

1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.111,
3 F.S.; prohibiting an attorney from representing a
4 board under certain conditions; prohibiting certain
5 actions by a board member or management company;
6 providing recordkeeping requirements; providing that
7 the official records of the association are open to
8 inspection by unit renters; providing criminal
9 penalties; providing a definition; providing
10 requirements relating to the posting of specified
11 documents on an association's website; providing a
12 remedy for an association's failure to provide a unit
13 owner with a copy of the most recent financial report;
14 requiring the Division of Florida Condominiums,
15 Timeshares, and Mobile Homes to maintain and provide
16 copies of financial reports; amending s. 718.112,
17 F.S.; providing board member term limits; providing an
18 exception; deleting certification requirements
19 relating to the recall of board members; revising the
20 amount of time in which a recalled board member must
21 turn over records and property of the association to
22 the board; prohibiting an association from employing
23 or contracting with a service provider that is owned
24 or operated by certain persons; amending s. 718.1255,
25 F.S.; authorizing, rather than requiring, the division

26 | to employ full-time attorneys to conduct certain
27 | arbitration hearings; providing requirements for the
28 | certification of arbitrators; prohibiting the
29 | department from entering into a legal services contact
30 | for certain arbitration hearings; requiring the
31 | division to assign or enter into contracts with
32 | arbitrators; requiring arbitrators to conduct hearings
33 | within a specified period; providing an exception;
34 | providing arbitration proceeding requirements;
35 | creating s. 718.129, F.S.; providing certain
36 | activities that constitute fraudulent voting
37 | activities related to association elections; providing
38 | criminal penalties; amending s. 718.3025, F.S.;
39 | prohibiting specified parties from certain activities;
40 | creating s. 718.3027, F.S.; providing requirements
41 | relating to director and officer conflicts of
42 | interest; amending s. 718.303, F.S.; providing
43 | requirements relating to the suspension of voting
44 | rights of unit owners and members; prohibiting a
45 | receiver from exercising the voting rights of a unit
46 | owner whose unit is placed in receivership; amending
47 | s. 718.5012, F.S.; providing the ombudsman with an
48 | additional power; creating s. 718.71, F.S.; providing
49 | financial reporting requirements of an association;
50 | providing an effective date.

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

Section 1. Subsections (3) and (9), paragraphs (a) and (c) of subsection (12), and subsection (13) of section 718.111, Florida Statutes, are amended, and paragraph (g) is added to subsection (12) of that section, to read:

718.111 The association.—

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

(a) The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and

HB 1237

2017

76 | on units; and may defend actions in eminent domain or bring
77 | inverse condemnation actions. If the association has the
78 | authority to maintain a class action, the association may be
79 | joined in an action as representative of that class with
80 | reference to litigation and disputes involving the matters for
81 | which the association could bring a class action. Nothing herein
82 | limits any statutory or common-law right of any individual unit
83 | owner or class of unit owners to bring any action without
84 | participation by the association which may otherwise be
85 | available.

86 | (b) An attorney may not represent a board if the attorney
87 | represents the management company of the association.

88 | (9) PURCHASE OF UNITS.—The association has the power,
89 | unless prohibited by the declaration, articles of incorporation,
90 | or bylaws of the association, to purchase units in the
91 | condominium and to acquire and hold, lease, mortgage, and convey
92 | them. There shall be no limitation on the association's right to
93 | purchase a unit at a foreclosure sale resulting from the
94 | association's foreclosure of its lien for unpaid assessments, or
95 | to take title by deed in lieu of foreclosure. However, a board
96 | member or management company may not purchase a unit at a
97 | foreclosure sale resulting from the association's foreclosure of
98 | its lien for unpaid assessments or take title by deed in lieu of
99 | foreclosure.

100 | (12) OFFICIAL RECORDS.—

101 (a) From the inception of the association, the association
102 shall maintain each of the following items, if applicable, which
103 constitutes the official records of the association:

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

106 2. A photocopy of the recorded declaration of condominium
107 of each condominium operated by the association and each
108 amendment to each declaration.

109 3. A photocopy of the recorded bylaws of the association
110 and each amendment to the bylaws.

111 4. A certified copy of the articles of incorporation of
112 the association, or other documents creating the association,
113 and each amendment thereto.

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

115 6. A book or books that contain the minutes of all
116 meetings of the association, the board of administration, and
117 the unit owners, which minutes must be retained for at least 7
118 years.

119 7. A current roster of all unit owners and their mailing
120 addresses, unit identifications, voting certifications, and, if
121 known, telephone numbers. The association shall also maintain
122 the electronic mailing addresses and facsimile numbers of unit
123 owners consenting to receive notice by electronic transmission.
124 The electronic mailing addresses and facsimile numbers are not
125 accessible to unit owners if consent to receive notice by

126 | electronic transmission is not provided in accordance with
127 | subparagraph (c)5.e. ~~(e)5.~~ However, the association is not
128 | liable for an inadvertent disclosure of the electronic mail
129 | address or facsimile number for receiving electronic
130 | transmission of notices.

131 | 8. All current insurance policies of the association and
132 | condominiums operated by the association.

133 | 9. A current copy of any management agreement, lease, or
134 | other contract to which the association is a party or under
135 | which the association or the unit owners have an obligation or
136 | responsibility.

137 | 10. Bills of sale or transfer for all property owned by
138 | the association.

139 | 11. Accounting records for the association and separate
140 | accounting records for each condominium that the association
141 | operates. All accounting records must be maintained for at least
142 | 7 years. Any person who knowingly or intentionally defaces or
143 | destroys such records, or who knowingly or intentionally fails
144 | to create or maintain such records, with the intent of causing
145 | harm to the association or one or more of its members, is
146 | personally subject to a civil penalty pursuant to s.

147 | 718.501(1)(d). The accounting records must include, but are not
148 | limited to:

149 | a. Accurate, itemized, and detailed records of all
150 | receipts and expenditures.

151 b. A current account and a monthly, bimonthly, or
 152 quarterly statement of the account for each unit designating the
 153 name of the unit owner, the due date and amount of each
 154 assessment, the amount paid on the account, and the balance due.

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

157 d. All contracts for work to be performed. Bids for work
 158 to be performed are also considered official records and must be
 159 maintained by the association.

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

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

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

169 15. All other written records of the association not
 170 specifically included in the foregoing which are related to the
 171 operation of the association.

172 16. A copy of the inspection report as described in s.
 173 718.301(4)(p).

