

By the Committee on Regulated Industries; and Senators Passidomo and Mayfield

580-02650-18

20181274c1

1                   A bill to be entitled  
2       An act relating to community associations; amending s.  
3       718.111, F.S.; deleting a provision prohibiting an  
4       association from hiring an attorney who represents the  
5       management company of the association; revising  
6       condominium association recordkeeping and financial  
7       reporting requirements; revising the list of documents  
8       that the association is required to post online;  
9       limiting an association's liability for inadvertent  
10      disclosure of protected or restricted information;  
11      providing that the failure of an association to post  
12      certain information is not sufficient, in and of  
13      itself, to invalidate any action or decision of the  
14      association; amending s. 718.112, F.S.; revising  
15      provisions relating to required association bylaws;  
16      authorizing an association to adopt rules for posting  
17      certain notices on the association's website; revising  
18      board term limits; providing responsibilities for unit  
19      owners who receive electronic notices; revising and  
20      providing board member recall and challenge  
21      requirements; authorizing the recovery of attorney  
22      fees and costs in an action to challenge the validity  
23      of a board member recall; amending s. 718.113, F.S.;  
24      revising voting requirements relating to alterations  
25      and additions to certain common elements or  
26      association property; amending s. 718.3026, F.S.;  
27      removing a provision relating to certain contracts or  
28      transactions regarding conflicts of interest; amending  
29      s. 718.3027, F.S.; providing requirements for proposed

580-02650-18

20181274c1

30 activity that is identified as a conflict of interest;  
31 amending s. 718.303, F.S.; revising fine and  
32 suspension requirements; amending s. 718.707, F.S.;  
33 revising the time limitation for classification as a  
34 bulk assignee or bulk buyer; amending s. 719.104,  
35 F.S.; revising cooperative association recordkeeping  
36 requirements; amending s. 719.106, F.S.; revising the  
37 composition of boards of administration; placing an  
38 additional restriction on service as a board member;  
39 prohibiting a board member from voting via e-mail;  
40 requiring that a notice for certain meetings contain  
41 certain information; authorizing an association to  
42 adopt rules for posting certain notices on a website;  
43 requiring that an adopted rule contain a certain  
44 requirement related to electronic notice; providing  
45 responsibilities for unit owners who receive  
46 electronic notices; providing that directors or  
47 officers who are delinquent in certain payments owed  
48 in excess of certain periods of time are deemed to  
49 have abandoned their offices; amending s. 719.107,  
50 F.S.; specifying that certain services that are  
51 obtained pursuant to a bulk contract are deemed a  
52 common expense; amending s. 719.303, F.S.; revising  
53 fine and suspension requirements; specifying a fine  
54 payment is due within a certain timeframe after the  
55 fine is approved by the committee; requiring the  
56 association to provide written notice of certain fines  
57 or suspensions to certain persons; amending s.  
58 720.303, F.S.; prohibiting a board member from voting

580-02650-18

20181274c1

59 via e-mail; revising reserve account requirements;  
60 providing requirements for votes relating to reserve  
61 accounts; providing applicability; requiring that  
62 meetings at which a proposed annual budget will be  
63 considered be open to all parcel owners; providing  
64 requirements for special meetings held to consider a  
65 substitute annual budget; amending s. 720.305, F.S.;  
66 expanding the list of persons required to be notified  
67 of a fine or suspension before the fine or suspension  
68 may be imposed; specifying that a payment for a fine  
69 is due within a certain timeframe; amending s.  
70 720.306, F.S.; prohibiting write-in nominations for  
71 certain elections; requiring certain candidates to  
72 commence service on the board of directors regardless  
73 of whether a quorum is attained; amending s. 720.3085,  
74 F.S.; clarifying applicability; amending s. 720.401,  
75 F.S.; revising the statements required to be included  
76 in the disclosure summary; providing an effective  
77 date.

78

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

80

81 Section 1. Subsection (3), paragraphs (a), (b), (c), (e),  
82 and (g) of subsection (12), and paragraph (e) of subsection (13)  
83 of section 718.111, Florida Statutes, are amended to read:

84 718.111 The association.—

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

87 ~~(a)~~ The association may contract, sue, or be sued with

580-02650-18

20181274c1

88 respect to the exercise or nonexercise of its powers. For these  
89 purposes, the powers of the association include, but are not  
90 limited to, the maintenance, management, and operation of the  
91 condominium property. After control of the association is  
92 obtained by unit owners other than the developer, the  
93 association may institute, maintain, settle, or appeal actions  
94 or hearings in its name on behalf of all unit owners concerning  
95 matters of common interest to most or all unit owners,  
96 including, but not limited to, the common elements; the roof and  
97 structural components of a building or other improvements;  
98 mechanical, electrical, and plumbing elements serving an  
99 improvement or a building; representations of the developer  
100 pertaining to any existing or proposed commonly used facilities;  
101 and protesting ad valorem taxes on commonly used facilities and  
102 on units; and may defend actions in eminent domain or bring  
103 inverse condemnation actions. If the association has the  
104 authority to maintain a class action, the association may be  
105 joined in an action as representative of that class with  
106 reference to litigation and disputes involving the matters for  
107 which the association could bring a class action. Nothing herein  
108 limits any statutory or common-law right of any individual unit  
109 owner or class of unit owners to bring any action without  
110 participation by the association which may otherwise be  
111 available.

112 ~~(b) An association may not hire an attorney who represents~~  
113 ~~the management company of the association.~~

114 (12) OFFICIAL RECORDS.—

115 (a) ~~From the inception of the association,~~ The association  
116 shall maintain each of the following items, if applicable, which

580-02650-18

20181274c1

117 constitutes the official records of the association:

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

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

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

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

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

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

132 7. A current roster of all unit owners and their mailing  
133 addresses, unit identifications, voting certifications, and, if  
134 known, telephone numbers. The association shall also maintain  
135 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of  
136 unit owners consenting to receive notice by electronic  
137 transmission. The e-mail ~~electronic mailing~~ addresses and  
138 facsimile numbers are not accessible to unit owners if consent  
139 to receive notice by electronic transmission is not provided in  
140 accordance with sub-subparagraph (c)3.e. However, the  
141 association is not liable for an inadvertent disclosure of the  
142 e-mail ~~electronic mail~~ address or facsimile number for receiving  
143 electronic transmission of notices.

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

580-02650-18

20181274c1

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

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

152 11. Accounting records for the association and separate  
153 accounting records for each condominium that the association  
154 operates. ~~All accounting records must be maintained for at least~~  
155 ~~7 years.~~ Any person who knowingly or intentionally defaces or  
156 destroys such records, or who knowingly or intentionally fails  
157 to create or maintain such records, with the intent of causing  
158 harm to the association or one or more of its members, is  
159 personally subject to a civil penalty pursuant to s.  
160 718.501(1)(d). The accounting records must include, but are not  
161 limited to:

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

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

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

170 d. All contracts for work to be performed. Bids for work to  
171 be performed are also considered official records and must be  
172 maintained by the association for a period of 1 year after the  
173 date of receipt.

174 12. Ballots, sign-in sheets, voting proxies, and all other

580-02650-18

20181274c1

175 papers and electronic records relating to voting by unit owners,  
176 which must be maintained for 1 year from the date of the  
177 election, vote, or meeting to which the document relates,  
178 notwithstanding paragraph (b).

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

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

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

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

188 17. Bids for materials, equipment, or services, which must  
189 be maintained by the association for a period of 1 year after  
190 the date of receipt.

