directory containing the name, parcel address, and all telephone
271 numbers of each parcel owner. However, an owner may exclude his
272 or her telephone numbers from the directory by so requesting in
273 writing to the association. An owner may consent in writing to
274 the disclosure of other contact information described in this
275 sub-subparagraph ~~subparagraph~~. The association is not liable for
276 the inadvertent disclosure of information that is protected
277 under this sub-subparagraph ~~subparagraph~~ if the information is
278 included in an official record of the association and is
279 voluntarily provided by an owner and not requested by the
280 association.

281 ~~f.6.~~ Electronic security measures that are used by the
282 association to safeguard data, including passwords.

283 ~~g.7.~~ The software and operating system used by the
284 association which allow the manipulation of data, even if the
285 owner owns a copy of the same software used by the association.
286 The data is part of the official records of the association.

287 (g)1. By July 1, 2018, an association with 150 or more
288 units which does not manage timeshare units shall post digital

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289 copies of the documents specified in subparagraph 2. on its
290 website.

291 a. The association's website must be:

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

294 (II) 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 on which required notices,
299 records, and documents may be posted by the association.

300 b. The association's website must be accessible through
301 the Internet and must contain a subpage, web portal, or other
302 protected electronic location that is inaccessible to the
303 general public and accessible only to unit owners and employees
304 of the association.

305 c. Upon a unit owner's written request, the association
306 must provide the unit owner with a username and password and
307 access to the protected sections of the association's website
308 that contain any notices, records, or documents that must be
309 electronically provided.

310 2. A current copy of the following documents must be
311 posted in digital format on the association's website:

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- 312 a. The recorded declaration of condominium of each
313 condominium operated by the association and each amendment to
314 each declaration.
- 315 b. The recorded bylaws of the association and each
316 amendment to the bylaws.
- 317 c. The articles of incorporation of the association, or
318 other documents creating the association, and each amendment
319 thereto. The copy posted pursuant to this sub-subparagraph must
320 be a copy of the articles of incorporation filed with the
321 Department of State.
- 322 d. The rules of the association.
- 323 e. Any management agreement, lease, or other contract to
324 which the association is a party or under which the association
325 or the unit owners have an obligation or responsibility.
326 Summaries of bids for materials, equipment, or services must be
327 maintained on the website for 1 year.
- 328 f. The annual budget required by s. 718.112(2)(f) and any
329 proposed budget to be considered at the annual meeting.
- 330 g. The financial report required by subsection (13) and
331 any proposed financial report to be considered at a meeting.
- 332 h. The certification of each director required by s.
333 718.112(2)(d)4.b.
- 334 i. All contracts or transactions between the association
335 and any director, officer, corporation, firm, or association
336 that is not an affiliated condominium association or any other

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337 entity in which an association director is also a director or
338 officer and financially interested.

339 j. Any contract or document regarding a conflict of
340 interest or possible conflict of interest as provided in ss.
341 468.436(2) and 718.3026(3).

342 k. The notice of any unit owner meeting and the agenda for
343 the meeting, as required by s. 718.112(2)(d)3., no later than 14
344 days before the meeting. The notice must be posted in plain view
345 on the front page of the website, or on a separate subpage of
346 the website labeled "Notices" which is conspicuously visible and
347 linked from the front page. The association must also post on
348 its website any document to be considered and voted on by the
349 owners during the meeting or any document listed on the agenda
350 at least 7 days before the meeting at which the document or the
351 information within the document will be considered.

352 1. Notice of any board meeting, and the agenda and any
353 other document required for the meeting as required by s.
354 718.112(2)(c), which must be posted no later than the date
355 required for notice pursuant to s. 718.112(2)(c).

356 2. The association shall ensure that the information and
357 records described in paragraph (c), which are not permitted to
358 be accessible to unit owners, are not posted on the
359 association's website. If protected information or information
360 restricted from being accessible to unit owners is included in
361 documents that are required to be posted on the association's

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362 website, the association shall ensure the information is
363 redacted before posting the documents online.

364 (13) FINANCIAL REPORTING.—Within 90 days after the end of
365 the fiscal year, or annually on a date provided in the bylaws,
366 the association shall prepare and complete, or contract for the
367 preparation and completion of, a financial report for the
368 preceding fiscal year. Within 21 days after the final financial
369 report is completed by the association or received from the
370 third party, but not later than 120 days after the end of the
371 fiscal year or other date as provided in the bylaws, the
372 association shall mail to each unit owner at the address last
373 furnished to the association by the unit owner, or hand deliver
374 to each unit owner, a copy of the most recent financial report
375 or a notice that a copy of the most recent financial report will
376 be mailed or hand delivered to the unit owner, without charge,
377 within 5 business days after ~~upon~~ receipt of a written request
378 from the unit owner. The division shall adopt rules setting
379 forth uniform accounting principles and standards to be used by
380 all associations and addressing the financial reporting
381 requirements for multicondominium associations. The rules must
382 include, but not be limited to, standards for presenting a
383 summary of association reserves, including a good faith estimate
384 disclosing the annual amount of reserve funds that would be
385 necessary for the association to fully fund reserves for each
386 reserve item based on the straight-line accounting method. This

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387 disclosure is not applicable to reserves funded via the pooling
388 method. In adopting such rules, the division shall consider the
389 number of members and annual revenues of an association.

390 Financial reports shall be prepared as follows:

391 (a) An association that meets the criteria of this
392 paragraph shall prepare a complete set of financial statements
393 in accordance with generally accepted accounting principles. The
394 financial statements must be based upon the association's total
395 annual revenues, as follows:

396 1. An association with total annual revenues of \$150,000
397 or more, but less than \$300,000, shall prepare compiled
398 financial statements.

399 2. An association with total annual revenues of at least
400 \$300,000, but less than \$500,000, shall prepare reviewed
401 financial statements.

402 3. An association with total annual revenues of \$500,000
403 or more shall prepare audited financial statements.

404 (b)1. An association with total annual revenues of less
405 than \$150,000 shall prepare a report of cash receipts and
406 expenditures.