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

175 (c)1. The official records of the association are open to

HB 1237

2017

176 inspection by any association member, ~~or~~ the authorized
177 representative of such member, or the renter of such member's
178 unit at all reasonable times. The right to inspect the records
179 includes the right to make or obtain copies, at the reasonable
180 expense, if any, of the member, authorized representative of
181 such member, or the renter of such member's unit. The
182 association may adopt reasonable rules regarding the frequency,
183 time, location, notice, and manner of record inspections and
184 copying. The failure of an association to provide the records
185 within 10 working days after receipt of a written request
186 creates a rebuttable presumption that the association willfully
187 failed to comply with this paragraph. A unit owner who is denied
188 access to official records is entitled to the actual damages or
189 minimum damages for the association's willful failure to comply.
190 Minimum damages are \$50 per calendar day for up to 10 days,
191 beginning on the 11th working day after receipt of the written
192 request. The failure to permit inspection entitles any person
193 prevailing in an enforcement action to recover reasonable
194 attorney fees from the person in control of the records who,
195 directly or indirectly, knowingly denied access to the records.

196 2. Any director or member of the board or association who
197 knowingly, willfully, and repeatedly violates subparagraph 1.
198 commits a misdemeanor of the second degree, punishable as
199 provided in s. 775.082, or s. 775.083. For purposes of this
200 subparagraph, the term "repeatedly violates" means more than two

201 violations within a 12-month period.

202 3. Any person who knowingly or intentionally defaces or
203 destroys accounting records that are required by this chapter to
204 be maintained during the period for which such records are
205 required to be maintained, or who knowingly or intentionally
206 fails to create or maintain accounting records that are required
207 to be created or maintained, with the intent of causing harm to
208 the association or one or more of its members, commits a
209 misdemeanor of the first degree, punishable as provided in s.
210 775.082, or s. 775.083.

211 4. Any person who willfully and knowingly refuses to
212 release or otherwise produce association records with the intent
213 of facilitating the commission of a crime or avoiding or
214 escaping detection, arrest, trial, or punishment for a crime
215 commits a felony of the third degree, punishable as provided in
216 s. 775.082, s. 775.083, or s. 775.084 ~~is personally subject to a~~
217 ~~civil penalty pursuant to s. 718.501(1)(d).~~

218 5. The association shall maintain an adequate number of
219 copies of the declaration, articles of incorporation, bylaws,
220 and rules, and all amendments to each of the foregoing, as well
221 as the question and answer sheet as described in s. 718.504 and
222 year-end financial information required under this section, on
223 the condominium property to ensure their availability to unit
224 owners and prospective purchasers, and may charge its actual
225 costs for preparing and furnishing these documents to those

226 requesting the documents. An association shall allow a member or
227 his or her authorized representative to use a portable device,
228 including a smartphone, tablet, portable scanner, or any other
229 technology capable of scanning or taking photographs, to make an
230 electronic copy of the official records in lieu of the
231 association's providing the member or his or her authorized
232 representative with a copy of such records. The association may
233 not charge a member or his or her authorized representative for
234 the use of a portable device. Notwithstanding this paragraph,
235 the following records are not accessible to unit owners:

236 a.1. Any record protected by the lawyer-client privilege
237 as described in s. 90.502 and any record protected by the work-
238 product privilege, including a record prepared by an association
239 attorney or prepared at the attorney's express direction, which
240 reflects a mental impression, conclusion, litigation strategy,
241 or legal theory of the attorney or the association, and which
242 was prepared exclusively for civil or criminal litigation or for
243 adversarial administrative proceedings, or which was prepared in
244 anticipation of such litigation or proceedings until the
245 conclusion of the litigation or proceedings.

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

249 c.3. Personnel records of association or management
250 company employees, including, but not limited to, disciplinary,

251 payroll, health, and insurance records. For purposes of this
252 subparagraph, the term "personnel records" does not include
253 written employment agreements with an association employee or
254 management company, or budgetary or financial records that
255 indicate the compensation paid to an association employee.

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

257 ~~e.5.~~ Social security numbers, driver license numbers,
258 credit card numbers, e-mail addresses, telephone numbers,
259 facsimile numbers, emergency contact information, addresses of a
260 unit owner other than as provided to fulfill the association's
261 notice requirements, and other personal identifying information
262 of any person, excluding the person's name, unit designation,
263 mailing address, property address, and any address, e-mail
264 address, or facsimile number provided to the association to
265 fulfill the association's notice requirements. Notwithstanding
266 the restrictions in this subparagraph, an association may print
267 and distribute to parcel owners a directory containing the name,
268 parcel address, and all telephone numbers of each parcel owner.
269 However, an owner may exclude his or her telephone numbers from
270 the directory by so requesting in writing to the association. An
271 owner may consent in writing to the disclosure of other contact
272 information described in this subparagraph. The association is
273 not liable for the inadvertent disclosure of information that is
274 protected under this subparagraph if the information is included
275 in an official record of the association and is voluntarily

276 provided by an owner and not requested by the association.

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

279 ~~g.7.~~ The software and operating system used by the
280 association which allow the manipulation of data, even if the
281 owner owns a copy of the same software used by the association.
282 The data is part of the official records of the association.

283 (g)1. An association with 500 or more units that does not
284 manage timeshare units shall post digital copies of the
285 documents specified in subparagraph 2. on its website.

286 a. The association's website must be:

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

289 (II) A website or web portal operated by a third-party
290 provider with whom the association owns, leases, rents, or
291 otherwise obtains the right to operate a web page, subpage, web
292 portal, or collection of subpages or web portals dedicated to
293 the association's activities and on which required notices,
294 records, and documents may be posted by the association.

295 b. The association's website must be accessible through
296 the Internet and must contain a subpage, web portal, or other
297 protected electronic location that is inaccessible to the
298 general public and accessible only to unit owners, employees of
299 the association, and the department.

300 c. Upon a unit owner's request, the association must

301 provide the unit owner with a username and password and access
302 to the protected sections of the association's website that
303 contain any notices, records, or documents that must be
304 electronically provided.

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

307 a. The recorded declaration of condominium of each
308 condominium operated by the association and each amendment to
309 each declaration.

310 b. The recorded bylaws of the association and each
311 amendment to the bylaws.

312 c. The articles of incorporation of the association, or
313 other documents creating the association, and each amendment
314 thereto. The copy posted pursuant to this sub-subparagraph must
315 be a certified copy.

316 d. The rules of the association.

317 e. Any management agreement, lease, or other contract to
318 which the association is a party or under which the association
319 or the unit owners have an obligation or responsibility.