191 (b) The official records specified in subparagraphs (a)1.-  
192 6. must be permanently maintained from the inception of the  
193 association. All other official records ~~of the association~~ must  
194 be maintained within the state for at least 7 years, unless  
195 otherwise provided by law. The records of the association shall  
196 be made available to a unit owner within 45 miles of the  
197 condominium property or within the county in which the  
198 condominium property is located within 10 ~~5~~ working days after  
199 receipt of a written request by the board or its designee.  
200 However, such distance requirement does not apply to an  
201 association governing a timeshare condominium. This paragraph  
202 may be complied with by having a copy of the official records of  
203 the association available for inspection or copying on the

580-02650-18

20181274c1

204 condominium property or association property, or the association  
205 may offer the option of making the records available to a unit  
206 owner electronically via the Internet or by allowing the records  
207 to be viewed in electronic format on a computer screen and  
208 printed upon request. The association is not responsible for the  
209 use or misuse of the information provided to an association  
210 member or his or her authorized representative pursuant to the  
211 compliance requirements of this chapter unless the association  
212 has an affirmative duty not to disclose such information  
213 pursuant to this chapter.

214 (c)1. The official records of the association are open to  
215 inspection by any association member or the authorized  
216 representative of such member at all reasonable times. The right  
217 to inspect the records includes the right to make or obtain  
218 copies, at the reasonable expense, if any, of the member or  
219 authorized representative of such member. A renter of a unit has  
220 a right to inspect and copy the association's bylaws and rules.  
221 The association may adopt reasonable rules regarding the  
222 frequency, time, location, notice, and manner of record  
223 inspections and copying. The failure of an association to  
224 provide the records within 10 working days after receipt of a  
225 written request creates a rebuttable presumption that the  
226 association willfully failed to comply with this paragraph. A  
227 unit owner who is denied access to official records is entitled  
228 to the actual damages or minimum damages for the association's  
229 willful failure to comply. Minimum damages are \$50 per calendar  
230 day for up to 10 days, beginning on the 11th working day after  
231 receipt of the written request. The failure to allow ~~permit~~  
232 inspection entitles any person prevailing in an enforcement

580-02650-18

20181274c1

233 action to recover reasonable attorney fees from the person in  
234 control of the records who, directly or indirectly, knowingly  
235 denied access to the records.

236 2. Any person who knowingly or intentionally defaces or  
237 destroys accounting records that are required by this chapter to  
238 be maintained during the period for which such records are  
239 required to be maintained, or who knowingly or intentionally  
240 fails to create or maintain accounting records that are required  
241 to be created or maintained, with the intent of causing harm to  
242 the association or one or more of its members, is personally  
243 subject to a civil penalty pursuant to s. 718.501(1)(d).

244 3. The association shall maintain an adequate number of  
245 copies of the declaration, articles of incorporation, bylaws,  
246 and rules, and all amendments to each of the foregoing, as well  
247 as the question and answer sheet as described in s. 718.504 and  
248 year-end financial information required under this section, on  
249 the condominium property to ensure their availability to unit  
250 owners and prospective purchasers, and may charge its actual  
251 costs for preparing and furnishing these documents to those  
252 requesting the documents. An association shall allow a member or  
253 his or her authorized representative to use a portable device,  
254 including a smartphone, tablet, portable scanner, or any other  
255 technology capable of scanning or taking photographs, to make an  
256 electronic copy of the official records in lieu of the  
257 association's providing the member or his or her authorized  
258 representative with a copy of such records. The association may  
259 not charge a member or his or her authorized representative for  
260 the use of a portable device. Notwithstanding this paragraph,  
261 the following records are not accessible to unit owners:

580-02650-18

20181274c1

262 a. Any record protected by the lawyer-client privilege as  
263 described in s. 90.502 and any record protected by the work-  
264 product privilege, including a record prepared by an association  
265 attorney or prepared at the attorney's express direction, which  
266 reflects a mental impression, conclusion, litigation strategy,  
267 or legal theory of the attorney or the association, and which  
268 was prepared exclusively for civil or criminal litigation or for  
269 adversarial administrative proceedings, or which was prepared in  
270 anticipation of such litigation or proceedings until the  
271 conclusion of the litigation or proceedings.

272 b. Information obtained by an association in connection  
273 with the approval of the lease, sale, or other transfer of a  
274 unit.

275 c. Personnel records of association or management company  
276 employees, including, but not limited to, disciplinary, payroll,  
277 health, and insurance records. For purposes of this sub-  
278 subparagraph, the term "personnel records" does not include  
279 written employment agreements with an association employee or  
280 management company, or budgetary or financial records that  
281 indicate the compensation paid to an association employee.

282 d. Medical records of unit owners.

283 e. Social security numbers, driver license numbers, credit  
284 card numbers, e-mail addresses, telephone numbers, facsimile  
285 numbers, emergency contact information, addresses of a unit  
286 owner other than as provided to fulfill the association's notice  
287 requirements, and other personal identifying information of any  
288 person, excluding the person's name, unit designation, mailing  
289 address, property address, and any address, e-mail address, or  
290 facsimile number provided to the association to fulfill the

580-02650-18

20181274c1

291 association's notice requirements. Notwithstanding the  
292 restrictions in this sub-subparagraph, an association may print  
293 and distribute to parcel owners a directory containing the name,  
294 parcel address, and all telephone numbers of each parcel owner.  
295 However, an owner may exclude his or her telephone numbers from  
296 the directory by so requesting in writing to the association. An  
297 owner may consent in writing to the disclosure of other contact  
298 information described in this sub-subparagraph. The association  
299 is not liable for the inadvertent disclosure of information that  
300 is protected under this sub-subparagraph if the information is  
301 included in an official record of the association and is  
302 voluntarily provided by an owner and not requested by the  
303 association.

304 f. Electronic security measures that are used by the  
305 association to safeguard data, including passwords.

306 g. The software and operating system used by the  
307 association which allow the manipulation of data, even if the  
308 owner owns a copy of the same software used by the association.  
309 The data is part of the official records of the association.

310 (e)1. The association or its authorized agent is not  
311 required to provide a prospective purchaser or lienholder with  
312 information about the condominium or the association other than  
313 information or documents required by this chapter to be made  
314 available or disclosed. The association or its authorized agent  
315 may charge a reasonable fee to the prospective purchaser,  
316 lienholder, or the current unit owner for providing good faith  
317 responses to requests for information by or on behalf of a  
318 prospective purchaser or lienholder, other than that required by  
319 law, if the fee does not exceed \$150 plus the reasonable cost of

580-02650-18

20181274c1

320 photocopying and any attorney ~~attorney's~~ fees incurred by the  
321 association in connection with the response.

322         2. An association and its authorized agent are not liable  
323 for providing such information in good faith pursuant to a  
324 written request if the person providing the information includes  
325 a written statement in substantially the following form: "The  
326 responses herein are made in good faith and to the best of my  
327 ability as to their accuracy."

328         (g)1. By July 1, 2018, an association managing a  
329 condominium with 150 or more units which does not contain ~~manage~~  
330 timeshare units shall post digital copies of the documents  
331 specified in subparagraph 2. on its website.

332         a. The association's website must be:

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

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

341         b. The association's website must be accessible through the  
342 Internet and must contain a subpage, web portal, or other  
343 protected electronic location that is inaccessible to the  
344 general public and accessible only to unit owners and employees  
345 of the association.

346         c. Upon a unit owner's written request, the association  
347 must provide the unit owner with a username and password and  
348 access to the protected sections of the association's website

580-02650-18

20181274c1

349 that contain any notices, records, or documents that must be  
350 electronically provided.

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

353 a. The recorded declaration of condominium of each  
354 condominium operated by the association and each amendment to  
355 each declaration.

356 b. The recorded bylaws of the association and each  
357 amendment to the bylaws.

358 c. The articles of incorporation of the association, or  
359 other documents creating the association, and each amendment  
360 thereto. The copy posted pursuant to this sub-subparagraph must  
361 be a copy of the articles of incorporation filed with the  
362 Department of State.

363 d. The rules of the association, if any.