407 2. An association that operates fewer than 50 units,
408 regardless of the association's annual revenues, shall prepare a
409 report of cash receipts and expenditures in lieu of financial
410 statements required by paragraph (a).

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411 3. A report of cash receipts and disbursements must
412 disclose the amount of receipts by accounts and receipt
413 classifications and the amount of expenses by accounts and
414 expense classifications, including, but not limited to, the
415 following, as applicable: costs for security, professional and
416 management fees and expenses, taxes, costs for recreation
417 facilities, expenses for refuse collection and utility services,
418 expenses for lawn care, costs for building maintenance and
419 repair, insurance costs, administration and salary expenses, and
420 reserves accumulated and expended for capital expenditures,
421 deferred maintenance, and any other category for which the
422 association maintains reserves.

423 (c) An association may prepare, without a meeting of or
424 approval by the unit owners:

425 1. Compiled, reviewed, or audited financial statements, if
426 the association is required to prepare a report of cash receipts
427 and expenditures;

428 2. Reviewed or audited financial statements, if the
429 association is required to prepare compiled financial
430 statements; or

431 3. Audited financial statements if the association is
432 required to prepare reviewed financial statements.

433 (d) If approved by a majority of the voting interests
434 present at a properly called meeting of the association, an
435 association may prepare:

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436 1. A report of cash receipts and expenditures in lieu of a
437 compiled, reviewed, or audited financial statement;

438 2. A report of cash receipts and expenditures or a
439 compiled financial statement in lieu of a reviewed or audited
440 financial statement; or

441 3. A report of cash receipts and expenditures, a compiled
442 financial statement, or a reviewed financial statement in lieu
443 of an audited financial statement.
444

445 Such meeting and approval must occur before the end of the
446 fiscal year and is effective only for the fiscal year in which
447 the vote is taken, except that the approval may also be
448 effective for the following fiscal year. If the developer has
449 not turned over control of the association, all unit owners,
450 including the developer, may vote on issues related to the
451 preparation of the association's financial reports, from the
452 date of incorporation of the association through the end of the
453 second fiscal year after the fiscal year in which the
454 certificate of a surveyor and mapper is recorded pursuant to s.
455 718.104(4)(e) or an instrument that transfers title to a unit in
456 the condominium which is not accompanied by a recorded
457 assignment of developer rights in favor of the grantee of such
458 unit is recorded, whichever occurs first. Thereafter, all unit
459 owners except the developer may vote on such issues until
460 control is turned over to the association by the developer. Any

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461 audit or review prepared under this section shall be paid for by
462 the developer if done before turnover of control of the
463 association. An association may not waive the financial
464 reporting requirements of this section for more than 3
465 consecutive years.

466 (e) If the division determines that an association has not
467 mailed or hand delivered to the unit owner a copy of the most
468 recent financial report within 5 business days after receipt of
469 a written request from the unit owner, the unit owner may give
470 notice to the division of the association's failure to comply.
471 Upon notification, the division shall give notice to the
472 association that the association must mail or hand deliver the
473 copy of the most recent financial report to the unit owner and
474 the division within 5 business days after such notice. Any
475 association that fails to comply with the division's request may
476 not waive the financial reporting requirement provided in
477 paragraph (d). A financial report received by the division
478 pursuant to this paragraph shall be maintained, and the division
479 shall provide a copy of such report to an association member
480 upon his or her request.

481 (15) DEBIT CARDS.—No association or any officer, director,
482 employee, or agent of an association shall use a debit card
483 issued in the name of the association, or which is billed
484 directly to the association, for the payment of any association
485 expense. Use of a debit card issued in the name of the

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486 association or billed directly to the association for any
487 expense which is not a lawful obligation of the association may
488 be prosecuted as credit card fraud pursuant to s. 817.61.

489 Section 2. In order to implement the website requirement
490 in Section 1 of this act, the Department of Business and
491 Professional Regulation is directed to include within the next
492 condominium association annual fee statement required by s.
493 718.501(2)(a), Florida Statutes, a notice informing condominium
494 associations of 150 or more units of the requirement to create a
495 website for association documents that is operational no later
496 than July 1, 2018.

497 Section 3. Paragraphs (d) and (j) of subsection (2) of
498 section 718.112, Florida Statutes, are amended, and paragraph
499 (p) is added to that subsection, to read:

500 718.112 Bylaws.—

501 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
502 following and, if they do not do so, shall be deemed to include
503 the following:

504 (d) *Unit owner meetings.*—

505 1. An annual meeting of the unit owners shall be held at
506 the location provided in the association bylaws and, if the
507 bylaws are silent as to the location, the meeting shall be held
508 within 45 miles of the condominium property. However, such
509 distance requirement does not apply to an association governing
510 a timeshare condominium.

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511 2. Unless the bylaws provide otherwise, a vacancy on the
512 board caused by the expiration of a director's term shall be
513 filled by electing a new board member, and the election must be
514 by secret ballot. An election is not required if the number of
515 vacancies equals or exceeds the number of candidates. For
516 purposes of this paragraph, the term "candidate" means an
517 eligible person who has timely submitted the written notice, as
518 described in sub-subparagraph 4.a., of his or her intention to
519 become a candidate. Except in a timeshare or nonresidential
520 condominium, or if the staggered term of a board member does not
521 expire until a later annual meeting, or if all members' terms
522 would otherwise expire but there are no candidates, the terms of
523 all board members expire at the annual meeting, and such members
524 may stand for reelection unless prohibited by the bylaws. ~~If the~~
525 ~~bylaws or articles of incorporation permit terms of no more than~~
526 ~~2 years, the association~~ Board members may serve 2-year terms if
527 permitted by the bylaws or articles of incorporation. A board
528 member may not serve more than four consecutive 2-year terms,
529 unless approved by an affirmative vote of two-thirds of the
530 total voting interests of the association or unless there are
531 not enough eligible candidates to fill the vacancies on the
532 board at the time of the vacancy. If the number of board members
533 whose terms expire at the annual meeting equals or exceeds the
534 number of candidates, the candidates become members of the board
535 effective upon the adjournment of the annual meeting. Unless the