320 Summaries of bids for materials, equipment, or services must be
321 maintained on the website for 1 year.

322 f. The annual budget required by s. 718.112(2)(f) and any
323 proposed budget to be considered at the annual meeting.

324 g. The financial report required by subsection (13) and
325 any proposed financial report to be considered at a meeting.

326 h. The certification of each director required by s.
327 718.112(2)(d)4.b.

328 i. All contracts or transactions between the association
329 and any director, officer, corporation, firm, or association
330 that is not an affiliated condominium association or any other
331 entity in which an association director is also a director or
332 officer and financially interested.

333 j. Any contract or document regarding a conflict of
334 interest or possible conflict of interest as provided in ss.
335 468.436(2) and 718.3026(3).

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

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

349 (II) The proposed financial report required by subsection
350 (13).

351 3. The association shall ensure that the information and
352 records described in paragraph (c), which are not permitted to
353 be accessible to unit owners, are not posted on the
354 association's website. If protected information or information
355 restricted from being accessible to unit owners is included in
356 documents that are required to be posted on the association's
357 website, the association shall ensure the information is
358 redacted before posting the documents online.

359 (13) FINANCIAL REPORTING.—Within 90 days after the end of
360 the fiscal year, or annually on a date provided in the bylaws,
361 the association shall prepare and complete, or contract for the
362 preparation and completion of, a financial report for the
363 preceding fiscal year. Within 21 days after the final financial
364 report is completed by the association or received from the
365 third party, but not later than 120 days after the end of the
366 fiscal year or other date as provided in the bylaws, the
367 association shall mail to each unit owner at the address last
368 furnished to the association by the unit owner, or hand deliver
369 to each unit owner, a copy of the most recent financial report
370 or a notice that a copy of the most recent financial report will
371 be mailed or hand delivered to the unit owner, without charge,
372 within 5 business days after ~~upon~~ receipt of a written request
373 from the unit owner. The division shall adopt rules setting
374 forth uniform accounting principles and standards to be used by
375 all associations and addressing the financial reporting

376 requirements for multicondominium associations. The rules must
377 include, but not be limited to, standards for presenting a
378 summary of association reserves, including a good faith estimate
379 disclosing the annual amount of reserve funds that would be
380 necessary for the association to fully fund reserves for each
381 reserve item based on the straight-line accounting method. This
382 disclosure is not applicable to reserves funded via the pooling
383 method. In adopting such rules, the division shall consider the
384 number of members and annual revenues of an association.

385 Financial reports shall be prepared as follows:

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

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

394 2. An association with total annual revenues of at least
395 \$300,000, but less than \$500,000, shall prepare reviewed
396 financial statements.

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

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

401 expenditures.

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

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

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

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

423 2. Reviewed or audited financial statements, if the
424 association is required to prepare compiled financial
425 statements; or

426 3. Audited financial statements if the association is
427 required to prepare reviewed financial statements.

428 (d) If approved by a majority of the voting interests
429 present at a properly called meeting of the association, an
430 association may prepare:

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

433 2. A report of cash receipts and expenditures or a
434 compiled financial statement in lieu of a reviewed or audited
435 financial statement; or

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

439

440 Such meeting and approval must occur before the end of the
441 fiscal year and is effective only for the fiscal year in which
442 the vote is taken, except that the approval may also be
443 effective for the following fiscal year. If the developer has
444 not turned over control of the association, all unit owners,
445 including the developer, may vote on issues related to the
446 preparation of the association's financial reports, from the
447 date of incorporation of the association through the end of the
448 second fiscal year after the fiscal year in which the
449 certificate of a surveyor and mapper is recorded pursuant to s.
450 718.104(4)(e) or an instrument that transfers title to a unit in

451 the condominium which is not accompanied by a recorded
452 assignment of developer rights in favor of the grantee of such
453 unit is recorded, whichever occurs first. Thereafter, all unit
454 owners except the developer may vote on such issues until
455 control is turned over to the association by the developer. Any
456 audit or review prepared under this section shall be paid for by
457 the developer if done before turnover of control of the
458 association. An association may not waive the financial
459 reporting requirements of this section for more than 3
460 consecutive years.

461 (e) If an association has not mailed or hand delivered to
462 the unit owner a copy of the most recent financial report within
463 5 business days after receipt of a written request from the unit
464 owner, the unit owner may give notice to the division of the
465 association's failure to comply. Upon notification, the division
466 shall give notice to the association that the association must
467 mail or hand deliver the copy of the most recent financial
468 report to the unit owner and the division within 5 business days
469 after such notice. Any association that fails to comply with the
470 division's request may not waive the financial reporting
471 requirement provided in paragraph (d). A financial report
472 received by the division pursuant to this paragraph shall be
473 maintained, and the division shall provide a copy of such report
474 to an association member upon his or her request.

475 Section 2. Paragraphs (d) and (j) of subsection (2) of

476 section 718.112, Florida Statutes, are amended, and paragraph
 477 (p) is added to that subsection, to read:

478 718.112 Bylaws.—

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

482 (d) Unit owner meetings.—

483 1. An annual meeting of the unit owners shall be held at
 484 the location provided in the association bylaws and, if the
 485 bylaws are silent as to the location, the meeting shall be held
 486 within 45 miles of the condominium property. However, such
 487 distance requirement does not apply to an association governing
 488 a timeshare condominium.

489 2. Unless the bylaws provide otherwise, a vacancy on the
 490 board caused by the expiration of a director's term shall be
 491 filled by electing a new board member, and the election must be
 492 by secret ballot. An election is not required if the number of
 493 vacancies equals or exceeds the number of candidates. For
 494 purposes of this paragraph, the term "candidate" means an
 495 eligible person who has timely submitted the written notice, as
 496 described in sub-subparagraph 4.a., of his or her intention to
 497 become a candidate. Except in a timeshare or nonresidential
 498 condominium, or if the staggered term of a board member does not
 499 expire until a later annual meeting, or if all members' terms
 500 would otherwise expire but there are no candidates, the terms of

