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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/25/2017	.	
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The Committee on Rules (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 68 - 1152

and insert:

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

718.111 The association.—

(1) CORPORATE ENTITY.—



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12 (a) The operation of the condominium shall be by the
13 association, which must be a Florida corporation for profit or a
14 Florida corporation not for profit. However, any association
15 which was in existence on January 1, 1977, need not be
16 incorporated. The owners of units shall be shareholders or
17 members of the association. The officers and directors of the
18 association have a fiduciary relationship to the unit owners. It
19 is the intent of the Legislature that nothing in this paragraph
20 shall be construed as providing for or removing a requirement of
21 a fiduciary relationship between any manager employed by the
22 association and the unit owners. An officer, director, or
23 manager may not solicit, offer to accept, or accept any thing or
24 service of value or kickback for which consideration has not
25 been provided for his or her own benefit or that of his or her
26 immediate family, from any person providing or proposing to
27 provide goods or services to the association. Any such officer,
28 director, or manager who knowingly so solicits, offers to
29 accept, or accepts any thing or service of value or kickback is
30 subject to a civil penalty pursuant to s. 718.501(1)(d), and if
31 applicable, a criminal penalty as provided in paragraph (d).
32 However, this paragraph does not prohibit an officer, director,
33 or manager from accepting services or items received in
34 connection with trade fairs or education programs. An
35 association may operate more than one condominium.

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



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41 An officer, director, or agent shall be liable for monetary
42 damages as provided in s. 617.0834 if such officer, director, or
43 agent breached or failed to perform his or her duties and the
44 breach of, or failure to perform, his or her duties constitutes
45 a violation of criminal law as provided in s. 617.0834;
46 constitutes a transaction from which the officer or director
47 derived an improper personal benefit, either directly or
48 indirectly; or constitutes recklessness or an act or omission
49 that was in bad faith, with malicious purpose, or in a manner
50 exhibiting wanton and willful disregard of human rights, safety,
51 or property. Forgery of a ballot envelope used in a condominium
52 association election or voting certificate is punishable as
53 provided in s. 831.01, the theft or embezzlement of funds of a
54 condominium association is punishable as provided in s. 812.014,
55 and destruction of any document that is an official record of a
56 condominium association in furtherance of any crime is
57 punishable as tampering with evidence as provided in s. 918.13
58 or as obstruction of justice as provided in s. 843.02. An
59 officer or director charged by information or indictment with a
60 crime referenced in this paragraph must be removed from office,
61 and the vacancy shall be filled as provided in s.
62 718.112(2)(d)2. until the earlier of the end of the officer's or
63 director's period of suspension or the end of his or her term of
64 office. While a criminal charge is pending against the officer
65 or director, he or she may not be appointed or elected to a
66 position as an officer or director of any association and may
67 not have access to the official records of any association,
68 except pursuant to a court order. However, if the charges are
69 resolved without a finding of guilt, the officer or director



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70 must be reinstated for the remainder of his or her term of
71 office, if any.

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

74 (a) The association may contract, sue, or be sued with
75 respect to the exercise or nonexercise of its powers. For these
76 purposes, the powers of the association include, but are not
77 limited to, the maintenance, management, and operation of the
78 condominium property. After control of the association is
79 obtained by unit owners other than the developer, the
80 association may institute, maintain, settle, or appeal actions
81 or hearings in its name on behalf of all unit owners concerning
82 matters of common interest to most or all unit owners,
83 including, but not limited to, the common elements; the roof and
84 structural components of a building or other improvements;
85 mechanical, electrical, and plumbing elements serving an
86 improvement or a building; representations of the developer
87 pertaining to any existing or proposed commonly used facilities;
88 and protesting ad valorem taxes on commonly used facilities and
89 on units; and may defend actions in eminent domain or bring
90 inverse condemnation actions. If the association has the
91 authority to maintain a class action, the association may be
92 joined in an action as representative of that class with
93 reference to litigation and disputes involving the matters for
94 which the association could bring a class action. Nothing herein
95 limits any statutory or common-law right of any individual unit
96 owner or class of unit owners to bring any action without
97 participation by the association which may otherwise be
98 available.