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536 bylaws provide otherwise, any remaining vacancies shall be
537 filled by the affirmative vote of the majority of the directors
538 making up the newly constituted board even if the directors
539 constitute less than a quorum or there is only one director. In
540 a residential condominium association of more than 10 units or
541 in a residential condominium association that does not include
542 timeshare units or timeshare interests, coowners of a unit may
543 not serve as members of the board of directors at the same time
544 unless they own more than one unit or unless there are not
545 enough eligible candidates to fill the vacancies on the board at
546 the time of the vacancy. A unit owner in a residential
547 condominium desiring to be a candidate for board membership must
548 comply with sub-subparagraph 4.a. and must be eligible to be a
549 candidate to serve on the board of directors at the time of the
550 deadline for submitting a notice of intent to run in order to
551 have his or her name listed as a proper candidate on the ballot
552 or to serve on the board. A person who has been suspended or
553 removed by the division under this chapter, or who is delinquent
554 in the payment of any monetary obligation due to the
555 association, is not eligible to be a candidate for board
556 membership and may not be listed on the ballot. A person who has
557 been convicted of any felony in this state or in a United States
558 District or Territorial Court, or who has been convicted of any
559 offense in another jurisdiction which would be considered a
560 felony if committed in this state, is not eligible for board

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561 membership unless such felon's civil rights have been restored
562 for at least 5 years as of the date such person seeks election
563 to the board. The validity of an action by the board is not
564 affected if it is later determined that a board member is
565 ineligible for board membership due to having been convicted of
566 a felony. This subparagraph does not limit the term of a member
567 of the board of a nonresidential or timeshare condominium.

568 3. The bylaws must provide the method of calling meetings
569 of unit owners, including annual meetings. Written notice must
570 include an agenda, must be mailed, hand delivered, or
571 electronically transmitted to each unit owner at least 14 days
572 before the annual meeting, and must be posted in a conspicuous
573 place on the condominium property at least 14 continuous days
574 before the annual meeting. Upon notice to the unit owners, the
575 board shall, by duly adopted rule, designate a specific location
576 on the condominium property or association property where all
577 notices of unit owner meetings shall be posted. This requirement
578 does not apply if there is no condominium property or
579 association property for posting notices. In lieu of, or in
580 addition to, the physical posting of meeting notices, the
581 association may, by reasonable rule, adopt a procedure for
582 conspicuously posting and repeatedly broadcasting the notice and
583 the agenda on a closed-circuit cable television system serving
584 the condominium association. However, if broadcast notice is
585 used in lieu of a notice posted physically on the condominium

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586 property, the notice and agenda must be broadcast at least four
587 times every broadcast hour of each day that a posted notice is
588 otherwise required under this section. If broadcast notice is
589 provided, the notice and agenda must be broadcast in a manner
590 and for a sufficient continuous length of time so as to allow an
591 average reader to observe the notice and read and comprehend the
592 entire content of the notice and the agenda. Unless a unit owner
593 waives in writing the right to receive notice of the annual
594 meeting, such notice must be hand delivered, mailed, or
595 electronically transmitted to each unit owner. Notice for
596 meetings and notice for all other purposes must be mailed to
597 each unit owner at the address last furnished to the association
598 by the unit owner, or hand delivered to each unit owner.
599 However, if a unit is owned by more than one person, the
600 association must provide notice to the address that the
601 developer identifies for that purpose and thereafter as one or
602 more of the owners of the unit advise the association in
603 writing, or if no address is given or the owners of the unit do
604 not agree, to the address provided on the deed of record. An
605 officer of the association, or the manager or other person
606 providing notice of the association meeting, must provide an
607 affidavit or United States Postal Service certificate of
608 mailing, to be included in the official records of the
609 association affirming that the notice was mailed or hand
610 delivered in accordance with this provision.

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611 4. The members of the board of a residential condominium
612 shall be elected by written ballot or voting machine. Proxies
613 may not be used in electing the board in general elections or
614 elections to fill vacancies caused by recall, resignation, or
615 otherwise, unless otherwise provided in this chapter. This
616 subparagraph does not apply to an association governing a
617 timeshare condominium.

618 a. At least 60 days before a scheduled election, the
619 association shall mail, deliver, or electronically transmit, by
620 separate association mailing or included in another association
621 mailing, delivery, or transmission, including regularly
622 published newsletters, to each unit owner entitled to a vote, a
623 first notice of the date of the election. A unit owner or other
624 eligible person desiring to be a candidate for the board must
625 give written notice of his or her intent to be a candidate to
626 the association at least 40 days before a scheduled election.
627 Together with the written notice and agenda as set forth in
628 subparagraph 3., the association shall mail, deliver, or
629 electronically transmit a second notice of the election to all
630 unit owners entitled to vote, together with a ballot that lists
631 all candidates. Upon request of a candidate, an information
632 sheet, no larger than 8 1/2 inches by 11 inches, which must be
633 furnished by the candidate at least 35 days before the election,
634 must be included with the mailing, delivery, or transmission of
635 the ballot, with the costs of mailing, delivery, or electronic

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636 transmission and copying to be borne by the association. The
637 association is not liable for the contents of the information
638 sheets prepared by the candidates. In order to reduce costs, the
639 association may print or duplicate the information sheets on
640 both sides of the paper. The division shall by rule establish
641 voting procedures consistent with this sub-subparagraph,
642 including rules establishing procedures for giving notice by
643 electronic transmission and rules providing for the secrecy of
644 ballots. Elections shall be decided by a plurality of ballots
645 cast. There is no quorum requirement; however, at least 20
646 percent of the eligible voters must cast a ballot in order to
647 have a valid election. A unit owner may not permit any other
648 person to vote his or her ballot, and any ballots improperly
649 cast are invalid. A unit owner who violates this provision may
650 be fined by the association in accordance with s. 718.303. A
651 unit owner who needs assistance in casting the ballot for the
652 reasons stated in s. 101.051 may obtain such assistance. The
653 regular election must occur on the date of the annual meeting.
654 Notwithstanding this sub-subparagraph, an election is not
655 required unless more candidates file notices of intent to run or
656 are nominated than board vacancies exist.