364 e. A list of all executory contracts or documents ~~Any~~  
365 ~~management agreement, lease, or other contract~~ to which the  
366 association is a party or under which the association or the  
367 unit owners have an obligation or responsibility and, after  
368 bidding for the related materials, equipment, or services has  
369 closed, a list of bids received by the association within the  
370 past year. ~~Summaries of bids~~ for materials, equipment, or  
371 services which exceed \$2,500 ~~must be maintained on the website~~  
372 ~~for 1 year.~~

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

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

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

580-02650-18

20181274c1

378 718.112(2)(d)4.b.

379 i. All contracts or transactions between the association  
380 and any director, officer, corporation, firm, or association  
381 that is not an affiliated condominium association or any other  
382 entity in which an association director is also a director or  
383 officer and financially interested.

384 j. Any contract or document regarding a conflict of  
385 interest or possible conflict of interest as provided in ss.  
386 468.436(2)(b)6. and 718.3027(3) ~~ss. 468.436(2) and 718.3026(3)~~.

387 k. The notice of any unit owner meeting and the agenda for  
388 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
389 days before the meeting. The notice must be posted in plain view  
390 on the front page of the website, or on a separate subpage of  
391 the website labeled "Notices" which is conspicuously visible and  
392 linked from the front page. The association must also post on  
393 its website any document to be considered and voted on by the  
394 owners during the meeting or any document listed on the agenda  
395 at least 7 days before the meeting at which the document or the  
396 information within the document will be considered.

397 l. Notice of any board meeting, the agenda, and any other  
398 document required for the meeting as required by s.  
399 718.112(2)(c), which must be posted no later than the date  
400 required for notice pursuant to s. 718.112(2)(c).

401 3. The association shall ensure that the information and  
402 records described in paragraph (c), which are not allowed  
403 ~~permitted~~ to be accessible to unit owners, are not posted on the  
404 association's website. If protected information or information  
405 restricted from being accessible to unit owners is included in  
406 documents that are required to be posted on the association's

580-02650-18

20181274c1

407 website, the association shall ensure the information is  
408 redacted before posting the documents online. Notwithstanding  
409 the foregoing, the association or its agent is not liable for  
410 disclosing information that is protected or restricted pursuant  
411 to this paragraph unless such disclosure was made with a knowing  
412 or intentional disregard of the protected or restricted nature  
413 of such information.

414 4. The failure of the association to post information  
415 required under subparagraph 2. is not in and of itself  
416 sufficient to invalidate any action or decision of the  
417 association's board or its committees.

418 (13) FINANCIAL REPORTING.—Within 90 days after the end of  
419 the fiscal year, or annually on a date provided in the bylaws,  
420 the association shall prepare and complete, or contract for the  
421 preparation and completion of, a financial report for the  
422 preceding fiscal year. Within 21 days after the final financial  
423 report is completed by the association or received from the  
424 third party, but not later than 120 days after the end of the  
425 fiscal year or other date as provided in the bylaws, the  
426 association shall mail to each unit owner at the address last  
427 furnished to the association by the unit owner, or hand deliver  
428 to each unit owner, a copy of the most recent financial report  
429 or a notice that a copy of the most recent financial report will  
430 be mailed or hand delivered to the unit owner, without charge,  
431 within 5 business days after receipt of a written request from  
432 the unit owner. The division shall adopt rules setting forth  
433 uniform accounting principles and standards to be used by all  
434 associations and addressing the financial reporting requirements  
435 for multicondominium associations. The rules must include, but

580-02650-18

20181274c1

436 not be limited to, standards for presenting a summary of  
437 association reserves, including a good faith estimate disclosing  
438 the annual amount of reserve funds that would be necessary for  
439 the association to fully fund reserves for each reserve item  
440 based on the straight-line accounting method. This disclosure is  
441 not applicable to reserves funded via the pooling method. In  
442 adopting such rules, the division shall consider the number of  
443 members and annual revenues of an association. Financial reports  
444 shall be prepared as follows:

445 (e) A unit owner may provide written notice to the division  
446 of the association's failure to mail or hand deliver him or her  
447 a copy of the most recent financial report within 5 business  
448 days after he or she submitted a written request to the  
449 association for a copy of such report. If the division  
450 determines that the association failed to mail or hand deliver a  
451 copy of the most recent financial report to the unit owner, the  
452 division shall provide written notice to the association that  
453 the association must mail or hand deliver a copy of the most  
454 recent financial report to the unit owner and the division  
455 within 5 business days after it receives such notice from the  
456 division. An association that fails to comply with the  
457 division's request may not waive the financial reporting  
458 requirement provided in paragraph (d) for the fiscal year in  
459 which the unit owner's request was made and the following fiscal  
460 year. A financial report received by the division pursuant to  
461 this paragraph shall be maintained, and the division shall  
462 provide a copy of such report to an association member upon his  
463 or her request.

464 Section 2. Paragraphs (a), (c), (d), and (j) of subsection

580-02650-18

20181274c1

465 (2) of section 718.112, Florida Statutes, are amended to read:

466 718.112 Bylaws.—

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

470 (a) *Administration.*—

471 1. The form of administration of the association shall be  
472 described indicating the title of the officers and board of  
473 administration and specifying the powers, duties, manner of  
474 selection and removal, and compensation, if any, of officers and  
475 boards. In the absence of such a provision, the board of  
476 administration shall be composed of five members, unless the  
477 ~~except in the case of a condominium which~~ has five or fewer  
478 units. The board shall consist of not fewer than three members  
479 in condominiums with five or fewer units that are not-for-profit  
480 corporations, ~~in which case in a not-for-profit corporation the~~  
481 ~~board shall consist of not fewer than three members.~~ In the  
482 absence of provisions to the contrary in the bylaws, the board  
483 of administration shall have a president, a secretary, and a  
484 treasurer, who shall perform the duties of such officers  
485 customarily performed by officers of corporations. Unless  
486 prohibited in the bylaws, the board of administration may  
487 appoint other officers and grant them the duties it deems  
488 appropriate. Unless otherwise provided in the bylaws, the  
489 officers shall serve without compensation and at the pleasure of  
490 the board of administration. Unless otherwise provided in the  
491 bylaws, the members of the board shall serve without  
492 compensation.

493 2. When a unit owner of a residential condominium files a

580-02650-18

20181274c1

494 written inquiry by certified mail with the board of  
495 administration, the board shall respond in writing to the unit  
496 owner within 30 days after receipt of the inquiry. The board's  
497 response shall either give a substantive response to the  
498 inquirer, notify the inquirer that a legal opinion has been  
499 requested, or notify the inquirer that advice has been requested  
500 from the division. If the board requests advice from the  
501 division, the board shall, within 10 days after its receipt of  
502 the advice, provide in writing a substantive response to the  
503 inquirer. If a legal opinion is requested, the board shall,  
504 within 60 days after the receipt of the inquiry, provide in  
505 writing a substantive response to the inquiry. The failure to  
506 provide a substantive response to the inquiry as provided herein  
507 precludes the board from recovering attorney fees and costs in  
508 any subsequent litigation, administrative proceeding, or  
509 arbitration arising out of the inquiry. The association may  
510 through its board of administration adopt reasonable rules and  
511 regulations regarding the frequency and manner of responding to  
512 unit owner inquiries, one of which may be that the association  
513 is only obligated to respond to one written inquiry per unit in  
514 any given 30-day period. In such a case, any additional inquiry  
515 or inquiries must be responded to in the subsequent 30-day  
516 period, or periods, as applicable.

517 (c) *Board of administration meetings.*—Meetings of the board  
518 of administration at which a quorum of the members is present  
519 are open to all unit owners. Members of the board of  
520 administration may use e-mail as a means of communication but  
521 may not cast a vote on an association matter via e-mail. A unit  
522 owner may tape record or videotape the meetings. The right to

580-02650-18

20181274c1

523 attend such meetings includes the right to speak at such  
524 meetings with reference to all designated agenda items. The  
525 division shall adopt reasonable rules governing the tape  
526 recording and videotaping of the meeting. The association may  
527 adopt written reasonable rules governing the frequency,  
528 duration, and manner of unit owner statements.