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

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

113 (12) OFFICIAL RECORDS.—

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

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

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

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

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

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



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

131 7. A current roster of all unit owners and their mailing
132 addresses, unit identifications, voting certifications, and, if
133 known, telephone numbers. The association shall also maintain
134 the electronic mailing addresses and facsimile numbers of unit
135 owners consenting to receive notice by electronic transmission.
136 The electronic mailing addresses and facsimile numbers are not
137 accessible to unit owners if consent to receive notice by
138 electronic transmission is not provided in accordance with sub-
139 subparagraph (c)5.e. subparagraph (e)5. However, the association
140 is not liable for an inadvertent disclosure of the electronic
141 mail address or facsimile number for receiving electronic
142 transmission of notices.

143 8. All current insurance policies of the association and
144 condominiums operated by the association.

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

149 10. Bills of sale or transfer for all property owned by the
150 association.

151 11. Accounting records for the association and separate
152 accounting records for each condominium that the association
153 operates. All accounting records must be maintained for at least
154 7 years. Any person who knowingly or intentionally defaces or
155 destroys such records, or who knowingly or intentionally fails
156 to create or maintain such records, with the intent of causing



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157 harm to the association or one or more of its members, is
158 personally subject to a civil penalty pursuant to s.
159 718.501(1)(d). The accounting records must include, but are not
160 limited to:

- 161 a. Accurate, itemized, and detailed records of all receipts
162 and expenditures.
- 163 b. A current account and a monthly, bimonthly, or quarterly
164 statement of the account for each unit designating the name of
165 the unit owner, the due date and amount of each assessment, the
166 amount paid on the account, and the balance due.
- 167 c. All audits, reviews, accounting statements, and
168 financial reports of the association or condominium.
- 169 d. All contracts for work to be performed. Bids for work to
170 be performed are also considered official records and must be
171 maintained by the association.

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

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

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

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

184 16. A copy of the inspection report as described in s.
185 718.301(4)(p).



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

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

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

209 2. Any person who knowingly or intentionally defaces or
210 destroys accounting records that are required by this chapter to
211 be maintained during the period for which such records are
212 required to be maintained, or who knowingly or intentionally
213 fails to create or maintain accounting records that are required
214 to be created or maintained, with the intent of causing harm to



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215 the association or one or more of its members, is personally
216 subject to a civil penalty pursuant to s. 718.501(1)(d).

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

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



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244 conclusion of the litigation or proceedings.

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

248 ~~c.3.~~ Personnel records of association or management company
249 employees, including, but not limited to, disciplinary, payroll,
250 health, and insurance records. For purposes of this sub-
251 subparagraph ~~subparagraph~~, the term "personnel records" does not
252 include written employment agreements with an association
253 employee or management company, or budgetary or financial
254 records that indicate the compensation paid to an association
255 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 sub-subparagraph ~~subparagraph~~, an
267 association may print and distribute to parcel owners a
268 directory containing the name, parcel address, and all telephone
269 numbers of each parcel owner. However, an owner may exclude his
270 or her telephone numbers from the directory by so requesting in
271 writing to the association. An owner may consent in writing to
272 the disclosure of other contact information described in this



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273 sub-subparagraph ~~subparagraph~~. The association is not liable for
274 the inadvertent disclosure of information that is protected
275 under this sub-subparagraph ~~subparagraph~~ if the information is
276 included in an official record of the association and is
277 voluntarily provided by an owner and not requested by the
278 association.

279 f.6. Electronic security measures that are used by the
280 association to safeguard data, including passwords.

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

285 (g)1. By July 1, 2018, an association with 150 or more
286 units which does not manage timeshare units shall post digital
287 copies of the documents specified in subparagraph 2. on its
288 website.

289 a. The association's website must be:

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

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

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



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302 of the association.

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

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

310 a. The recorded declaration of condominium of each
311 condominium operated by the association and each amendment to
312 each declaration.

313 b. The recorded bylaws of the association and each
314 amendment to the bylaws.

315 c. The articles of incorporation of the association, or
316 other documents creating the association, and each amendment
317 thereto. The copy posted pursuant to this sub-subparagraph must
318 be a copy of the articles of incorporation filed with the
319 Department of State.

320 d. The rules of the association.

321 e. Any management agreement, lease, or other contract to
322 which the association is a party or under which the association
323 or the unit owners have an obligation or responsibility.
324 Summaries of bids for materials, equipment, or services must be
325 maintained on the website for 1 year.

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

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

330 h. The certification of each director required by s.