657 b. Within 90 days after being elected or appointed to the
658 board of an association of a residential condominium, each newly
659 elected or appointed director shall certify in writing to the
660 secretary of the association that he or she has read the

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661 association's declaration of condominium, articles of
662 incorporation, bylaws, and current written policies; that he or
663 she will work to uphold such documents and policies to the best
664 of his or her ability; and that he or she will faithfully
665 discharge his or her fiduciary responsibility to the
666 association's members. In lieu of this written certification,
667 within 90 days after being elected or appointed to the board,
668 the newly elected or appointed director may submit a certificate
669 of having satisfactorily completed the educational curriculum
670 administered by a division-approved condominium education
671 provider within 1 year before or 90 days after the date of
672 election or appointment. The written certification or
673 educational certificate is valid and does not have to be
674 resubmitted as long as the director serves on the board without
675 interruption. A director of an association of a residential
676 condominium who fails to timely file the written certification
677 or educational certificate is suspended from service on the
678 board until he or she complies with this sub-subparagraph. The
679 board may temporarily fill the vacancy during the period of
680 suspension. The secretary shall cause the association to retain
681 a director's written certification or educational certificate
682 for inspection by the members for 5 years after a director's
683 election or the duration of the director's uninterrupted tenure,
684 whichever is longer. Failure to have such written certification

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685 or educational certificate on file does not affect the validity
686 of any board action.

687 c. Any challenge to the election process must be commenced
688 within 60 days after the election results are announced.

689 5. Any approval by unit owners called for by this chapter
690 or the applicable declaration or bylaws, including, but not
691 limited to, the approval requirement in s. 718.111(8), must be
692 made at a duly noticed meeting of unit owners and is subject to
693 all requirements of this chapter or the applicable condominium
694 documents relating to unit owner decisionmaking, except that
695 unit owners may take action by written agreement, without
696 meetings, on matters for which action by written agreement
697 without meetings is expressly allowed by the applicable bylaws
698 or declaration or any law that provides for such action.

699 6. Unit owners may waive notice of specific meetings if
700 allowed by the applicable bylaws or declaration or any law.
701 Notice of meetings of the board of administration, unit owner
702 meetings, except unit owner meetings called to recall board
703 members under paragraph (j), and committee meetings may be given
704 by electronic transmission to unit owners who consent to receive
705 notice by electronic transmission.

706 7. Unit owners have the right to participate in meetings
707 of unit owners with reference to all designated agenda items.
708 However, the association may adopt reasonable rules governing
709 the frequency, duration, and manner of unit owner participation.

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710 8. A unit owner may tape record or videotape a meeting of
711 the unit owners subject to reasonable rules adopted by the
712 division.

713 9. Unless otherwise provided in the bylaws, any vacancy
714 occurring on the board before the expiration of a term may be
715 filled by the affirmative vote of the majority of the remaining
716 directors, even if the remaining directors constitute less than
717 a quorum, or by the sole remaining director. In the alternative,
718 a board may hold an election to fill the vacancy, in which case
719 the election procedures must conform to sub-subparagraph 4.a.
720 unless the association governs 10 units or fewer and has opted
721 out of the statutory election process, in which case the bylaws
722 of the association control. Unless otherwise provided in the
723 bylaws, a board member appointed or elected under this section
724 shall fill the vacancy for the unexpired term of the seat being
725 filled. Filling vacancies created by recall is governed by
726 paragraph (j) and rules adopted by the division.

727 10. This chapter does not limit the use of general or
728 limited proxies, require the use of general or limited proxies,
729 or require the use of a written ballot or voting machine for any
730 agenda item or election at any meeting of a timeshare
731 condominium association or nonresidential condominium
732 association.

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734 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
735 association of 10 or fewer units may, by affirmative vote of a
736 majority of the total voting interests, provide for different
737 voting and election procedures in its bylaws, which may be by a
738 proxy specifically delineating the different voting and election
739 procedures. The different voting and election procedures may
740 provide for elections to be conducted by limited or general
741 proxy.

742 (j) *Recall of board members.*—Subject to s. 718.301, any
743 member of the board of administration may be recalled and
744 removed from office with or without cause by the vote or
745 agreement in writing by a majority of all the voting interests.
746 A special meeting of the unit owners to recall a member or
747 members of the board of administration may be called by 10
748 percent of the voting interests giving notice of the meeting as
749 required for a meeting of unit owners, and the notice shall
750 state the purpose of the meeting. Electronic transmission may
751 not be used as a method of giving notice of a meeting called in
752 whole or in part for this purpose.

753 1. If the recall is approved by a majority of all voting
754 interests by a vote at a meeting, the recall will be effective
755 as provided in this paragraph. The board shall duly notice and
756 hold a board meeting within 5 full business days after the
757 adjournment of the unit owner meeting to recall one or more
758 board members. ~~At the meeting, the board shall either certify~~

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759 ~~the recall, in which case~~ Such member or members shall be
760 recalled effective immediately and shall turn over to the board
761 within 10 ~~5~~ full business days after the vote any and all
762 records and property of the association in their possession, ~~or~~
763 ~~shall proceed as set forth in subparagraph 3.~~

764 2. If the proposed recall is by an agreement in writing by
765 a majority of all voting interests, the agreement in writing or
766 a copy thereof shall be served on the association by certified
767 mail or by personal service in the manner authorized by chapter
768 48 and the Florida Rules of Civil Procedure. The board of
769 administration shall duly notice and hold a meeting of the board
770 within 5 full business days after receipt of the agreement in
771 writing. ~~At the meeting, the board shall either certify the~~
772 ~~written agreement to recall a member or members of the board, in~~
773 ~~which case~~ Such member or members shall be recalled effective
774 immediately and shall turn over to the board within 10 ~~5~~ full
775 business days any and all records and property of the
776 association in their possession, ~~or proceed as described in~~
777 ~~subparagraph 3.~~