529 1. Adequate notice of all board meetings, which must  
530 specifically identify all agenda items, must be posted  
531 conspicuously on the condominium property at least 48 continuous  
532 hours before the meeting except in an emergency. If 20 percent  
533 of the voting interests petition the board to address an item of  
534 business, the board, within 60 days after receipt of the  
535 petition, shall place the item on the agenda at its next regular  
536 board meeting or at a special meeting called for that purpose.  
537 An item not included on the notice may be taken up on an  
538 emergency basis by a vote of at least a majority plus one of the  
539 board members. Such emergency action must be noticed and  
540 ratified at the next regular board meeting. ~~However,~~ Written  
541 notice of a meeting at which a nonemergency special assessment  
542 or an amendment to rules regarding unit use will be considered  
543 must be mailed, delivered, or electronically transmitted to the  
544 unit owners and posted conspicuously on the condominium property  
545 at least 14 days before the meeting. Evidence of compliance with  
546 this 14-day notice requirement must be made by an affidavit  
547 executed by the person providing the notice and filed with the  
548 official records of the association. Notice of any meeting in  
549 which regular or special assessments against unit owners are to  
550 be considered must specifically state that assessments will be  
551 considered and provide the estimated cost and description of the

580-02650-18

20181274c1

552 purposes for such assessments. Upon notice to the unit owners,  
553 the board shall, by duly adopted rule, designate a specific  
554 location on the condominium ~~or association~~ property where all  
555 notices of board meetings must be posted. If there is no  
556 condominium property ~~or association property~~ where notices can  
557 be posted, notices shall be mailed, delivered, or electronically  
558 transmitted to each unit owner at least 14 days before the  
559 meeting. In lieu of or in addition to the physical posting of  
560 the notice on the condominium property, the association may, by  
561 reasonable rule, adopt a procedure for conspicuously posting and  
562 repeatedly broadcasting the notice and the agenda on a closed-  
563 circuit cable television system serving the condominium  
564 association. However, if broadcast notice is used in lieu of a  
565 notice physically posted on condominium property, the notice and  
566 agenda must be broadcast at least four times every broadcast  
567 hour of each day that a posted notice is otherwise required  
568 under this section. If broadcast notice is provided, the notice  
569 and agenda must be broadcast in a manner and for a sufficient  
570 continuous length of time so as to allow an average reader to  
571 observe the notice and read and comprehend the entire content of  
572 the notice and the agenda. In addition to any of the authorized  
573 means of providing notice of a meeting of the board, the  
574 association may, by rule, adopt a procedure for conspicuously  
575 posting the meeting notice and the agenda on the condominium  
576 association's website for at least the minimum period of time  
577 for which a notice of a meeting is also required to be  
578 physically posted on the condominium property. Any rule adopted,  
579 in addition to other matters, must include a requirement that  
580 the association send an electronic notice in the same manner as

580-02650-18

20181274c1

581 a notice for a meeting of the members, which must include a  
582 hyperlink to the website where the notice is posted, to unit  
583 owners whose e-mail addresses are included in the association's  
584 official records ~~Notice of any meeting in which regular or~~  
585 ~~special assessments against unit owners are to be considered~~  
586 ~~must specifically state that assessments will be considered and~~  
587 ~~provide the nature, estimated cost, and description of the~~  
588 ~~purposes for such assessments.~~

589 2. Meetings of a committee to take final action on behalf  
590 of the board or make recommendations to the board regarding the  
591 association budget are subject to this paragraph. Meetings of a  
592 committee that does not take final action on behalf of the board  
593 or make recommendations to the board regarding the association  
594 budget are subject to this section, unless those meetings are  
595 exempted from this section by the bylaws of the association.

596 3. Notwithstanding any other law, the requirement that  
597 board meetings and committee meetings be open to the unit owners  
598 does not apply to:

599 a. Meetings between the board or a committee and the  
600 association's attorney, with respect to proposed or pending  
601 litigation, if the meeting is held for the purpose of seeking or  
602 rendering legal advice; or

603 b. Board meetings held for the purpose of discussing  
604 personnel matters.

605 (d) *Unit owner meetings.*—

606 1. An annual meeting of the unit owners must ~~shall~~ be held  
607 at the location provided in the association bylaws and, if the  
608 bylaws are silent as to the location, the meeting must ~~shall~~ be  
609 held within 45 miles of the condominium property. However, such

580-02650-18

20181274c1

610 distance requirement does not apply to an association governing  
611 a timeshare condominium.

612 2. Unless the bylaws provide otherwise, a vacancy on the  
613 board caused by the expiration of a director's term must ~~shall~~  
614 be filled by electing a new board member, and the election must  
615 be by secret ballot. An election is not required if the number  
616 of vacancies equals or exceeds the number of candidates. For  
617 purposes of this paragraph, the term "candidate" means an  
618 eligible person who has timely submitted the written notice, as  
619 described in sub-subparagraph 4.a., of his or her intention to  
620 become a candidate. Except in a timeshare or nonresidential  
621 condominium, or if the staggered term of a board member does not  
622 expire until a later annual meeting, or if all members' terms  
623 would otherwise expire but there are no candidates, the terms of  
624 all board members expire at the annual meeting, and such members  
625 may stand for reelection unless prohibited by the bylaws. Board  
626 members may serve ~~2-year~~ terms longer than 1 year if allowed  
627 ~~permitted~~ by the bylaws or articles of incorporation. A board  
628 member may not serve more than 8 consecutive years ~~four~~  
629 ~~consecutive 2-year terms~~, unless approved by an affirmative vote  
630 of two-thirds of all votes cast in the election ~~the total voting~~  
631 ~~interests of the association~~ or unless there are not enough  
632 eligible candidates to fill the vacancies on the board at the  
633 time of the vacancy. If the number of board members whose terms  
634 expire at the annual meeting equals or exceeds the number of  
635 candidates, the candidates become members of the board effective  
636 upon the adjournment of the annual meeting. Unless the bylaws  
637 provide otherwise, any remaining vacancies shall be filled by  
638 the affirmative vote of the majority of the directors making up

580-02650-18

20181274c1

639 the newly constituted board even if the directors constitute  
640 less than a quorum or there is only one director. In a  
641 residential condominium association of more than 10 units or in  
642 a residential condominium association that does not include  
643 timeshare units or timeshare interests, coowners of a unit may  
644 not serve as members of the board of directors at the same time  
645 unless they own more than one unit or unless there are not  
646 enough eligible candidates to fill the vacancies on the board at  
647 the time of the vacancy. A unit owner in a residential  
648 condominium desiring to be a candidate for board membership must  
649 comply with sub-subparagraph 4.a. and must be eligible to be a  
650 candidate to serve on the board of directors at the time of the  
651 deadline for submitting a notice of intent to run in order to  
652 have his or her name listed as a proper candidate on the ballot  
653 or to serve on the board. A person who has been suspended or  
654 removed by the division under this chapter, or who is delinquent  
655 in the payment of any monetary obligation due to the  
656 association, is not eligible to be a candidate for board  
657 membership and may not be listed on the ballot. A person who has  
658 been convicted of any felony in this state or in a United States  
659 District or Territorial Court, or who has been convicted of any  
660 offense in another jurisdiction which would be considered a  
661 felony if committed in this state, is not eligible for board  
662 membership unless such felon's civil rights have been restored  
663 for at least 5 years as of the date such person seeks election  
664 to the board. The validity of an action by the board is not  
665 affected if it is later determined that a board member is  
666 ineligible for board membership due to having been convicted of  
667 a felony. This subparagraph does not limit the term of a member

580-02650-18

20181274c1

668 of the board of a nonresidential or timeshare condominium.