501 all board members expire at the annual meeting, and such members
502 may stand for reelection unless prohibited by the bylaws. ~~If the~~
503 ~~bylaws or articles of incorporation permit terms of no more than~~
504 ~~2 years, the association~~ Board members may serve 2-year terms if
505 permitted by the bylaws or articles of incorporation. A board
506 member may not serve more than four consecutive 2-year terms,
507 unless approved by an affirmative vote of two-thirds of the
508 total voting interests of the association. If the number of
509 board members whose terms expire at the annual meeting equals or
510 exceeds the number of candidates, the candidates become members
511 of the board effective upon the adjournment of the annual
512 meeting. Unless the bylaws provide otherwise, any remaining
513 vacancies shall be filled by the affirmative vote of the
514 majority of the directors making up the newly constituted board
515 even if the directors constitute less than a quorum or there is
516 only one director. In a residential condominium association of
517 more than 10 units or in a residential condominium association
518 that does not include timeshare units or timeshare interests,
519 coowners of a unit may not serve as members of the board of
520 directors at the same time unless they own more than one unit or
521 unless there are not enough eligible candidates to fill the
522 vacancies on the board at the time of the vacancy. A unit owner
523 in a residential condominium desiring to be a candidate for
524 board membership must comply with sub-subparagraph 4.a. and must
525 be eligible to be a candidate to serve on the board of directors

526 at the time of the deadline for submitting a notice of intent to
527 run in order to have his or her name listed as a proper
528 candidate on the ballot or to serve on the board. A person who
529 has been suspended or removed by the division under this
530 chapter, or who is delinquent in the payment of any monetary
531 obligation due to the association, is not eligible to be a
532 candidate for board membership and may not be listed on the
533 ballot. A person who has been convicted of any felony in this
534 state or in a United States District or Territorial Court, or
535 who has been convicted of any offense in another jurisdiction
536 which would be considered a felony if committed in this state,
537 is not eligible for board membership unless such felon's civil
538 rights have been restored for at least 5 years as of the date
539 such person seeks election to the board. The validity of an
540 action by the board is not affected if it is later determined
541 that a board member is ineligible for board membership due to
542 having been convicted of a felony. This subparagraph does not
543 limit the term of a member of the board of a nonresidential
544 condominium.

545 3. The bylaws must provide the method of calling meetings
546 of unit owners, including annual meetings. Written notice must
547 include an agenda, must be mailed, hand delivered, or
548 electronically transmitted to each unit owner at least 14 days
549 before the annual meeting, and must be posted in a conspicuous
550 place on the condominium property at least 14 continuous days

551 before the annual meeting. Upon notice to the unit owners, the
552 board shall, by duly adopted rule, designate a specific location
553 on the condominium property or association property where all
554 notices of unit owner meetings shall be posted. This requirement
555 does not apply if there is no condominium property or
556 association property for posting notices. In lieu of, or in
557 addition to, the physical posting of meeting notices, the
558 association may, by reasonable rule, adopt a procedure for
559 conspicuously posting and repeatedly broadcasting the notice and
560 the agenda on a closed-circuit cable television system serving
561 the condominium association. However, if broadcast notice is
562 used in lieu of a notice posted physically on the condominium
563 property, the notice and agenda must be broadcast at least four
564 times every broadcast hour of each day that a posted notice is
565 otherwise required under this section. If broadcast notice is
566 provided, the notice and agenda must be broadcast in a manner
567 and for a sufficient continuous length of time so as to allow an
568 average reader to observe the notice and read and comprehend the
569 entire content of the notice and the agenda. Unless a unit owner
570 waives in writing the right to receive notice of the annual
571 meeting, such notice must be hand delivered, mailed, or
572 electronically transmitted to each unit owner. Notice for
573 meetings and notice for all other purposes must be mailed to
574 each unit owner at the address last furnished to the association
575 by the unit owner, or hand delivered to each unit owner.

576 | However, if a unit is owned by more than one person, the
577 | association must provide notice to the address that the
578 | developer identifies for that purpose and thereafter as one or
579 | more of the owners of the unit advise the association in
580 | writing, or if no address is given or the owners of the unit do
581 | not agree, to the address provided on the deed of record. An
582 | officer of the association, or the manager or other person
583 | providing notice of the association meeting, must provide an
584 | affidavit or United States Postal Service certificate of
585 | mailing, to be included in the official records of the
586 | association affirming that the notice was mailed or hand
587 | delivered in accordance with this provision.

588 | 4. The members of the board of a residential condominium
589 | shall be elected by written ballot or voting machine. Proxies
590 | may not be used in electing the board in general elections or
591 | elections to fill vacancies caused by recall, resignation, or
592 | otherwise, unless otherwise provided in this chapter. This
593 | subparagraph does not apply to an association governing a
594 | timeshare condominium.

595 | a. At least 60 days before a scheduled election, the
596 | association shall mail, deliver, or electronically transmit, by
597 | separate association mailing or included in another association
598 | mailing, delivery, or transmission, including regularly
599 | published newsletters, to each unit owner entitled to a vote, a
600 | first notice of the date of the election. A unit owner or other

601 eligible person desiring to be a candidate for the board must
602 give written notice of his or her intent to be a candidate to
603 the association at least 40 days before a scheduled election.
604 Together with the written notice and agenda as set forth in
605 subparagraph 3., the association shall mail, deliver, or
606 electronically transmit a second notice of the election to all
607 unit owners entitled to vote, together with a ballot that lists
608 all candidates. Upon request of a candidate, an information
609 sheet, no larger than 8 1/2 inches by 11 inches, which must be
610 furnished by the candidate at least 35 days before the election,
611 must be included with the mailing, delivery, or transmission of
612 the ballot, with the costs of mailing, delivery, or electronic
613 transmission and copying to be borne by the association. The
614 association is not liable for the contents of the information
615 sheets prepared by the candidates. In order to reduce costs, the
616 association may print or duplicate the information sheets on
617 both sides of the paper. The division shall by rule establish
618 voting procedures consistent with this sub-subparagraph,
619 including rules establishing procedures for giving notice by
620 electronic transmission and rules providing for the secrecy of
621 ballots. Elections shall be decided by a plurality of ballots
622 cast. There is no quorum requirement; however, at least 20
623 percent of the eligible voters must cast a ballot in order to
624 have a valid election. A unit owner may not permit any other
625 person to vote his or her ballot, and any ballots improperly

626 | cast are invalid. A unit owner who violates this provision may
627 | be fined by the association in accordance with s. 718.303. A
628 | unit owner who needs assistance in casting the ballot for the
629 | reasons stated in s. 101.051 may obtain such assistance. The
630 | regular election must occur on the date of the annual meeting.
631 | Notwithstanding this sub-subparagraph, an election is not
632 | required unless more candidates file notices of intent to run or
633 | are nominated than board vacancies exist.