778 ~~3. If the board determines not to certify the written~~
779 ~~agreement to recall a member or members of the board, or does~~
780 ~~not certify the recall by a vote at a meeting, the board shall,~~
781 ~~within 5 full business days after the meeting, file with the~~
782 ~~division a petition for arbitration pursuant to the procedures~~
783 ~~in s. 718.1255. For the purposes of this section, the unit~~

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784 ~~owners who voted at the meeting or who executed the agreement in~~
785 ~~writing shall constitute one party under the petition for~~
786 ~~arbitration. If the arbitrator certifies the recall as to any~~
787 ~~member or members of the board, the recall will be effective~~
788 ~~upon mailing of the final order of arbitration to the~~
789 ~~association. If the association fails to comply with the order~~
790 ~~of the arbitrator, the division may take action pursuant to s.~~
791 ~~718.501. Any member or members so recalled shall deliver to the~~
792 ~~board any and all records of the association in their possession~~
793 ~~within 5 full business days after the effective date of the~~
794 ~~recall.~~

795 ~~3.4.~~ If the board fails to duly notice and hold a board
796 meeting within 5 full business days after service of an
797 agreement in writing or within 5 full business days after the
798 adjournment of the unit owner recall meeting, the recall shall
799 be deemed effective and the board members so recalled shall
800 ~~immediately~~ turn over to the board within 10 full business days
801 after the vote any and all records and property of the
802 association.

803 ~~4.5.~~ If the board fails to duly notice and hold the
804 required meeting or fails to file the required petition, the
805 unit owner representative may file a petition pursuant to s.
806 718.1255 challenging the board's failure to act. The petition
807 must be filed within 60 days after the expiration of the
808 applicable 5-full-business-day period. The review of a petition

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809 under this subparagraph is limited to the sufficiency of service
810 on the board and the facial validity of the written agreement or
811 ballots filed.

812 ~~5.6.~~ If a vacancy occurs on the board as a result of a
813 recall or removal and less than a majority of the board members
814 are removed, the vacancy may be filled by the affirmative vote
815 of a majority of the remaining directors, notwithstanding any
816 provision to the contrary contained in this subsection. If
817 vacancies occur on the board as a result of a recall and a
818 majority or more of the board members are removed, the vacancies
819 shall be filled in accordance with procedural rules to be
820 adopted by the division, which rules need not be consistent with
821 this subsection. The rules must provide procedures governing the
822 conduct of the recall election as well as the operation of the
823 association during the period after a recall but before the
824 recall election.

825 ~~6.7.~~ A board member who has been recalled may file a
826 petition pursuant to s. 718.1255 challenging the validity of the
827 recall. The petition must be filed within 60 days after the
828 recall ~~is deemed certified~~. The association and the unit owner
829 representative shall be named as the respondents.

830 ~~7.8.~~ The division may not accept for filing a recall
831 petition, whether filed pursuant to subparagraph 1.,
832 subparagraph 2., subparagraph ~~4. 5.~~, or subparagraph ~~6. 7.~~ and
833 ~~regardless of whether the recall was certified~~, when there are

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834 60 or fewer days until the scheduled reelection of the board
835 member sought to be recalled or when 60 or fewer days have
836 elapsed since the election of the board member sought to be
837 recalled.

838 (p) Service providers; conflicts of interest.— An
839 association that is not a timeshare condominium association may
840 not employ or contract with any service provider owned or
841 operated by a board member or with any person who has a
842 financial relationship with a board member or officer, or a
843 relative within the third degree of consanguinity by blood or
844 marriage of a board member or officer. This paragraph does not
845 apply to a service provider in which a board member or officer,
846 or a relative within the third degree of consanguinity by blood
847 or marriage of a board member or officer, owns less than 1
848 percent of the equity shares of the service provider.

849 Section 4. Subsection (4) of section 718.1255, Florida
850 Statutes, is amended to read:

851 718.1255 Alternative dispute resolution; voluntary
852 mediation; mandatory nonbinding arbitration; legislative
853 findings.—

854 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
855 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
856 Mobile Homes of the Department of Business and Professional
857 Regulation may ~~shall~~ employ full-time attorneys to act as
858 arbitrators to conduct the arbitration hearings provided by this

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859 chapter. The division may also certify attorneys who are not
860 employed by the division to act as arbitrators to conduct the
861 arbitration hearings provided by this chapter section. No person
862 may be employed by the department as a full-time arbitrator
863 unless he or she is a member in good standing of The Florida
864 Bar. A person may only be certified by the division to act as an
865 arbitrator if he or she has been a member in good standing of
866 The Florida Bar for at least 5 years and has mediated or
867 arbitrated at least 10 disputes involving condominiums in this
868 state during the 3 years immediately preceding the date of
869 application, mediated or arbitrated at least 30 disputes in any
870 subject area in this state during the 3 years immediately
871 preceding the date of application, or attained board
872 certification in real estate law or condominium and planned
873 development law from The Florida Bar. Arbitrator certification
874 is valid for 1 year. An arbitrator who does not maintain the
875 minimum qualifications for initial certification may not have
876 his or her certification renewed. The department may not enter
877 into a legal services contract for an arbitration hearing under
878 this chapter with an attorney who is not a certified arbitrator
879 unless a certified arbitrator is not available within 50 miles
880 of the dispute. The department shall adopt rules of procedure to
881 govern such arbitration hearings including mediation incident
882 thereto. The decision of an arbitrator shall be final; however,
883 a decision shall not be deemed final agency action. Nothing in

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884 this provision shall be construed to foreclose parties from
885 proceeding in a trial de novo unless the parties have agreed
886 that the arbitration is binding. If judicial proceedings are
887 initiated, the final decision of the arbitrator shall be
888 admissible in evidence in the trial de novo.

889 (a) Prior to the institution of court litigation, a party
890 to a dispute shall petition the division for nonbinding
891 arbitration. The petition must be accompanied by a filing fee in
892 the amount of \$50. Filing fees collected under this section must
893 be used to defray the expenses of the alternative dispute
894 resolution program.