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331 718.112(2)(d)4.b.

332 i. All contracts or transactions between the association
333 and any director, officer, corporation, firm, or association
334 that is not an affiliated condominium association or any other
335 entity in which an association director is also a director or
336 officer and financially interested.

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

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

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

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



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360 website, the association shall ensure the information is
361 redacted before posting the documents online.

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



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

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

397 2. An association with total annual revenues of at least
398 \$300,000, but less than \$500,000, shall prepare reviewed
399 financial statements.

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

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

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

409 3. A report of cash receipts and disbursements must
410 disclose the amount of receipts by accounts and receipt
411 classifications and the amount of expenses by accounts and
412 expense classifications, including, but not limited to, the
413 following, as applicable: costs for security, professional and
414 management fees and expenses, taxes, costs for recreation
415 facilities, expenses for refuse collection and utility services,
416 expenses for lawn care, costs for building maintenance and
417 repair, insurance costs, administration and salary expenses, and



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418 reserves accumulated and expended for capital expenditures,
419 deferred maintenance, and any other category for which the
420 association maintains reserves.

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

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

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

429 3. Audited financial statements if the association is
430 required to prepare reviewed financial statements.

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

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

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

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

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443 Such meeting and approval must occur before the end of the
444 fiscal year and is effective only for the fiscal year in which
445 the vote is taken, except that the approval may also be
446 effective for the following fiscal year. If the developer has



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447 not turned over control of the association, all unit owners,
448 including the developer, may vote on issues related to the
449 preparation of the association's financial reports, from the
450 date of incorporation of the association through the end of the
451 second fiscal year after the fiscal year in which the
452 certificate of a surveyor and mapper is recorded pursuant to s.
453 718.104(4) (e) or an instrument that transfers title to a unit in
454 the condominium which is not accompanied by a recorded
455 assignment of developer rights in favor of the grantee of such
456 unit is recorded, whichever occurs first. Thereafter, all unit
457 owners except the developer may vote on such issues until
458 control is turned over to the association by the developer. Any
459 audit or review prepared under this section shall be paid for by
460 the developer if done before turnover of control of the
461 association. An association may not waive the financial
462 reporting requirements of this section for more than 3
463 consecutive years.

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



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476 pursuant to this paragraph shall be maintained, and the division
477 shall provide a copy of such report to an association member
478 upon his or her request.

479 (15) DEBIT CARDS.—An association or any officer, director,
480 employee, or agent of an association may not use a debit card
481 issued in the name of the association, or which is billed
482 directly to the association, for the payment of any association
483 expense. Use of a debit card issued in the name of the
484 association or billed directly to the association for any
485 expense that is not a lawful obligation of the association may
486 be prosecuted as credit card fraud pursuant to s. 817.61.

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

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

498 718.112 Bylaws.—

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

502 (d) Unit owner meetings.—

503 1. An annual meeting of the unit owners shall be held at
504 the location provided in the association bylaws and, if the



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505 bylaws are silent as to the location, the meeting shall be held
506 within 45 miles of the condominium property. However, such
507 distance requirement does not apply to an association governing
508 a timeshare condominium.

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



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534 bylaws provide otherwise, any remaining vacancies shall be
535 filled by the affirmative vote of the majority of the directors
536 making up the newly constituted board even if the directors
537 constitute less than a quorum or there is only one director. In
538 a residential condominium association of more than 10 units or
539 in a residential condominium association that does not include
540 timeshare units or timeshare interests, coowners of a unit may
541 not serve as members of the board of directors at the same time
542 unless they own more than one unit or unless there are not
543 enough eligible candidates to fill the vacancies on the board at
544 the time of the vacancy. A unit owner in a residential
545 condominium desiring to be a candidate for board membership must
546 comply with sub-subparagraph 4.a. and must be eligible to be a
547 candidate to serve on the board of directors at the time of the
548 deadline for submitting a notice of intent to run in order to
549 have his or her name listed as a proper candidate on the ballot
550 or to serve on the board. A person who has been suspended or
551 removed by the division under this chapter, or who is delinquent
552 in the payment of any monetary obligation due to the
553 association, is not eligible to be a candidate for board
554 membership and may not be listed on the ballot. A person who has
555 been convicted of any felony in this state or in a United States
556 District or Territorial Court, or who has been convicted of any
557 offense in another jurisdiction which would be considered a
558 felony if committed in this state, is not eligible for board
559 membership unless such felon's civil rights have been restored
560 for at least 5 years as of the date such person seeks election
561 to the board. The validity of an action by the board is not
562 affected if it is later determined that a board member is



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563 ineligible for board membership due to having been convicted of
564 a felony. This subparagraph does not limit the term of a member
565 of the board of a nonresidential or timeshare condominium.