669 3. The bylaws must provide the method of calling meetings  
670 of unit owners, including annual meetings. Written notice must  
671 include an agenda, must be mailed, hand delivered, or  
672 electronically transmitted to each unit owner at least 14 days  
673 before the annual meeting, and must be posted in a conspicuous  
674 place on the condominium property at least 14 continuous days  
675 before the annual meeting. Upon notice to the unit owners, the  
676 board shall, by duly adopted rule, designate a specific location  
677 on the condominium property ~~or association property~~ where all  
678 notices of unit owner meetings must ~~shall~~ be posted. This  
679 requirement does not apply if there is no condominium property  
680 ~~or association property~~ for posting notices. In lieu of, or in  
681 addition to, the physical posting of meeting notices, the  
682 association may, by reasonable rule, adopt a procedure for  
683 conspicuously posting and repeatedly broadcasting the notice and  
684 the agenda on a closed-circuit cable television system serving  
685 the condominium association. However, if broadcast notice is  
686 used in lieu of a notice posted physically on the condominium  
687 property, the notice and agenda must be broadcast at least four  
688 times every broadcast hour of each day that a posted notice is  
689 otherwise required under this section. If broadcast notice is  
690 provided, the notice and agenda must be broadcast in a manner  
691 and for a sufficient continuous length of time so as to allow an  
692 average reader to observe the notice and read and comprehend the  
693 entire content of the notice and the agenda. In addition to any  
694 of the authorized means of providing notice of a meeting of the  
695 board, the association may, by rule, adopt a procedure for  
696 conspicuously posting the meeting notice and the agenda on the

580-02650-18

20181274c1

697 condominium association's website for at least the minimum  
698 period of time for which a notice of a meeting is also required  
699 to be physically posted on the condominium property. Any rule  
700 adopted, in addition to other matters, must include a  
701 requirement that the association send an electronic notice in  
702 the same manner as a notice for a meeting of the members, which  
703 must include a hyperlink to the website where the notice is  
704 posted, to unit owners whose e-mail addresses are included in  
705 the association's official records. Unless a unit owner waives  
706 in writing the right to receive notice of the annual meeting,  
707 such notice must be hand delivered, mailed, or electronically  
708 transmitted to each unit owner. Notice for meetings and notice  
709 for all other purposes must be mailed to each unit owner at the  
710 address last furnished to the association by the unit owner, or  
711 hand delivered to each unit owner. However, if a unit is owned  
712 by more than one person, the association must provide notice to  
713 the address that the developer identifies for that purpose and  
714 thereafter as one or more of the owners of the unit advise the  
715 association in writing, or if no address is given or the owners  
716 of the unit do not agree, to the address provided on the deed of  
717 record. An officer of the association, or the manager or other  
718 person providing notice of the association meeting, must provide  
719 an affidavit or United States Postal Service certificate of  
720 mailing, to be included in the official records of the  
721 association affirming that the notice was mailed or hand  
722 delivered in accordance with this provision.

723 4. The members of the board of a residential condominium  
724 shall be elected by written ballot or voting machine. Proxies  
725 may not be used in electing the board in general elections or

580-02650-18

20181274c1

726 elections to fill vacancies caused by recall, resignation, or  
727 otherwise, unless otherwise provided in this chapter. This  
728 subparagraph does not apply to an association governing a  
729 timeshare condominium.

730 a. At least 60 days before a scheduled election, the  
731 association shall mail, deliver, or electronically transmit, by  
732 separate association mailing or included in another association  
733 mailing, delivery, or transmission, including regularly  
734 published newsletters, to each unit owner entitled to a vote, a  
735 first notice of the date of the election. A unit owner or other  
736 eligible person desiring to be a candidate for the board must  
737 give written notice of his or her intent to be a candidate to  
738 the association at least 40 days before a scheduled election.  
739 Together with the written notice and agenda as set forth in  
740 subparagraph 3., the association shall mail, deliver, or  
741 electronically transmit a second notice of the election to all  
742 unit owners entitled to vote, together with a ballot that lists  
743 all candidates. Upon request of a candidate, an information  
744 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
745 furnished by the candidate at least 35 days before the election,  
746 must be included with the mailing, delivery, or transmission of  
747 the ballot, with the costs of mailing, delivery, or electronic  
748 transmission and copying to be borne by the association. The  
749 association is not liable for the contents of the information  
750 sheets prepared by the candidates. In order to reduce costs, the  
751 association may print or duplicate the information sheets on  
752 both sides of the paper. The division shall by rule establish  
753 voting procedures consistent with this sub-subparagraph,  
754 including rules establishing procedures for giving notice by

580-02650-18

20181274c1

755 electronic transmission and rules providing for the secrecy of  
756 ballots. Elections shall be decided by a plurality of ballots  
757 cast. There is no quorum requirement; however, at least 20  
758 percent of the eligible voters must cast a ballot in order to  
759 have a valid election. A unit owner may not allow ~~permit~~ any  
760 other person to vote his or her ballot, and any ballots  
761 improperly cast are invalid. A unit owner who violates this  
762 provision may be fined by the association in accordance with s.  
763 718.303. A unit owner who needs assistance in casting the ballot  
764 for the reasons stated in s. 101.051 may obtain such assistance.  
765 The regular election must occur on the date of the annual  
766 meeting. Notwithstanding this sub-subparagraph, an election is  
767 not required unless more candidates file notices of intent to  
768 run or are nominated than board vacancies exist.

769       b. Within 90 days after being elected or appointed to the  
770 board of an association of a residential condominium, each newly  
771 elected or appointed director shall certify in writing to the  
772 secretary of the association that he or she has read the  
773 association's declaration of condominium, articles of  
774 incorporation, bylaws, and current written policies; that he or  
775 she will work to uphold such documents and policies to the best  
776 of his or her ability; and that he or she will faithfully  
777 discharge his or her fiduciary responsibility to the  
778 association's members. In lieu of this written certification,  
779 within 90 days after being elected or appointed to the board,  
780 the newly elected or appointed director may submit a certificate  
781 of having satisfactorily completed the educational curriculum  
782 administered by a division-approved condominium education  
783 provider within 1 year before or 90 days after the date of

580-02650-18

20181274c1

784 election or appointment. The written certification or  
785 educational certificate is valid and does not have to be  
786 resubmitted as long as the director serves on the board without  
787 interruption. A director of an association of a residential  
788 condominium who fails to timely file the written certification  
789 or educational certificate is suspended from service on the  
790 board until he or she complies with this sub-subparagraph. The  
791 board may temporarily fill the vacancy during the period of  
792 suspension. The secretary shall cause the association to retain  
793 a director's written certification or educational certificate  
794 for inspection by the members for 5 years after a director's  
795 election or the duration of the director's uninterrupted tenure,  
796 whichever is longer. Failure to have such written certification  
797 or educational certificate on file does not affect the validity  
798 of any board action.

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

801 5. Any approval by unit owners called for by this chapter  
802 or the applicable declaration or bylaws, including, but not  
803 limited to, the approval requirement in s. 718.111(8), must be  
804 made at a duly noticed meeting of unit owners and is subject to  
805 all requirements of this chapter or the applicable condominium  
806 documents relating to unit owner decisionmaking, except that  
807 unit owners may take action by written agreement, without  
808 meetings, on matters for which action by written agreement  
809 without meetings is expressly allowed by the applicable bylaws  
810 or declaration or any law that provides for such action.

811 6. Unit owners may waive notice of specific meetings if  
812 allowed by the applicable bylaws or declaration or any law.

580-02650-18

20181274c1

813 Notice of meetings of the board of administration, unit owner  
814 meetings, except unit owner meetings called to recall board  
815 members under paragraph (j), and committee meetings may be given  
816 by electronic transmission to unit owners who consent to receive  
817 notice by electronic transmission. A unit owner who consents to  
818 receiving notices by electronic transmission is solely  
819 responsible for removing or bypassing filters that block receipt  
820 of mass e-mails sent to members on behalf of the association in  
821 the course of giving electronic notices.