895 (b) The petition must recite, and have attached thereto,
896 supporting proof that the petitioner gave the respondents:

897 1. Advance written notice of the specific nature of the
898 dispute;

899 2. A demand for relief, and a reasonable opportunity to
900 comply or to provide the relief; and

901 3. Notice of the intention to file an arbitration petition
902 or other legal action in the absence of a resolution of the
903 dispute.

904

905 Failure to include the allegations or proof of compliance with
906 these prerequisites requires dismissal of the petition without
907 prejudice.

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908 (c) Upon receipt, the petition shall be promptly reviewed
909 by the division to determine the existence of a dispute and
910 compliance with the requirements of paragraphs (a) and (b). If
911 emergency relief is required and is not available through
912 arbitration, a motion to stay the arbitration may be filed. The
913 motion must be accompanied by a verified petition alleging facts
914 that, if proven, would support entry of a temporary injunction,
915 and if an appropriate motion and supporting papers are filed,
916 the division may abate the arbitration pending a court hearing
917 and disposition of a motion for temporary injunction.

918 (d) Upon determination by the division that a dispute
919 exists and that the petition substantially meets the
920 requirements of paragraphs (a) and (b) and any other applicable
921 rules, the division shall assign or enter into a contract with
922 an arbitrator and serve a copy of the petition shall be served
923 by the division upon all respondents. The arbitrator shall
924 conduct a hearing within 30 days after being assigned or
925 entering into a contract unless the petition is withdrawn or a
926 continuance is granted for good cause shown.

927 (e) Before or after the filing of the respondents' answer
928 to the petition, any party may request that the arbitrator refer
929 the case to mediation under this section and any rules adopted
930 by the division. Upon receipt of a request for mediation, the
931 division shall promptly contact the parties to determine if
932 there is agreement that mediation would be appropriate. If all

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933 parties agree, the dispute must be referred to mediation.
934 Notwithstanding a lack of an agreement by all parties, the
935 arbitrator may refer a dispute to mediation at any time.

936 (f) Upon referral of a case to mediation, the parties must
937 select a mutually acceptable mediator. To assist in the
938 selection, the arbitrator shall provide the parties with a list
939 of both volunteer and paid mediators that have been certified by
940 the division under s. 718.501. If the parties are unable to
941 agree on a mediator within the time allowed by the arbitrator,
942 the arbitrator shall appoint a mediator from the list of
943 certified mediators. If a case is referred to mediation, the
944 parties shall attend a mediation conference, as scheduled by the
945 parties and the mediator. If any party fails to attend a duly
946 noticed mediation conference, without the permission or approval
947 of the arbitrator or mediator, the arbitrator must impose
948 sanctions against the party, including the striking of any
949 pleadings filed, the entry of an order of dismissal or default
950 if appropriate, and the award of costs and attorney ~~attorneys'~~
951 fees incurred by the other parties. Unless otherwise agreed to
952 by the parties or as provided by order of the arbitrator, a
953 party is deemed to have appeared at a mediation conference by
954 the physical presence of the party or its representative having
955 full authority to settle without further consultation, provided
956 that an association may comply by having one or more
957 representatives present with full authority to negotiate a

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958 settlement and recommend that the board of administration ratify
959 and approve such a settlement within 5 days from the date of the
960 mediation conference. The parties shall share equally the
961 expense of mediation, unless they agree otherwise.

962 (g) The purpose of mediation as provided for by this
963 section is to present the parties with an opportunity to resolve
964 the underlying dispute in good faith, and with a minimum
965 expenditure of time and resources.

966 (h) Mediation proceedings must generally be conducted in
967 accordance with the Florida Rules of Civil Procedure, and these
968 proceedings are privileged and confidential to the same extent
969 as court-ordered mediation. Persons who are not parties to the
970 dispute are not allowed to attend the mediation conference
971 without the consent of all parties, with the exception of
972 counsel for the parties and corporate representatives designated
973 to appear for a party. If the mediator declares an impasse after
974 a mediation conference has been held, the arbitration proceeding
975 terminates, unless all parties agree in writing to continue the
976 arbitration proceeding, in which case the arbitrator's decision
977 shall be binding or nonbinding, as agreed upon by the parties;
978 in the arbitration proceeding, the arbitrator shall not consider
979 any evidence relating to the unsuccessful mediation except in a
980 proceeding to impose sanctions for failure to appear at the
981 mediation conference. If the parties do not agree to continue
982 arbitration, the arbitrator shall enter an order of dismissal,

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983 and either party may institute a suit in a court of competent
984 jurisdiction. The parties may seek to recover any costs and
985 attorney ~~attorneys~~ fees incurred in connection with arbitration
986 and mediation proceedings under this section as part of the
987 costs and fees that may be recovered by the prevailing party in
988 any subsequent litigation.

989 (i) Arbitration shall be conducted according to rules
990 adopted by the division. The filing of a petition for
991 arbitration shall toll the applicable statute of limitations.

992 (j) At the request of any party to the arbitration, the
993 arbitrator shall issue subpoenas for the attendance of witnesses
994 and the production of books, records, documents, and other
995 evidence and any party on whose behalf a subpoena is issued may
996 apply to the court for orders compelling such attendance and
997 production. Subpoenas shall be served and shall be enforceable
998 in the manner provided by the Florida Rules of Civil Procedure.
999 Discovery may, in the discretion of the arbitrator, be permitted
1000 in the manner provided by the Florida Rules of Civil Procedure.
1001 Rules adopted by the division may authorize any reasonable
1002 sanctions except contempt for a violation of the arbitration
1003 procedural rules of the division or for the failure of a party
1004 to comply with a reasonable nonfinal order issued by an
1005 arbitrator which is not under judicial review.

1006 (k) The arbitration decision shall be rendered within 30
1007 days after the hearing and presented to the parties in writing.