566 3. The bylaws must provide the method of calling meetings
567 of unit owners, including annual meetings. Written notice must
568 include an agenda, must be mailed, hand delivered, or
569 electronically transmitted to each unit owner at least 14 days
570 before the annual meeting, and must be posted in a conspicuous
571 place on the condominium property at least 14 continuous days
572 before the annual meeting. Upon notice to the unit owners, the
573 board shall, by duly adopted rule, designate a specific location
574 on the condominium property or association property where all
575 notices of unit owner meetings shall be posted. This requirement
576 does not apply if there is no condominium property or
577 association property for posting notices. In lieu of, or in
578 addition to, the physical posting of meeting notices, the
579 association may, by reasonable rule, adopt a procedure for
580 conspicuously posting and repeatedly broadcasting the notice and
581 the agenda on a closed-circuit cable television system serving
582 the condominium association. However, if broadcast notice is
583 used in lieu of a notice posted physically on the condominium
584 property, the notice and agenda must be broadcast at least four
585 times every broadcast hour of each day that a posted notice is
586 otherwise required under this section. If broadcast notice is
587 provided, the notice and agenda must be broadcast in a manner
588 and for a sufficient continuous length of time so as to allow an
589 average reader to observe the notice and read and comprehend the
590 entire content of the notice and the agenda. Unless a unit owner
591 waives in writing the right to receive notice of the annual



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592 meeting, such notice must be hand delivered, mailed, or
593 electronically transmitted to each unit owner. Notice for
594 meetings and notice for all other purposes must be mailed to
595 each unit owner at the address last furnished to the association
596 by the unit owner, or hand delivered to each unit owner.
597 However, if a unit is owned by more than one person, the
598 association must provide notice to the address that the
599 developer identifies for that purpose and thereafter as one or
600 more of the owners of the unit advise the association in
601 writing, or if no address is given or the owners of the unit do
602 not agree, to the address provided on the deed of record. An
603 officer of the association, or the manager or other person
604 providing notice of the association meeting, must provide an
605 affidavit or United States Postal Service certificate of
606 mailing, to be included in the official records of the
607 association affirming that the notice was mailed or hand
608 delivered in accordance with this provision.

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

616 a. At least 60 days before a scheduled election, the
617 association shall mail, deliver, or electronically transmit, by
618 separate association mailing or included in another association
619 mailing, delivery, or transmission, including regularly
620 published newsletters, to each unit owner entitled to a vote, a



621 first notice of the date of the election. A unit owner or other
622 eligible person desiring to be a candidate for the board must
623 give written notice of his or her intent to be a candidate to
624 the association at least 40 days before a scheduled election.
625 Together with the written notice and agenda as set forth in
626 subparagraph 3., the association shall mail, deliver, or
627 electronically transmit a second notice of the election to all
628 unit owners entitled to vote, together with a ballot that lists
629 all candidates. Upon request of a candidate, an information
630 sheet, no larger than 8 1/2 inches by 11 inches, which must be
631 furnished by the candidate at least 35 days before the election,
632 must be included with the mailing, delivery, or transmission of
633 the ballot, with the costs of mailing, delivery, or electronic
634 transmission and copying to be borne by the association. The
635 association is not liable for the contents of the information
636 sheets prepared by the candidates. In order to reduce costs, the
637 association may print or duplicate the information sheets on
638 both sides of the paper. The division shall by rule establish
639 voting procedures consistent with this sub-subparagraph,
640 including rules establishing procedures for giving notice by
641 electronic transmission and rules providing for the secrecy of
642 ballots. Elections shall be decided by a plurality of ballots
643 cast. There is no quorum requirement; however, at least 20
644 percent of the eligible voters must cast a ballot in order to
645 have a valid election. A unit owner may not permit any other
646 person to vote his or her ballot, and any ballots improperly
647 cast are invalid. A unit owner who violates this provision may
648 be fined by the association in accordance with s. 718.303. A
649 unit owner who needs assistance in casting the ballot for the



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650 reasons stated in s. 101.051 may obtain such assistance. The
651 regular election must occur on the date of the annual meeting.
652 Notwithstanding this sub-subparagraph, an election is not
653 required unless more candidates file notices of intent to run or
654 are nominated than board vacancies exist.