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

826         8. A unit owner may tape record or videotape a meeting of  
827 the unit owners subject to reasonable rules adopted by the  
828 division.

829         9. Unless otherwise provided in the bylaws, any vacancy  
830 occurring on the board before the expiration of a term may be  
831 filled by the affirmative vote of the majority of the remaining  
832 directors, even if the remaining directors constitute less than  
833 a quorum, or by the sole remaining director. In the alternative,  
834 a board may hold an election to fill the vacancy, in which case  
835 the election procedures must conform to sub-subparagraph 4.a.  
836 unless the association governs 10 units or fewer and has opted  
837 out of the statutory election process, in which case the bylaws  
838 of the association control. Unless otherwise provided in the  
839 bylaws, a board member appointed or elected under this section  
840 shall fill the vacancy for the unexpired term of the seat being  
841 filled. Filling vacancies created by recall is governed by

580-02650-18

20181274c1

842 paragraph (j) and rules adopted by the division.

843 10. This chapter does not limit the use of general or  
844 limited proxies, require the use of general or limited proxies,  
845 or require the use of a written ballot or voting machine for any  
846 agenda item or election at any meeting of a timeshare  
847 condominium association or nonresidential condominium  
848 association.

849

850 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
851 association of 10 or fewer units may, by affirmative vote of a  
852 majority of the total voting interests, provide for different  
853 voting and election procedures in its bylaws, which may be by a  
854 proxy specifically delineating the different voting and election  
855 procedures. The different voting and election procedures may  
856 provide for elections to be conducted by limited or general  
857 proxy.

858 (j) *Recall of board members.*—Subject to s. 718.301, any  
859 member of the board of administration may be recalled and  
860 removed from office with or without cause by the vote or  
861 agreement in writing by a majority of all the voting interests.  
862 A special meeting of the unit owners to recall a member or  
863 members of the board of administration may be called by 10  
864 percent of the voting interests giving notice of the meeting as  
865 required for a meeting of unit owners, and the notice shall  
866 state the purpose of the meeting. Electronic transmission may  
867 not be used as a method of giving notice of a meeting called in  
868 whole or in part for this purpose.

869 1. If the recall is approved by a majority of all voting  
870 interests by a vote at a meeting, the recall will be effective

580-02650-18

20181274c1

871 as provided in this paragraph. The board shall duly notice and  
872 hold a board meeting within 5 full business days after the  
873 adjournment of the unit owner meeting to recall one or more  
874 board members. Such member or members shall be recalled  
875 effective immediately upon conclusion of the board meeting  
876 provided that the recall is facially valid. A recalled member  
877 must and shall turn over to the board, within 10 full business  
878 days after the vote, any and all records and property of the  
879 association in their possession.

880 2. If the proposed recall is by an agreement in writing by  
881 a majority of all voting interests, the agreement in writing or  
882 a copy thereof shall be served on the association by certified  
883 mail or by personal service in the manner authorized by chapter  
884 48 and the Florida Rules of Civil Procedure. The board of  
885 administration shall duly notice and hold a meeting of the board  
886 within 5 full business days after receipt of the agreement in  
887 writing. Such member or members shall be recalled effective  
888 immediately upon the conclusion of the board meeting provided  
889 that the recall is facially valid. A recalled member ~~and~~ shall  
890 turn over to the board, within 10 full business days, any and  
891 all records and property of the association in their possession.

892 3. If the board fails to duly notice and hold a board  
893 meeting within 5 full business days after service of an  
894 agreement in writing or within 5 full business days after the  
895 adjournment of the unit owner recall meeting, the recall shall  
896 be deemed effective and the board members so recalled shall turn  
897 over to the board within 10 full business days after the vote  
898 any and all records and property of the association.

899 4. If the board fails to duly notice and hold the required

580-02650-18

20181274c1

900 meeting ~~or fails to file the required petition,~~ the unit owner  
901 representative may file a petition pursuant to s. 718.1255  
902 challenging the board's failure to act. The petition must be  
903 filed within 60 days after the expiration of the applicable 5-  
904 full-business-day period. The review of a petition under this  
905 subparagraph is limited to the sufficiency of service on the  
906 board and the facial validity of the written agreement or  
907 ballots filed.

908         5. If a vacancy occurs on the board as a result of a recall  
909 or removal and less than a majority of the board members are  
910 removed, the vacancy may be filled by the affirmative vote of a  
911 majority of the remaining directors, notwithstanding any  
912 provision to the contrary contained in this subsection. If  
913 vacancies occur on the board as a result of a recall and a  
914 majority or more of the board members are removed, the vacancies  
915 shall be filled in accordance with procedural rules to be  
916 adopted by the division, which rules need not be consistent with  
917 this subsection. The rules must provide procedures governing the  
918 conduct of the recall election as well as the operation of the  
919 association during the period after a recall but before the  
920 recall election.

921         6. A board member who has been recalled may file a petition  
922 pursuant to s. 718.1255 challenging the validity of the recall.  
923 The petition must be filed within 60 days after the recall. The  
924 association and the unit owner representative shall be named as  
925 the respondents. The petition may challenge the facial validity  
926 of the written agreement or ballots filed or the substantial  
927 compliance with the procedural requirements for the recall. If  
928 the arbitrator determines the recall was invalid, the

580-02650-18

20181274c1

929 petitioning board member shall immediately be reinstated and the  
930 recall is null and void. A board member who is successful in  
931 challenging a recall is entitled to recover reasonable attorney  
932 fees and costs from the respondents. The arbitrator may award  
933 reasonable attorney fees and costs to the respondents if they  
934 prevail and the arbitrator makes a finding that the petitioner's  
935 claim is frivolous.

936         7. The division may not accept for filing a recall  
937 petition, whether filed pursuant to subparagraph 1.,  
938 subparagraph 2., subparagraph 4., or subparagraph 6. when there  
939 are 60 or fewer days until the scheduled reelection of the board  
940 member sought to be recalled or when 60 or fewer days have  
941 elapsed since the election of the board member sought to be  
942 recalled.

943         Section 3. Subsection (2) of section 718.113, Florida  
944 Statutes, is amended to read:

945         718.113 Maintenance; limitation upon improvement; display  
946 of flag; hurricane shutters and protection; display of religious  
947 decorations.—

948         (2) (a) Except as otherwise provided in this section, there  
949 shall be no material alteration or substantial additions to the  
950 common elements or to real property which is association  
951 property, except in a manner provided in the declaration as  
952 originally recorded or as amended under the procedures provided  
953 therein. If the declaration as originally recorded or as amended  
954 under the procedures provided therein does not specify the  
955 procedure for approval of material alterations or substantial  
956 additions, 75 percent of the total voting interests of the  
957 association must approve the alterations or additions before the

580-02650-18

20181274c1

958 material alterations or substantial additions are commenced.

959 This paragraph is intended to clarify existing law and applies  
960 to associations existing on July 1, 2018 ~~October 1, 2008~~.

961 (b) There may ~~shall~~ not be any material alteration of, or  
962 substantial addition to, the common elements of any condominium  
963 operated by a multicondominium association unless approved in  
964 the manner provided in the declaration of the affected  
965 condominium or condominiums as originally recorded or as amended  
966 under the procedures provided therein. If a declaration as  
967 originally recorded or as amended under the procedures provided  
968 therein does not specify a procedure for approving such an  
969 alteration or addition, the approval of 75 percent of the total  
970 voting interests of each affected condominium is required before  
971 the material alterations or substantial additions are commenced.

972 This subsection does not prohibit a provision in any  
973 declaration, articles of incorporation, or bylaws as originally  
974 recorded or as amended under the procedures provided therein  
975 requiring the approval of unit owners in any condominium  
976 operated by the same association or requiring board approval  
977 before a material alteration or substantial addition to the  
978 common elements is permitted. This paragraph is intended to  
979 clarify existing law and applies to associations existing on  
980 July 1, 2018 ~~the effective date of this act~~.