634 | b. Within 90 days after being elected or appointed to the
635 | board of an association of a residential condominium, each newly
636 | elected or appointed director shall certify in writing to the
637 | secretary of the association that he or she has read the
638 | association's declaration of condominium, articles of
639 | incorporation, bylaws, and current written policies; that he or
640 | she will work to uphold such documents and policies to the best
641 | of his or her ability; and that he or she will faithfully
642 | discharge his or her fiduciary responsibility to the
643 | association's members. In lieu of this written certification,
644 | within 90 days after being elected or appointed to the board,
645 | the newly elected or appointed director may submit a certificate
646 | of having satisfactorily completed the educational curriculum
647 | administered by a division-approved condominium education
648 | provider within 1 year before or 90 days after the date of
649 | election or appointment. The written certification or
650 | educational certificate is valid and does not have to be

651 resubmitted as long as the director serves on the board without
652 interruption. A director of an association of a residential
653 condominium who fails to timely file the written certification
654 or educational certificate is suspended from service on the
655 board until he or she complies with this sub-subparagraph. The
656 board may temporarily fill the vacancy during the period of
657 suspension. The secretary shall cause the association to retain
658 a director's written certification or educational certificate
659 for inspection by the members for 5 years after a director's
660 election or the duration of the director's uninterrupted tenure,
661 whichever is longer. Failure to have such written certification
662 or educational certificate on file does not affect the validity
663 of any board action.

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

666 5. Any approval by unit owners called for by this chapter
667 or the applicable declaration or bylaws, including, but not
668 limited to, the approval requirement in s. 718.111(8), must be
669 made at a duly noticed meeting of unit owners and is subject to
670 all requirements of this chapter or the applicable condominium
671 documents relating to unit owner decisionmaking, except that
672 unit owners may take action by written agreement, without
673 meetings, on matters for which action by written agreement
674 without meetings is expressly allowed by the applicable bylaws
675 or declaration or any law that provides for such action.

676 6. Unit owners may waive notice of specific meetings if
677 allowed by the applicable bylaws or declaration or any law.
678 Notice of meetings of the board of administration, unit owner
679 meetings, except unit owner meetings called to recall board
680 members under paragraph (j), and committee meetings may be given
681 by electronic transmission to unit owners who consent to receive
682 notice by electronic transmission.

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

687 8. A unit owner may tape record or videotape a meeting of
688 the unit owners subject to reasonable rules adopted by the
689 division.

690 9. Unless otherwise provided in the bylaws, any vacancy
691 occurring on the board before the expiration of a term may be
692 filled by the affirmative vote of the majority of the remaining
693 directors, even if the remaining directors constitute less than
694 a quorum, or by the sole remaining director. In the alternative,
695 a board may hold an election to fill the vacancy, in which case
696 the election procedures must conform to sub-subparagraph 4.a.
697 unless the association governs 10 units or fewer and has opted
698 out of the statutory election process, in which case the bylaws
699 of the association control. Unless otherwise provided in the
700 bylaws, a board member appointed or elected under this section

701 shall fill the vacancy for the unexpired term of the seat being
702 filled. Filling vacancies created by recall is governed by
703 paragraph (j) and rules adopted by the division.

704 10. This chapter does not limit the use of general or
705 limited proxies, require the use of general or limited proxies,
706 or require the use of a written ballot or voting machine for any
707 agenda item or election at any meeting of a timeshare
708 condominium association or nonresidential condominium
709 association.

710
711 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
712 association of 10 or fewer units may, by affirmative vote of a
713 majority of the total voting interests, provide for different
714 voting and election procedures in its bylaws, which may be by a
715 proxy specifically delineating the different voting and election
716 procedures. The different voting and election procedures may
717 provide for elections to be conducted by limited or general
718 proxy.

719 (j) Recall of board members.—Subject to s. 718.301, any
720 member of the board of administration may be recalled and
721 removed from office with or without cause by the vote or
722 agreement in writing by a majority of all the voting interests.
723 A special meeting of the unit owners to recall a member or
724 members of the board of administration may be called by 10
725 percent of the voting interests giving notice of the meeting as

726 required for a meeting of unit owners, and the notice shall
727 state the purpose of the meeting. Electronic transmission may
728 not be used as a method of giving notice of a meeting called in
729 whole or in part for this purpose.

730 1. If the recall is approved by a majority of all voting
731 interests by a vote at a meeting, the recall will be effective
732 as provided in this paragraph. The board shall duly notice and
733 hold a board meeting within 5 full business days after the
734 adjournment of the unit owner meeting to recall one or more
735 board members. ~~At the meeting, the board shall either certify~~
736 ~~the recall, in which case~~ Such member or members shall be
737 recalled effective immediately and shall turn over to the board
738 within 10 ~~5~~ full business days after the vote any and all
739 records and property of the association in their possession, ~~or~~
740 ~~shall proceed as set forth in subparagraph 3.~~

741 2. If the proposed recall is by an agreement in writing by
742 a majority of all voting interests, the agreement in writing or
743 a copy thereof shall be served on the association by certified
744 mail or by personal service in the manner authorized by chapter
745 48 and the Florida Rules of Civil Procedure. The board of
746 administration shall duly notice and hold a meeting of the board
747 within 5 full business days after receipt of the agreement in
748 writing. ~~At the meeting, the board shall either certify the~~
749 ~~written agreement to recall a member or members of the board, in~~
750 ~~which case such member or members shall be recalled effective~~

751 ~~immediately and shall turn over to the board within 5 full~~
752 ~~business days any and all records and property of the~~
753 ~~association in their possession, or proceed as described in~~
754 ~~subparagraph 3.~~

755 ~~3. If the board determines not to certify the written~~
756 ~~agreement to recall a member or members of the board, or does~~
757 ~~not certify the recall by a vote at a meeting, The board shall,~~
758 ~~within 5 full business days after the meeting, file with the~~
759 ~~division a petition for arbitration pursuant to the procedures~~
760 ~~in s. 718.1255. For the purposes of this section, the unit~~
761 ~~owners who voted at the meeting or who executed the agreement in~~
762 ~~writing shall constitute one party under the petition for~~
763 ~~arbitration. If the arbitrator certifies the recall as to any~~
764 ~~member or members of the board, the recall will be effective~~
765 ~~upon mailing of the final order of arbitration to the~~
766 ~~association. If the association fails to comply with the order~~
767 ~~of the arbitrator, the division may take action pursuant to s.~~
768 ~~718.501. Any member or members so recalled shall deliver to the~~
769 ~~board any and all records of the association in their possession~~
770 ~~within 5 full business days after the effective date of the~~
771 ~~recall.~~

772 ~~3.4.~~ If the board fails to duly notice and hold a board
773 meeting within 5 full business days after service of an
774 agreement in writing or within 5 full business days after the
775 adjournment of the unit owner recall meeting, the recall shall

776 be deemed effective and the board members so recalled shall
777 ~~immediately~~ turn over to the board within 10 full business days
778 after the vote any and all records and property of the
779 association.