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



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679 a director's written certification or educational certificate
680 for inspection by the members for 5 years after a director's
681 election or the duration of the director's uninterrupted tenure,
682 whichever is longer. Failure to have such written certification
683 or educational certificate on file does not affect the validity
684 of any board action.

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

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

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

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



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

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

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

731
732 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
733 association of 10 or fewer units may, by affirmative vote of a
734 majority of the total voting interests, provide for different
735 voting and election procedures in its bylaws, which may be by a
736 proxy specifically delineating the different voting and election



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737 procedures. The different voting and election procedures may
738 provide for elections to be conducted by limited or general
739 proxy.

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

751 1. If the recall is approved by a majority of all voting
752 interests by a vote at a meeting, the recall will be effective
753 as provided in this paragraph. The board shall duly notice and
754 hold a board meeting within 5 full business days after the
755 adjournment of the unit owner meeting to recall one or more
756 board members. ~~At the meeting, the board shall either certify~~
757 ~~the recall, in which case~~ Such member or members shall be
758 recalled effective immediately and shall turn over to the board
759 within 10 ~~5~~ full business days after the vote any and all
760 records and property of the association in their possession, ~~or~~
761 ~~shall proceed as set forth in subparagraph 3.~~

762 2. If the proposed recall is by an agreement in writing by
763 a majority of all voting interests, the agreement in writing or
764 a copy thereof shall be served on the association by certified
765 mail or by personal service in the manner authorized by chapter



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766 48 and the Florida Rules of Civil Procedure. The board of
767 administration shall duly notice and hold a meeting of the board
768 within 5 full business days after receipt of the agreement in
769 writing. ~~At the meeting, the board shall either certify the~~
770 ~~written agreement to recall a member or members of the board, in~~
771 ~~which case~~ Such member or members shall be recalled effective
772 immediately and shall turn over to the board within 10 ~~5~~ full
773 business days any and all records and property of the
774 association in their possession, ~~or proceed as described in~~
775 ~~subparagraph 3.~~

776 ~~3. If the board determines not to certify the written~~
777 ~~agreement to recall a member or members of the board, or does~~
778 ~~not certify the recall by a vote at a meeting, the board shall,~~
779 ~~within 5 full business days after the meeting, file with the~~
780 ~~division a petition for arbitration pursuant to the procedures~~
781 ~~in s. 718.1255. For the purposes of this section, the unit~~
782 ~~owners who voted at the meeting or who executed the agreement in~~
783 ~~writing shall constitute one party under the petition for~~
784 ~~arbitration. If the arbitrator certifies the recall as to any~~
785 ~~member or members of the board, the recall will be effective~~
786 ~~upon mailing of the final order of arbitration to the~~
787 ~~association. If the association fails to comply with the order~~
788 ~~of the arbitrator, the division may take action pursuant to s.~~
789 ~~718.501. Any member or members so recalled shall deliver to the~~
790 ~~board any and all records of the association in their possession~~
791 ~~within 5 full business days after the effective date of the~~
792 ~~recall.~~

793 3.4. If the board fails to duly notice and hold a board
794 meeting within 5 full business days after service of an



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

801 ~~4.5.~~ If the board fails to duly notice and hold the
802 required meeting or fails to file the required petition, the
803 unit owner representative may file a petition pursuant to s.
804 718.1255 challenging the board's failure to act. The petition
805 must be filed within 60 days after the expiration of the
806 applicable 5-full-business-day period. The review of a petition
807 under this subparagraph is limited to the sufficiency of service
808 on the board and the facial validity of the written agreement or
809 ballots filed.

810 ~~5.6.~~ If a vacancy occurs on the board as a result of a
811 recall or removal and less than a majority of the board members
812 are removed, the vacancy may be filled by the affirmative vote
813 of a majority of the remaining directors, notwithstanding any
814 provision to the contrary contained in this subsection. If
815 vacancies occur on the board as a result of a recall and a
816 majority or more of the board members are removed, the vacancies
817 shall be filled in accordance with procedural rules to be
818 adopted by the division, which rules need not be consistent with
819 this subsection. The rules must provide procedures governing the
820 conduct of the recall election as well as the operation of the
821 association during the period after a recall but before the
822 recall election.