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1008 An arbitration decision is final in those disputes in which the
1009 parties have agreed to be bound. An arbitration decision is also
1010 final if a complaint for a trial de novo is not filed in a court
1011 of competent jurisdiction in which the condominium is located
1012 within 30 days. The right to file for a trial de novo entitles
1013 the parties to file a complaint in the appropriate trial court
1014 for a judicial resolution of the dispute. The prevailing party
1015 in an arbitration proceeding shall be awarded the costs of the
1016 arbitration and reasonable attorney ~~attorney's~~ fees in an amount
1017 determined by the arbitrator. Such an award shall include the
1018 costs and reasonable attorney ~~attorney's~~ fees incurred in the
1019 arbitration proceeding as well as the costs and reasonable
1020 attorney ~~attorney's~~ fees incurred in preparing for and attending
1021 any scheduled mediation. An arbitrator's failure to render a
1022 written decision within 30 days after the hearing may result in
1023 the cancellation of his or her arbitration certification.

1024 (1) The party who files a complaint for a trial de novo
1025 shall be assessed the other party's arbitration costs, court
1026 costs, and other reasonable costs, including attorney ~~attorney's~~
1027 fees, investigation expenses, and expenses for expert or other
1028 testimony or evidence incurred after the arbitration hearing if
1029 the judgment upon the trial de novo is not more favorable than
1030 the arbitration decision. If the judgment is more favorable, the
1031 party who filed a complaint for trial de novo shall be awarded
1032 reasonable court costs and attorney ~~attorney's~~ fees.

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1033 (m) Any party to an arbitration proceeding may enforce an
1034 arbitration award by filing a petition in a court of competent
1035 jurisdiction in which the condominium is located. A petition may
1036 not be granted unless the time for appeal by the filing of a
1037 complaint for trial de novo has expired. If a complaint for a
1038 trial de novo has been filed, a petition may not be granted with
1039 respect to an arbitration award that has been stayed. If the
1040 petition for enforcement is granted, the petitioner shall
1041 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1042 in enforcing the arbitration award. A mediation settlement may
1043 also be enforced through the county or circuit court, as
1044 applicable, and any costs and fees incurred in the enforcement
1045 of a settlement agreement reached at mediation must be awarded
1046 to the prevailing party in any enforcement action.

1047 Section 5. Subsection (5) is added to section 718.3025,
1048 Florida Statutes, to read:

1049 718.3025 Agreements for operation, maintenance, or
1050 management of condominiums; specific requirements.—

1051 (5) A party contracting to provide maintenance or
1052 management services to an association managing a residential
1053 condominium after transfer of control of the association, as
1054 provided in s. 718.301, which is not a timeshare condominium
1055 association, or an officer or board member of such party, may
1056 not purchase a unit at a foreclosure sale resulting from the
1057 association's foreclosure of association lien for unpaid

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1058 assessments or take a deed in lieu of foreclosure. If 50 percent
1059 or more of the units in the condominium are owned by a party
1060 contracting to provide maintenance or management services to an
1061 association managing a residential condominium after transfer of
1062 control of the association, as provided in s. 718.301, which is
1063 not a timeshare condominium association, or by an officer or
1064 board member of such party, the contract with the party
1065 providing maintenance or management services may be cancelled by
1066 a majority vote of the unit owners other than the contracting
1067 party or an officer or board member of such party.

1068 Section 6. Section 718.3027, Florida Statutes, is created
1069 to read:

1070 718.3027 Conflicts of interest.-

1071 (1) Directors and officers of a board of an association
1072 that is not a timeshare condominium association, and the
1073 relatives of such directors and officers, must disclose to the
1074 board any activity that may reasonably be construed to be a
1075 conflict of interest. A rebuttable presumption of a conflict of
1076 interest exists if any of the following occurs without prior
1077 notice, as required in subsection (4):

1078 (a) Any director, officer, or relative of any director or
1079 officer enters into a contract for goods or services with the
1080 association.

1081 (b) Any director, officer, or relative of any director or
1082 officer holds an interest in a corporation, limited liability

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1083 corporation, partnership, limited liability partnership, or
1084 other business entity that conducts business with the
1085 association or proposes to enter into a contract or other
1086 transaction with the association.

1087 (2) If any director, officer, or relative of any director
1088 or officer proposes to engage in an activity that is a conflict
1089 of interest, as described in subsection (1), the proposed
1090 activity must be listed on, and all contracts and transactional
1091 documents related to the proposed activity must be attached to,
1092 the meeting agenda. If the board votes against the proposed
1093 activity, the director, officer, or relative must notify the
1094 board in writing of his or her intention not to pursue the
1095 proposed activity, or the director or officer shall withdraw
1096 from office. If the board finds that any officer or director has
1097 violated this subsection, the officer or director shall be
1098 deemed removed from office. The vacancy shall be filled
1099 according to general law.

1100 (3) Any director, officer, or relative of any director or
1101 officer who is a party to, or has an interest in, an activity
1102 that is a possible conflict of interest, as described in
1103 subsection (1), may attend the meeting at which the activity is
1104 considered by the board, and is authorized to make a
1105 presentation to the board regarding the activity. After the
1106 presentation, the director, officer, or relative must leave the
1107 meeting during the discussion of, and the vote on, the activity.

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1108 Any director or officer who is a party to, or has an interest
1109 in, the activity must recuse himself or herself from the vote.

1110 (4) Any contract entered into between any director,
1111 officer, or relative of any director or officer and the
1112 association, which is not a timeshare condominium association,
1113 which has not been properly disclosed as a conflict of interest
1114 or potential conflict of interest as required by s.

1115 718.111(12)(g) is voidable and terminates upon the filing of a
1116 written notice terminating the contract with the board of
1117 directors which contains the consent of at least 20 percent of
1118 the voting interests of the association.

1119 (5) As used in this section, reference to a "relative"
1120 shall mean a relative within the third degree of consanguinity
1121 by blood or marriage.