981 (c) There may ~~shall~~ not be any material alteration or  
982 substantial addition made to association real property operated  
983 by a multicondominium association, except as provided in the  
984 declaration, articles of incorporation, or bylaws as originally  
985 recorded or as amended under the procedures provided therein. If  
986 the declaration, articles of incorporation, or bylaws as

580-02650-18

20181274c1

987 originally recorded or as amended under the procedures provided  
988 therein do not specify the procedure for approving an alteration  
989 or addition to association real property, the approval of 75  
990 percent of the total voting interests of the association is  
991 required before the material alterations or substantial  
992 additions are commenced. This paragraph is intended to clarify  
993 existing law and applies to associations existing on July 1,  
994 2018 ~~the effective date of this act.~~

995 Section 4. Subsection (3) of section 718.3026, Florida  
996 Statutes, is amended to read:

997 718.3026 Contracts for products and services; in writing;  
998 bids; exceptions.—Associations with 10 or fewer units may opt  
999 out of the provisions of this section if two-thirds of the unit  
1000 owners vote to do so, which opt-out may be accomplished by a  
1001 proxy specifically setting forth the exception from this  
1002 section.

1003 ~~(3) As to any contract or other transaction between an~~  
1004 ~~association and one or more of its directors or any other~~  
1005 ~~corporation, firm, association, or entity in which one or more~~  
1006 ~~of its directors are directors or officers or are financially~~  
1007 ~~interested:~~

1008 ~~(a) The association shall comply with the requirements of~~  
1009 ~~s. 617.0832.~~

1010 ~~(b) The disclosures required by s. 617.0832 shall be~~  
1011 ~~entered into the written minutes of the meeting.~~

1012 ~~(c) Approval of the contract or other transaction shall~~  
1013 ~~require an affirmative vote of two-thirds of the directors~~  
1014 ~~present.~~

1015 ~~(d) At the next regular or special meeting of the members,~~

580-02650-18

20181274c1

1016 ~~the existence of the contract or other transaction shall be~~  
1017 ~~disclosed to the members. Upon motion of any member, the~~  
1018 ~~contract or transaction shall be brought up for a vote and may~~  
1019 ~~be canceled by a majority vote of the members present. Should~~  
1020 ~~the members cancel the contract, the association shall only be~~  
1021 ~~liable for the reasonable value of goods and services provided~~  
1022 ~~up to the time of cancellation and shall not be liable for any~~  
1023 ~~termination fee, liquidated damages, or other form of penalty~~  
1024 ~~for such cancellation.~~

1025 Section 5. Section 718.3027, Florida Statutes, is amended  
1026 to read:

1027 718.3027 Conflicts of interest.—

1028 (1) Directors and officers of a board of an association  
1029 that is not a timeshare condominium association, and the  
1030 relatives of such directors and officers, must disclose to the  
1031 board any activity that may reasonably be construed to be a  
1032 conflict of interest. A rebuttable presumption of a conflict of  
1033 interest exists if any of the following occurs without prior  
1034 notice, as required in subsection (5) ~~(4)~~:

1035 (a) A director or an officer, or a relative of a director  
1036 or an officer, enters into a contract for goods or services with  
1037 the association.

1038 (b) A director or an officer, or a relative of a director  
1039 or an officer, holds an interest in a corporation, limited  
1040 liability corporation, partnership, limited liability  
1041 partnership, or other business entity that conducts business  
1042 with the association or proposes to enter into a contract or  
1043 other transaction with the association.

1044 (2) If a director or an officer, or a relative of a

580-02650-18

20181274c1

1045 director or an officer, proposes to engage in an activity that  
1046 is a conflict of interest, as described in subsection (1), the  
1047 proposed activity must be listed on, and all contracts and  
1048 transactional documents related to the proposed activity must be  
1049 attached to, the meeting agenda. The association shall comply  
1050 with the requirements of s. 617.0832, and the disclosures  
1051 required by s. 617.0832 must be entered into the written minutes  
1052 of the meeting. Approval of the contract or other transaction  
1053 requires an affirmative vote of two-thirds of all other  
1054 directors present. At the next regular or special meeting of the  
1055 members, the existence of the contract or other transaction must  
1056 be disclosed to the members. Upon motion of any member, the  
1057 contract or transaction must be brought up for a vote and may be  
1058 canceled by a majority vote of the members present. If the  
1059 contract is canceled, the association is liable only for the  
1060 reasonable value of the goods and services provided up to the  
1061 time of cancellation and is not liable for any termination fee,  
1062 liquidated damages, or other form of penalty for such  
1063 cancellation.

1064 (3) If the board votes against the proposed activity, the  
1065 director or officer, or the relative of the director or officer,  
1066 must notify the board in writing of his or her intention not to  
1067 pursue the proposed activity or to withdraw from office. If the  
1068 board finds that an officer or a director has violated this  
1069 subsection, the officer or director shall be deemed removed from  
1070 office. The vacancy shall be filled according to general law.

1071 ~~(4)~~ (3) A director or an officer, or a relative of a  
1072 director or an officer, who is a party to, or has an interest  
1073 in, an activity that is a possible conflict of interest, as

580-02650-18

20181274c1

1074 described in subsection (1), may attend the meeting at which the  
1075 activity is considered by the board and is authorized to make a  
1076 presentation to the board regarding the activity. After the  
1077 presentation, the director or officer, or the relative of the  
1078 director or officer, must leave the meeting during the  
1079 discussion of, and the vote on, the activity. A director or an  
1080 officer who is a party to, or has an interest in, the activity  
1081 must recuse himself or herself from the vote.

1082 (5)~~(4)~~ A contract entered into between a director or an  
1083 officer, or a relative of a director or an officer, and the  
1084 association, which is not a timeshare condominium association,  
1085 that has not been properly disclosed as a conflict of interest  
1086 or potential conflict of interest as required by s.  
1087 718.111(12)(g) is voidable and terminates upon the filing of a  
1088 written notice terminating the contract with the board of  
1089 directors which contains the consent of at least 20 percent of  
1090 the voting interests of the association.

1091 (6)~~(5)~~ As used in this section, the term "relative" means a  
1092 relative within the third degree of consanguinity by blood or  
1093 marriage.

1094 Section 6. Paragraph (b) of subsection (3) of section  
1095 718.303, Florida Statutes, is amended to read:

1096 718.303 Obligations of owners and occupants; remedies.—

1097 (3) The association may levy reasonable fines for the  
1098 failure of the owner of the unit or its occupant, licensee, or  
1099 invitee to comply with any provision of the declaration, the  
1100 association bylaws, or reasonable rules of the association. A  
1101 fine may not become a lien against a unit. A fine may be levied  
1102 by the board on the basis of each day of a continuing violation,

580-02650-18

20181274c1

1103 with a single notice and opportunity for hearing before a  
1104 committee as provided in paragraph (b). However, the fine may  
1105 not exceed \$100 per violation, or \$1,000 in the aggregate.

1106 (b) A fine or suspension levied by the board of  
1107 administration may not be imposed unless the board first  
1108 provides at least 14 days' written notice ~~and an opportunity for~~  
1109 ~~a hearing~~ to the unit owner and, if applicable, to any its  
1110 occupant, licensee, or invitee of the unit owner sought to be  
1111 fined or suspended and provides an opportunity for a hearing.  
1112 ~~The hearing must be held~~ before a committee of at least three  
1113 members appointed by the board who are not officers, directors,  
1114 or employees of the association, or the spouse, parent, child,  
1115 brother, or sister of an officer, director, or employee other  
1116 ~~unit owners who are neither board members nor persons residing~~  
1117 ~~in a board member's household.~~ The role of the committee is  
1118 limited to determining whether to confirm or reject the fine or  
1119 suspension levied by the board. If the committee does not  
1120 approve agree, the proposed fine or suspension by majority vote,  
1121 the fine or suspension may not be imposed. If the proposed fine  
1122 or suspension is approved by the committee, the fine payment is  
1123 due 5 days after the date of the committee meeting at which the  
1124 fine is approved. The association must provide written notice of  
1125 such fine or suspension by mail or hand delivery to the unit  
1126 owner and, if applicable, to any tenant, licensee, or invitee of  
1127 the unit owner.