823 ~~6.7.~~ A board member who has been recalled may file a



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824 petition pursuant to s. 718.1255 challenging the validity of the
825 recall. The petition must be filed within 60 days after the
826 recall ~~is deemed certified~~. The association and the unit owner
827 representative shall be named as the respondents.

828 ~~7.8.~~ The division may not accept for filing a recall
829 petition, whether filed pursuant to subparagraph 1.,
830 subparagraph 2., subparagraph ~~4. 5.~~, or subparagraph ~~6. 7.~~ and
831 ~~regardless of whether the recall was certified~~, when there are
832 60 or fewer days until the scheduled reelection of the board
833 member sought to be recalled or when 60 or fewer days have
834 elapsed since the election of the board member sought to be
835 recalled.

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

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

849 718.1255 Alternative dispute resolution; voluntary
850 mediation; mandatory nonbinding arbitration; legislative
851 findings.—

852 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF



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



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

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

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

895 1. Advance written notice of the specific nature of the
896 dispute;

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

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

902
903 Failure to include the allegations or proof of compliance with
904 these prerequisites requires dismissal of the petition without
905 prejudice.

906 (c) Upon receipt, the petition shall be promptly reviewed
907 by the division to determine the existence of a dispute and
908 compliance with the requirements of paragraphs (a) and (b). If
909 emergency relief is required and is not available through
910 arbitration, a motion to stay the arbitration may be filed. The



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911 motion must be accompanied by a verified petition alleging facts
912 that, if proven, would support entry of a temporary injunction,
913 and if an appropriate motion and supporting papers are filed,
914 the division may abate the arbitration pending a court hearing
915 and disposition of a motion for temporary injunction.

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

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

934 (f) Upon referral of a case to mediation, the parties must
935 select a mutually acceptable mediator. To assist in the
936 selection, the arbitrator shall provide the parties with a list
937 of both volunteer and paid mediators that have been certified by
938 the division under s. 718.501. If the parties are unable to
939 agree on a mediator within the time allowed by the arbitrator,



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940 the arbitrator shall appoint a mediator from the list of
941 certified mediators. If a case is referred to mediation, the
942 parties shall attend a mediation conference, as scheduled by the
943 parties and the mediator. If any party fails to attend a duly
944 noticed mediation conference, without the permission or approval
945 of the arbitrator or mediator, the arbitrator must impose
946 sanctions against the party, including the striking of any
947 pleadings filed, the entry of an order of dismissal or default
948 if appropriate, and the award of costs and attorney ~~attorneys'~~
949 fees incurred by the other parties. Unless otherwise agreed to
950 by the parties or as provided by order of the arbitrator, a
951 party is deemed to have appeared at a mediation conference by
952 the physical presence of the party or its representative having
953 full authority to settle without further consultation, provided
954 that an association may comply by having one or more
955 representatives present with full authority to negotiate a
956 settlement and recommend that the board of administration ratify
957 and approve such a settlement within 5 days from the date of the
958 mediation conference. The parties shall share equally the
959 expense of mediation, unless they agree otherwise.

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

964 (h) Mediation proceedings must generally be conducted in
965 accordance with the Florida Rules of Civil Procedure, and these
966 proceedings are privileged and confidential to the same extent
967 as court-ordered mediation. Persons who are not parties to the
968 dispute are not allowed to attend the mediation conference



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969 without the consent of all parties, with the exception of
970 counsel for the parties and corporate representatives designated
971 to appear for a party. If the mediator declares an impasse after
972 a mediation conference has been held, the arbitration proceeding
973 terminates, unless all parties agree in writing to continue the
974 arbitration proceeding, in which case the arbitrator's decision
975 shall be binding or nonbinding, as agreed upon by the parties;
976 in the arbitration proceeding, the arbitrator shall not consider
977 any evidence relating to the unsuccessful mediation except in a
978 proceeding to impose sanctions for failure to appear at the
979 mediation conference. If the parties do not agree to continue
980 arbitration, the arbitrator shall enter an order of dismissal,
981 and either party may institute a suit in a court of competent
982 jurisdiction. The parties may seek to recover any costs and
983 attorney ~~attorneys'~~ fees incurred in connection with arbitration
984 and mediation proceedings under this section as part of the
985 costs and fees that may be recovered by the prevailing party in
986 any subsequent litigation.