1122 Section 7. Subsection (5) of section 718.303, Florida
1123 Statutes, is amended, and subsection (8) is added to that
1124 section, to read:

1125 718.303 Obligations of owners and occupants; remedies.—

1126 (5) An association may suspend the voting rights of a unit
1127 owner or member due to nonpayment of any fee, fine, or other
1128 monetary obligation due to the association which is more than
1129 \$1,000 and more than 90 days delinquent. Proof of such
1130 obligation must be provided to the unit owner or member 30 days
1131 before such suspension takes effect. A voting interest or
1132 consent right allocated to a unit owner or member which has been

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1133 suspended by the association shall be subtracted from the total
1134 number of voting interests in the association, which shall be
1135 reduced by the number of suspended voting interests when
1136 calculating the total percentage or number of all voting
1137 interests available to take or approve any action, and the
1138 suspended voting interests shall not be considered for any
1139 purpose, including, but not limited to, the percentage or number
1140 of voting interests necessary to constitute a quorum, the
1141 percentage or number of voting interests required to conduct an
1142 election, or the percentage or number of voting interests
1143 required to approve an action under this chapter or pursuant to
1144 the declaration, articles of incorporation, or bylaws. The
1145 suspension ends upon full payment of all obligations currently
1146 due or overdue the association. The notice and hearing
1147 requirements under subsection (3) do not apply to a suspension
1148 imposed under this subsection.

1149 (8) A receiver may not exercise voting rights of any unit
1150 owner whose unit is placed in receivership for the benefit of
1151 the association pursuant to this chapter.

1152 Section 8. Subsection (5) of section 718.5012, Florida
1153 Statutes, is amended to read:

1154 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1155 have the powers that are necessary to carry out the duties of
1156 his or her office, including the following specific powers:

1157 (5) To monitor and review procedures and disputes

Amendment No. 1

1158 concerning condominium elections or meetings, including, but not
1159 limited to, recommending that the division pursue enforcement
1160 action in any manner where there is reasonable cause to believe
1161 that election misconduct has occurred and reviewing secret
1162 ballots cast at a vote of the association.

1163 Section 9. Section 718.71, Florida Statutes, is created to
1164 read:

1165 718.71 Financial reporting.—An association shall provide
1166 an annual report to the department containing the names of all
1167 of the financial institutions with which it maintains accounts,
1168 and a copy of such report may be obtained from the department
1169 upon written request of any association member.

1170 Section 10. This act shall take effect July 1, 2017.

1171
1172 -----

1173 **T I T L E A M E N D M E N T**

1174 Remove everything before the enacting clause and insert:
1175 An act relating to condominiums; amending s. 718.111, F.S.;
1176 prohibiting an officer, director, or manager from soliciting,
1177 offering to accept, or accepting a kickback for which
1178 consideration has not been provided; providing criminal
1179 penalties; requiring that an officer or director charged with
1180 certain crimes be removed from office; providing requirements
1181 for filling the vacancy left by such removal; prohibiting such
1182 officer or director from being appointed or elected or having

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1237 (2017)

Amendment No. 1

1183 access to official condominium association records for a
1184 specified time; providing an exception; requiring an officer or
1185 director to be reinstated if the charges are resolved without a
1186 finding of guilt; prohibiting an association from hiring an
1187 attorney who represents the management company of the
1188 association; prohibiting a board member, manager, or management
1189 company from purchasing a unit at a foreclosure sale under
1190 certain circumstances; providing recordkeeping requirements;
1191 providing that the official records of an association are open
1192 to inspection by unit renters; providing that a renter of a unit
1193 has a right to inspect and copy the association's bylaws and
1194 rules; providing requirements relating to the posting of
1195 specified documents on an association's website; providing a
1196 remedy for an association's failure to provide a unit owner with
1197 a copy of the most recent financial report; requiring the
1198 Division of Florida Condominiums, Timeshares, and Mobile Homes
1199 to maintain and provide copies of financial reports; prohibiting
1200 a condominium association and its officers, directors, employees
1201 and agents from using a debit card issued in the name of the
1202 association or billed to the association; providing that
1203 fraudulent use of a such a debit card for any expense that is a
1204 lawful obligation of the association may be prosecuted as credit
1205 card fraud; providing direction to the Department of Business
1206 and Professional Regulation; amending s. 718.112, F.S.;

1207 providing board member term limits; providing an exception;

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1237 (2017)

Amendment No. 1

1208 deleting certification requirements relating to the recall of
1209 board members; revising the amount of time a recalled board
1210 member has to turn over records and property of the association
1211 to the board; prohibiting certain associations from employing or
1212 contracting with a service provider owned or operated by certain
1213 persons; amending s. 718.1255, F.S.; authorizing, rather than
1214 requiring, the division to employ full-time attorneys to conduct
1215 certain arbitration hearings; providing requirements for the
1216 certification of arbitrators; prohibiting the Department of
1217 Business and Professional Regulation from entering into a legal
1218 services contract for certain arbitration hearings; requiring
1219 the division to assign or enter into contracts with arbitrators;
1220 requiring arbitrators to conduct hearings within a specified
1221 period; providing an exception; providing arbitration proceeding
1222 requirements; amending s. 718.3025, F.S.; prohibiting specified
1223 parties from purchasing a unit at a foreclosure sale resulting
1224 from the association's foreclosure of association lien for
1225 unpaid assessments or from taking a deed in lieu of
1226 foreclosures; authorizing a contract with a party providing
1227 maintenance or management services to be cancelled by a majority
1228 vote of certain unit owners under specified conditions; creating
1229 s. 718.3027, F.S.; providing requirements relating to board
1230 director and officer conflicts of interest; providing that
1231 certain contracts are voidable if they do not meet specified
1232 notice requirements and terminate, subject to a certain

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1237 (2017)

Amendment No. 1

1233 condition; amending s. 718.303, F.S.; providing requirements
1234 relating to the suspension of voting rights of unit owners and
1235 members; prohibiting a receiver from exercising the voting
1236 rights of a unit owner whose unit is placed in receivership;
1237 amending s. 718.5012, F.S.; providing the ombudsman with an
1238 additional power; creating s. 718.71, F.S.; providing financial
1239 reporting requirements of an association; providing an effective
1240 date.