780 ~~4.5.~~ If the board fails to duly notice and hold the
781 required meeting or fails to file the required petition, the
782 unit owner representative may file a petition pursuant to s.
783 718.1255 challenging the board's failure to act. The petition
784 must be filed within 60 days after the expiration of the
785 applicable 5-full-business-day period. The review of a petition
786 under this subparagraph is limited to the sufficiency of service
787 on the board and the facial validity of the written agreement or
788 ballots filed.

789 ~~5.6.~~ If a vacancy occurs on the board as a result of a
790 recall or removal and less than a majority of the board members
791 are removed, the vacancy may be filled by the affirmative vote
792 of a majority of the remaining directors, notwithstanding any
793 provision to the contrary contained in this subsection. If
794 vacancies occur on the board as a result of a recall and a
795 majority or more of the board members are removed, the vacancies
796 shall be filled in accordance with procedural rules to be
797 adopted by the division, which rules need not be consistent with
798 this subsection. The rules must provide procedures governing the
799 conduct of the recall election as well as the operation of the
800 association during the period after a recall but before the

801 recall election.

802 ~~6.7.~~ A board member who has been recalled may file a
803 petition pursuant to s. 718.1255 challenging the validity of the
804 recall. The petition must be filed within 60 days after the
805 recall ~~is deemed certified~~. The association and the unit owner
806 representative shall be named as the respondents.

807 ~~7.8.~~ The division may not accept for filing a recall
808 petition, whether filed pursuant to subparagraph 1.,
809 subparagraph 2., subparagraph ~~4.5.~~, or subparagraph ~~6.7.~~ and
810 ~~regardless of whether the recall was certified~~, when there are
811 60 or fewer days until the scheduled reelection of the board
812 member sought to be recalled or when 60 or fewer days have
813 elapsed since the election of the board member sought to be
814 recalled.

815 (p) Service providers; conflicts of interest.—An
816 association may not employ or contract with any service provider
817 that is owned or operated by a board member or any person who
818 has a financial relationship with a board member.

819 Section 3. Subsection (4) of section 718.1255, Florida
820 Statutes, is amended to read:

821 718.1255 Alternative dispute resolution; voluntary
822 mediation; mandatory nonbinding arbitration; legislative
823 findings.—

824 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
825 DISPUTES.—The Division of Florida Condominiums, Timeshares, and

826 Mobile Homes of the Department of Business and Professional
827 Regulation may ~~shall~~ employ full-time attorneys to act as
828 arbitrators to conduct the arbitration hearings provided by this
829 chapter. The division may also certify attorneys who are not
830 employed by the division to act as arbitrators to conduct the
831 arbitration hearings provided by this chapter ~~section~~. No person
832 may be employed by the department as a full-time arbitrator
833 unless he or she is a member in good standing of The Florida
834 Bar. A person may only be certified by the division to act as an
835 arbitrator if he or she has been a member in good standing of
836 The Florida Bar for at least 5 years and has mediated or
837 arbitrated at least 10 disputes involving condominiums in this
838 state during the 3 years immediately preceding the date of
839 application, mediated or arbitrated at least 30 disputes in any
840 subject area in this state during the 3 years immediately
841 preceding the date of application, or attained board
842 certification in real estate law or condominium and planned
843 development law from The Florida Bar. Arbitrator certification
844 is valid for 1 year. An arbitrator who does not maintain the
845 minimum qualifications for initial certification may not have
846 his or her certification renewed. The department may not enter
847 into a legal services contact for an arbitration hearing under
848 this chapter with an attorney who is not a certified arbitrator
849 unless a certified arbitrator is not available within 50 miles
850 of the dispute. The department shall adopt rules of procedure to

851 govern such arbitration hearings including mediation incident
852 thereto. The decision of an arbitrator shall be final; however,
853 a decision shall not be deemed final agency action. Nothing in
854 this provision shall be construed to foreclose parties from
855 proceeding in a trial de novo unless the parties have agreed
856 that the arbitration is binding. If judicial proceedings are
857 initiated, the final decision of the arbitrator shall be
858 admissible in evidence in the trial de novo.

859 (a) Prior to the institution of court litigation, a party
860 to a dispute shall petition the division for nonbinding
861 arbitration. The petition must be accompanied by a filing fee in
862 the amount of \$50. Filing fees collected under this section must
863 be used to defray the expenses of the alternative dispute
864 resolution program.

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

867 1. Advance written notice of the specific nature of the
868 dispute;

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

871 3. Notice of the intention to file an arbitration petition
872 or other legal action in the absence of a resolution of the
873 dispute.

874
875 Failure to include the allegations or proof of compliance with

876 | these prerequisites requires dismissal of the petition without
877 | prejudice.

878 | (c) Upon receipt, the petition shall be promptly reviewed
879 | by the division to determine the existence of a dispute and
880 | compliance with the requirements of paragraphs (a) and (b). If
881 | emergency relief is required and is not available through
882 | arbitration, a motion to stay the arbitration may be filed. The
883 | motion must be accompanied by a verified petition alleging facts
884 | that, if proven, would support entry of a temporary injunction,
885 | and if an appropriate motion and supporting papers are filed,
886 | the division may abate the arbitration pending a court hearing
887 | and disposition of a motion for temporary injunction.

888 | (d) Upon determination by the division that a dispute
889 | exists and that the petition substantially meets the
890 | requirements of paragraphs (a) and (b) and any other applicable
891 | rules, the division shall assign or enter into a contract with
892 | an arbitrator and serve a copy of the petition ~~shall be served~~
893 | ~~by the division~~ upon all respondents. The arbitrator shall
894 | conduct a hearing within 30 days after being assigned or
895 | entering into a contract unless the petition is withdrawn or a
896 | continuance is granted for good cause shown.

897 | (e) Before or after the filing of the respondents' answer
898 | to the petition, any party may request that the arbitrator refer
899 | the case to mediation under this section and any rules adopted
900 | by the division. Upon receipt of a request for mediation, the

901 division shall promptly contact the parties to determine if
902 there is agreement that mediation would be appropriate. If all
903 parties agree, the dispute must be referred to mediation.
904 Notwithstanding a lack of an agreement by all parties, the
905 arbitrator may refer a dispute to mediation at any time.