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

990 (j) At the request of any party to the arbitration, the
991 arbitrator shall issue subpoenas for the attendance of witnesses
992 and the production of books, records, documents, and other
993 evidence and any party on whose behalf a subpoena is issued may
994 apply to the court for orders compelling such attendance and
995 production. Subpoenas shall be served and shall be enforceable
996 in the manner provided by the Florida Rules of Civil Procedure.
997 Discovery may, in the discretion of the arbitrator, be permitted



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998 in the manner provided by the Florida Rules of Civil Procedure.
999 Rules adopted by the division may authorize any reasonable
1000 sanctions except contempt for a violation of the arbitration
1001 procedural rules of the division or for the failure of a party
1002 to comply with a reasonable nonfinal order issued by an
1003 arbitrator which is not under judicial review.

1004 (k) The arbitration decision shall be rendered within 30
1005 days after the hearing and presented to the parties in writing.
1006 An arbitration decision is final in those disputes in which the
1007 parties have agreed to be bound. An arbitration decision is also
1008 final if a complaint for a trial de novo is not filed in a court
1009 of competent jurisdiction in which the condominium is located
1010 within 30 days. The right to file for a trial de novo entitles
1011 the parties to file a complaint in the appropriate trial court
1012 for a judicial resolution of the dispute. The prevailing party
1013 in an arbitration proceeding shall be awarded the costs of the
1014 arbitration and reasonable attorney ~~attorney's~~ fees in an amount
1015 determined by the arbitrator. Such an award shall include the
1016 costs and reasonable attorney ~~attorney's~~ fees incurred in the
1017 arbitration proceeding as well as the costs and reasonable
1018 attorney ~~attorney's~~ fees incurred in preparing for and attending
1019 any scheduled mediation. An arbitrator's failure to render a
1020 written decision within 30 days after the hearing may result in
1021 the cancellation of his or her arbitration certification.

1022 (l) The party who files a complaint for a trial de novo
1023 shall be assessed the other party's arbitration costs, court
1024 costs, and other reasonable costs, including attorney ~~attorney's~~
1025 fees, investigation expenses, and expenses for expert or other
1026 testimony or evidence incurred after the arbitration hearing if



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1027 the judgment upon the trial de novo is not more favorable than
1028 the arbitration decision. If the judgment is more favorable, the
1029 party who filed a complaint for trial de novo shall be awarded
1030 reasonable court costs and attorney ~~attorney's~~ fees.

1031 (m) Any party to an arbitration proceeding may enforce an
1032 arbitration award by filing a petition in a court of competent
1033 jurisdiction in which the condominium is located. A petition may
1034 not be granted unless the time for appeal by the filing of a
1035 complaint for trial de novo has expired. If a complaint for a
1036 trial de novo has been filed, a petition may not be granted with
1037 respect to an arbitration award that has been stayed. If the
1038 petition for enforcement is granted, the petitioner shall
1039 recover reasonable attorney ~~attorney's~~ fees and costs incurred
1040 in enforcing the arbitration award. A mediation settlement may
1041 also be enforced through the county or circuit court, as
1042 applicable, and any costs and fees incurred in the enforcement
1043 of a settlement agreement reached at mediation must be awarded
1044 to the prevailing party in any enforcement action.

1045 Section 5. Subsection (5) is added to section 718.3025,
1046 Florida Statutes, to read:

1047 718.3025 Agreements for operation, maintenance, or
1048 management of condominiums; specific requirements.—

1049 (5) A party contracting to provide maintenance or
1050 management services to an association managing a residential
1051 condominium after transfer of control of the association, as
1052 provided in s. 718.301, which is not a timeshare condominium
1053 association, or an officer or board member of such party, may
1054 not purchase a unit at a foreclosure sale resulting from the
1055 association's foreclosure of association lien for unpaid



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1056 assessments or take a deed in lieu of foreclosure. If 50 percent
1057 or more of the units in the condominium are owned by a party
1058 contracting to provide maintenance or management services to an
1059 association managing a residential condominium after transfer of
1060 control of the association, as provided in s. 718.301, which is
1061 not a timeshare condominium association, or by an officer or
1062 board member of such party, the contract with the party
1063 providing maintenance or management services may be canceled by
1064 a majority vote of the unit owners other than the contracting
1065 party or an officer or board member of such party.

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.



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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 must 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 officer or director shall be
1096 deemed removed 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) Any contract entered into between any director,
1109 officer, or relative of any director or officer and the
1110 association, which is not a timeshare condominium association,
1111 which has not been properly disclosed as a conflict of interest
1112 or potential conflict of interest as required by s.
1113 718.111(12)(g) is voidable and terminates upon the filing of a



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1114 written notice terminating the contract with the board of
1115 directors which contains the consent of at least 20 percent of
1116 the voting interests of the association.

1117 (5) As used in this section, reference to a "relative"
1118 means a relative within the third degree of consanguinity by
1119 blood or marriage.

1120

1121 ===== T I T L E A M E N D M E N T =====

1122 And the title is amended as follows:

1123 Delete lines 2 - 55

1124 and insert:

1125 An act relating to condominiums; amending s. 718.111,
1126 F.S.; prohibiting an officer, director, or manager
1127 from soliciting, offering to accept, or accepting a
1128 kickback for which consideration has not been
1129 provided; providing criminal penalties; requiring that
1130 an officer or director charged with certain crimes be
1131 removed from office; providing requirements for
1132 filling the vacancy left by such removal; prohibiting
1133 such officer or director from being appointed or
1134 elected or having access to official condominium
1135 association records for a specified time; providing an
1136 exception; requiring an officer or director to be
1137 reinstated if the charges are resolved without a
1138 finding of guilt; prohibiting an association from
1139 hiring an attorney who represents the management
1140 company of the association; prohibiting a board
1141 member, manager, or management company from purchasing
1142 a unit at a foreclosure sale under certain



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1143 circumstances; providing recordkeeping requirements;
1144 providing that the official records of an association
1145 are open to inspection by unit renters; providing that
1146 a renter of a unit has a right to inspect and copy the
1147 association's bylaws and rules; providing requirements
1148 relating to the posting of specified documents on an
1149 association's website; providing a remedy for an
1150 association's failure to provide a unit owner with a
1151 copy of the most recent financial report; requiring
1152 the Division of Florida Condominiums, Timeshares, and
1153 Mobile Homes to maintain and provide copies of
1154 financial reports; prohibiting a condominium
1155 association and its officers, directors, employees,
1156 and agents from using a debit card issued in the name
1157 of the association or billed to the association;
1158 providing that use of such a debit card for any
1159 expense that is not a lawful obligation of the
1160 association may be prosecuted as credit card fraud;
1161 providing direction to the Department of Business and
1162 Professional Regulation; amending s. 718.112, F.S.;
1163 providing board member term limits; providing an
1164 exception; deleting certification requirements
1165 relating to the recall of board members; revising the
1166 amount of time a recalled board member has to turn
1167 over records and property of the association to the
1168 board; prohibiting certain associations from employing
1169 or contracting with a service provider owned or
1170 operated by certain persons; amending s. 718.1255,
1171 F.S.; authorizing, rather than requiring, the division



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1172 to employ full-time attorneys to conduct certain
1173 arbitration hearings; providing requirements for the
1174 certification of arbitrators; prohibiting the
1175 Department of Business and Professional Regulation
1176 from entering into a legal services contract for
1177 certain arbitration hearings; requiring the division
1178 to assign or enter into contracts with arbitrators;
1179 requiring arbitrators to conduct hearings within a
1180 specified period; providing an exception; providing
1181 arbitration proceeding requirements; amending s.
1182 718.3025, F.S.; prohibiting specified parties from
1183 purchasing a unit at a foreclosure sale resulting from
1184 the association's foreclosure of association lien for
1185 unpaid assessments or from taking a deed in lieu of
1186 foreclosures; authorizing a contract with a party
1187 providing maintenance or management services to be
1188 canceled by a majority vote of certain unit owners
1189 under specified conditions; creating s. 718.3027,
1190 F.S.; providing requirements relating to board
1191 director and officer conflicts of interest; providing
1192 that certain contracts are voidable if they do not
1193 meet specified notice requirements and terminate,
1194 subject to a certain condition; specifying who is
1195 considered a relative for certain purposes; amending
1196 s.