906 (f) Upon referral of a case to mediation, the parties must
907 select a mutually acceptable mediator. To assist in the
908 selection, the arbitrator shall provide the parties with a list
909 of both volunteer and paid mediators that have been certified by
910 the division under s. 718.501. If the parties are unable to
911 agree on a mediator within the time allowed by the arbitrator,
912 the arbitrator shall appoint a mediator from the list of
913 certified mediators. If a case is referred to mediation, the
914 parties shall attend a mediation conference, as scheduled by the
915 parties and the mediator. If any party fails to attend a duly
916 noticed mediation conference, without the permission or approval
917 of the arbitrator or mediator, the arbitrator must impose
918 sanctions against the party, including the striking of any
919 pleadings filed, the entry of an order of dismissal or default
920 if appropriate, and the award of costs and attorneys' fees
921 incurred by the other parties. Unless otherwise agreed to by the
922 parties or as provided by order of the arbitrator, a party is
923 deemed to have appeared at a mediation conference by the
924 physical presence of the party or its representative having full
925 authority to settle without further consultation, provided that

926 | an association may comply by having one or more representatives
927 | present with full authority to negotiate a settlement and
928 | recommend that the board of administration ratify and approve
929 | such a settlement within 5 days from the date of the mediation
930 | conference. The parties shall share equally the expense of
931 | mediation, unless they agree otherwise.

932 | (g) The purpose of mediation as provided for by this
933 | section is to present the parties with an opportunity to resolve
934 | the underlying dispute in good faith, and with a minimum
935 | expenditure of time and resources.

936 | (h) Mediation proceedings must generally be conducted in
937 | accordance with the Florida Rules of Civil Procedure, and these
938 | proceedings are privileged and confidential to the same extent
939 | as court-ordered mediation. Persons who are not parties to the
940 | dispute are not allowed to attend the mediation conference
941 | without the consent of all parties, with the exception of
942 | counsel for the parties and corporate representatives designated
943 | to appear for a party. If the mediator declares an impasse after
944 | a mediation conference has been held, the arbitration proceeding
945 | terminates, unless all parties agree in writing to continue the
946 | arbitration proceeding, in which case the arbitrator's decision
947 | shall be binding or nonbinding, as agreed upon by the parties;
948 | in the arbitration proceeding, the arbitrator shall not consider
949 | any evidence relating to the unsuccessful mediation except in a
950 | proceeding to impose sanctions for failure to appear at the

951 mediation conference. If the parties do not agree to continue
952 arbitration, the arbitrator shall enter an order of dismissal,
953 and either party may institute a suit in a court of competent
954 jurisdiction. The parties may seek to recover any costs and
955 attorneys' fees incurred in connection with arbitration and
956 mediation proceedings under this section as part of the costs
957 and fees that may be recovered by the prevailing party in any
958 subsequent litigation.

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

962 (j) At the request of any party to the arbitration, the
963 arbitrator shall issue subpoenas for the attendance of witnesses
964 and the production of books, records, documents, and other
965 evidence and any party on whose behalf a subpoena is issued may
966 apply to the court for orders compelling such attendance and
967 production. Subpoenas shall be served and shall be enforceable
968 in the manner provided by the Florida Rules of Civil Procedure.
969 Discovery may, in the discretion of the arbitrator, be permitted
970 in the manner provided by the Florida Rules of Civil Procedure.
971 Rules adopted by the division may authorize any reasonable
972 sanctions except contempt for a violation of the arbitration
973 procedural rules of the division or for the failure of a party
974 to comply with a reasonable nonfinal order issued by an
975 arbitrator which is not under judicial review.

976 (k) The arbitration decision shall be rendered within 30
977 days after the hearing and presented to the parties in writing.
978 An arbitration decision is final in those disputes in which the
979 parties have agreed to be bound. An arbitration decision is also
980 final if a complaint for a trial de novo is not filed in a court
981 of competent jurisdiction in which the condominium is located
982 within 30 days. The right to file for a trial de novo entitles
983 the parties to file a complaint in the appropriate trial court
984 for a judicial resolution of the dispute. The prevailing party
985 in an arbitration proceeding shall be awarded the costs of the
986 arbitration and reasonable attorney's fees in an amount
987 determined by the arbitrator. Such an award shall include the
988 costs and reasonable attorney's fees incurred in the arbitration
989 proceeding as well as the costs and reasonable attorney's fees
990 incurred in preparing for and attending any scheduled mediation.
991 An arbitrator's failure to render a written decision within 30
992 days after the hearing may result in the cancellation of his or
993 her arbitration certification.

994 (1) The party who files a complaint for a trial de novo
995 shall be assessed the other party's arbitration costs, court
996 costs, and other reasonable costs, including attorney's fees,
997 investigation expenses, and expenses for expert or other
998 testimony or evidence incurred after the arbitration hearing if
999 the judgment upon the trial de novo is not more favorable than
1000 the arbitration decision. If the judgment is more favorable, the

1001 party who filed a complaint for trial de novo shall be awarded
 1002 reasonable court costs and attorney's fees.

1003 (m) Any party to an arbitration proceeding may enforce an
 1004 arbitration award by filing a petition in a court of competent
 1005 jurisdiction in which the condominium is located. A petition may
 1006 not be granted unless the time for appeal by the filing of a
 1007 complaint for trial de novo has expired. If a complaint for a
 1008 trial de novo has been filed, a petition may not be granted with
 1009 respect to an arbitration award that has been stayed. If the
 1010 petition for enforcement is granted, the petitioner shall
 1011 recover reasonable attorney's fees and costs incurred in
 1012 enforcing the arbitration award. A mediation settlement may also
 1013 be enforced through the county or circuit court, as applicable,
 1014 and any costs and fees incurred in the enforcement of a
 1015 settlement agreement reached at mediation must be awarded to the
 1016 prevailing party in any enforcement action.

1017 Section 4. Section 718.129, Florida Statutes, is created
 1018 to read:

1019 718.129 Fraudulent voting activities related to
 1020 association elections; penalties.—The following acts constitute
 1021 fraudulent voting activities related to association elections:

1022 (1) A person who willfully, knowingly, and falsely swears
 1023 or affirms to an oath or affirmation, or procures another person
 1024 to willfully, knowingly, and falsely swear or affirm to an oath
 1025 or affirmation, in connection with or arising out of voting or

1026 casting a ballot in an association election commits a felony of
1027 the third degree, punishable as provided in s. 775.082, s.
1028 775.083, or s. 775.084.

1029 (2) A person who willfully and knowingly perpetrates or
1030 attempts to perpetrate, or willfully and knowingly aids another
1031 person in perpetrating or attempting to perpetrate, fraud in
1032 connection with or arising out of a vote or ballot cast, to be
1033 cast, or attempted to be cast by an elector in an association
1034 election commits a felony of the third degree, punishable as
1035 provided in s. 775.082, s. 775.083, or s. 775.084.

1036 (3) A person who willfully, knowingly, and fraudulently
1037 changes or attempts to change a vote or ballot cast, to be cast,
1038 or attempted to be cast by an elector in an association election
1039 to prevent such elector from voting or casting a ballot as he or
1040 she intended in such election commits a felony of the third
1041 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1042 775.084.

1043 (4) (a) A person who willfully and knowingly aids or
1044 advises another person in committing a violation of this section
1045 shall be punished as if he or she had committed the violation.

1046 (b) A person who willfully and knowingly agrees,
1047 conspires, combines, or confederates with another person in
1048 committing a violation of this section shall be punished as if
1049 he or she had committed the violation.

1050 (c) A person who willfully and knowingly aids or advises a

1051 person who has committed a violation of this section in avoiding
 1052 or escaping detection, arrest, trial, or punishment shall be
 1053 punished as if he or she had committed the violation. This
 1054 paragraph does not prohibit a member of The Florida Bar from
 1055 giving legal advice to a client.

1056 Section 5. Subsection (5) is added to section 718.3025,
 1057 Florida Statutes, to read:

1058 718.3025 Agreements for operation, maintenance, or
 1059 management of condominiums; specific requirements.—

1060 (5) A party contracting to provide maintenance or
 1061 management services, or a board member of such party, may not:

1062 (a) Own 50 percent or more of the units in the
 1063 condominium.

1064 (b) Purchase a property subject to a lien by the
 1065 association.

1066 Section 6. Section 718.3027, Florida Statutes, is created
 1067 to read:

1068 718.3027 Conflicts of interest.—

1069 (1) Directors and officers of a board of an association
 1070 that is not a timeshare condominium association, and the
 1071 relatives of such directors and officers, must disclose to the
 1072 board any activity that may reasonably be construed to be a
 1073 conflict of interest. A rebuttable presumption of a conflict of
 1074 interest exists if any of the following occurs without prior
 1075 notice, as required in subsection (4):

1076 (a) Any director, officer, or relative of any director or
1077 officer enters into a contract for goods or services with the
1078 association.

1079 (b) Any director, officer, or relative of any director or
1080 officer holds an interest in a corporation, limited liability
1081 corporation, partnership, limited liability partnership, or
1082 other business entity that conducts business with the
1083 association or proposes to enter into a contract or other
1084 transaction with the association.

1085 (2) If any director, officer, or relative of any director
1086 or officer proposes to engage in an activity that is a conflict
1087 of interest, as described in subsection (1), the proposed
1088 activity must be listed on, and all contracts and transactional
1089 documents related to the proposed activity must be attached to,
1090 the meeting agenda. If the board votes against the proposed
1091 activity, the director, officer, or relative shall notify the
1092 board in writing of his or her intention not to pursue the
1093 proposed activity, or the director or officer shall withdraw
1094 from office. If the board finds that any officer or director has
1095 violated this subsection, the board shall immediately remove the
1096 officer or director from office. The vacancy shall be filled
1097 according to general law.

1098 (3) Any director, officer, or relative of any director or
1099 officer who is a party to, or has an interest in, an activity
1100 that is a possible conflict of interest, as described in

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

1108 (4) The board must provide notice to unit owners of a
1109 possible conflict of interest, as described in subsection (1),
1110 in accordance with the procedures in s. 718.112(2)(c). All
1111 contracts and transactional documents related to the possible
1112 conflict of interest must be attached to, and made available
1113 with, the meeting agenda.

1114 (5) Any contract entered into between any director,
1115 officer, or relative of any director or officer and the
1116 association that is not properly noticed before consideration in
1117 accordance with the procedures in s. 718.112(2)(c) is null and
1118 void.

1119 Section 7. Subsection (5) of section 718.303, Florida
1120 Statutes, is amended, and subsection (8) is added to that
1121 section, to read:

1122 718.303 Obligations of owners and occupants; remedies.—

1123 (5) An association may suspend the voting rights of a unit
1124 owner or member due to nonpayment of any fee, fine, or other
1125 monetary obligation due to the association which is more than

HB 1237

2017

1126 \$1,000 and more than 90 days delinquent. Proof of such
1127 obligation must be provided to the unit owner or member 30 days
1128 before such suspension takes effect. A voting interest or
1129 consent right allocated to a unit owner or member which has been
1130 suspended by the association shall be subtracted from the total
1131 number of voting interests in the association, which shall be
1132 reduced by the number of suspended voting interests when
1133 calculating the total percentage or number of all voting
1134 interests available to take or approve any action, and the
1135 suspended voting interests shall not be considered for any
1136 purpose, including, but not limited to, the percentage or number
1137 of voting interests necessary to constitute a quorum, the
1138 percentage or number of voting interests required to conduct an
1139 election, or the percentage or number of voting interests
1140 required to approve an action under this chapter or pursuant to
1141 the declaration, articles of incorporation, or bylaws. The
1142 suspension ends upon full payment of all obligations currently
1143 due or overdue the association. The notice and hearing
1144 requirements under subsection (3) do not apply to a suspension
1145 imposed under this subsection.

1146 (8) A receiver may not exercise voting rights of any unit
1147 owner whose unit is placed in receivership for the benefit of
1148 the association pursuant to this chapter.

1149 Section 8. Subsection (5) of section 718.5012, Florida
1150 Statutes, is amended to read:

1151 718.5012 Ombudsman; powers and duties.—The ombudsman shall
 1152 have the powers that are necessary to carry out the duties of
 1153 his or her office, including the following specific powers:

1154 (5) To monitor and review procedures and disputes
 1155 concerning condominium elections or meetings, including, but not
 1156 limited to, recommending that the division pursue enforcement
 1157 action in any manner where there is reasonable cause to believe
 1158 that election misconduct has occurred and reviewing secret
 1159 ballots cast at a vote of the association.

1160 Section 9. Section 718.71, Florida Statutes, is created to
 1161 read:

1162 718.71 Financial reporting.—An association shall provide
 1163 an annual report to the department containing the names of all
 1164 of the financial institutions with which it maintains accounts,
 1165 and a copy of such report may be obtained upon written request
 1166 of any association member.

1167 Section 10. This act shall take effect July 1, 2017.