1128 Section 7. Section 718.707, Florida Statutes, is amended to  
1129 read:

1130 718.707 Time limitation for classification as bulk assignee  
1131 or bulk buyer.—A person acquiring condominium parcels may not be

580-02650-18

20181274c1

1132 classified as a bulk assignee or bulk buyer unless the  
1133 condominium parcels were acquired on or after July 1, 2010, ~~but~~  
1134 ~~before July 1, 2018~~. The date of such acquisition shall be  
1135 determined by the date of recording a deed or other instrument  
1136 of conveyance for such parcels in the public records of the  
1137 county in which the condominium is located, or by the date of  
1138 issuing a certificate of title in a foreclosure proceeding with  
1139 respect to such condominium parcels.

1140 Section 8. Paragraphs (a) and (b) of subsection (2) of  
1141 section 719.104, Florida Statutes, are amended to read:

1142 719.104 Cooperatives; access to units; records; financial  
1143 reports; assessments; purchase of leases.—

1144 (2) OFFICIAL RECORDS.—

1145 (a) From the inception of the association, the association  
1146 shall maintain a copy of each of the following, where  
1147 applicable, which shall constitute the official records of the  
1148 association:

1149 1. The plans, permits, warranties, and other items provided  
1150 by the developer pursuant to s. 719.301(4).

1151 2. A photocopy of the cooperative documents.

1152 3. A copy of the current rules of the association.

1153 4. A book or books containing the minutes of all meetings  
1154 of the association, of the board of directors, and of the unit  
1155 owners, ~~which minutes shall be retained for a period of not less~~  
1156 ~~than 7 years~~.

1157 5. A current roster of all unit owners and their mailing  
1158 addresses, unit identifications, voting certifications, and, if  
1159 known, telephone numbers. The association shall also maintain  
1160 the electronic mailing addresses and the numbers designated by

580-02650-18

20181274c1

1161 unit owners for receiving notice sent by electronic transmission  
1162 of those unit owners consenting to receive notice by electronic  
1163 transmission. The electronic mailing addresses and numbers  
1164 provided by unit owners to receive notice by electronic  
1165 transmission shall be removed from association records when  
1166 consent to receive notice by electronic transmission is revoked.  
1167 However, the association is not liable for an erroneous  
1168 disclosure of the electronic mail address or the number for  
1169 receiving electronic transmission of notices.

1170 6. All current insurance policies of the association.

1171 7. A current copy of any management agreement, lease, or  
1172 other contract to which the association is a party or under  
1173 which the association or the unit owners have an obligation or  
1174 responsibility.

1175 8. Bills of sale or transfer for all property owned by the  
1176 association.

1177 9. Accounting records for the association and separate  
1178 accounting records for each unit it operates, according to good  
1179 accounting practices. ~~All accounting records shall be maintained~~  
1180 ~~for a period of not less than 7 years.~~ The accounting records  
1181 must ~~shall~~ include, but not be limited to:

1182 a. Accurate, itemized, and detailed records of all receipts  
1183 and expenditures.

1184 b. A current account and a monthly, bimonthly, or quarterly  
1185 statement of the account for each unit designating the name of  
1186 the unit owner, the due date and amount of each assessment, the  
1187 amount paid upon the account, and the balance due.

1188 c. All audits, reviews, accounting statements, and  
1189 financial reports of the association.

580-02650-18

20181274c1

1190 d. All contracts for work to be performed. Bids for work to  
1191 be performed shall also be considered official records and shall  
1192 be maintained for a period of 1 year.

1193 10. Ballots, sign-in sheets, voting proxies, and all other  
1194 papers and electronic records relating to voting by unit owners,  
1195 which shall be maintained for a period of 1 year after the date  
1196 of the election, vote, or meeting to which the document relates.

1197 11. All rental records where the association is acting as  
1198 agent for the rental of units.

1199 12. A copy of the current question and answer sheet as  
1200 described in s. 719.504.

1201 13. All other written records of the association not  
1202 specifically included in the foregoing which are related to the  
1203 operation of the association.

1204 (b) The official records of the association must be  
1205 maintained within the state for at least 7 years. The records of  
1206 the association must ~~shall~~ be made available to a unit owner  
1207 within 45 miles of the cooperative property or within the county  
1208 in which the cooperative property is located within 10 ~~5~~ working  
1209 days after receipt of written request by the board or its  
1210 designee. This paragraph may be complied with by having a copy  
1211 of the official records of the association available for  
1212 inspection or copying on the cooperative property or the  
1213 association may offer the option of making the records available  
1214 to a unit owner electronically via the Internet or by allowing  
1215 the records to be viewed in an electronic format on a computer  
1216 screen and printed upon request. The association is not  
1217 responsible for the use or misuse of the information provided to  
1218 an association member or his or her authorized representative

580-02650-18

20181274c1

1219 pursuant to the compliance requirements of this chapter unless  
1220 the association has an affirmative duty not to disclose such  
1221 information pursuant to this chapter.

1222 Section 9. Paragraphs (a), (c), and (d) of subsection (1)  
1223 of section 719.106, Florida Statutes, are amended, and paragraph  
1224 (m) is added to that subsection, to read:

1225 719.106 Bylaws; cooperative ownership.-

1226 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1227 documents shall provide for the following, and if they do not,  
1228 they shall be deemed to include the following:

1229 (a) *Administration.*—

1230 1. The form of administration of the association shall be  
1231 described, indicating the titles of the officers and board of  
1232 administration and specifying the powers, duties, manner of  
1233 selection and removal, and compensation, if any, of officers and  
1234 board members. In the absence of such a provision, the board of  
1235 administration shall be composed of five members, unless the  
1236 cooperative has ~~except in the case of cooperatives having five~~  
1237 ~~or fewer units., in which case in not-for-profit corporations,~~  
1238 The board shall consist of not fewer than three members in  
1239 cooperatives with five or fewer units that are not-for-profit  
1240 corporations. In a residential cooperative association of more  
1241 than 10 units, co-owners of a unit may not serve as members of  
1242 the board of directors at the same time unless the co-owners own  
1243 more than one unit or unless there are not enough eligible  
1244 candidates to fill the vacancies on the board at the time of the  
1245 vacancy. In the absence of provisions to the contrary, the board  
1246 of administration must ~~shall~~ have a president, a secretary, and  
1247 a treasurer, who shall perform the duties of those offices

580-02650-18

20181274c1

1248 customarily performed by officers of corporations. Unless  
1249 prohibited in the bylaws, the board of administration may  
1250 appoint other officers and grant them those duties it deems  
1251 appropriate. Unless otherwise provided in the bylaws, the  
1252 officers shall serve without compensation and at the pleasure of  
1253 the board. Unless otherwise provided in the bylaws, the members  
1254 of the board shall serve without compensation.

1255       2. A person who has been suspended or removed by the  
1256 division under this chapter, or who is delinquent in the payment  
1257 of any monetary obligation due to the association, is not  
1258 eligible to be a candidate for board membership and may not be  
1259 listed on the ballot. A director or officer charged by  
1260 information or indictment with a felony theft or embezzlement  
1261 offense involving the association's funds or property is  
1262 suspended from office. The board shall fill the vacancy  
1263 according to general law until the end of the period of the  
1264 suspension or the end of the director's term of office,  
1265 whichever occurs first. However, if the charges are resolved  
1266 without a finding of guilt or without acceptance of a plea of  
1267 guilty or nolo contendere, the director or officer shall be  
1268 reinstated for any remainder of his or her term of office. A  
1269 member who has such criminal charges pending may not be  
1270 appointed or elected to a position as a director or officer. A  
1271 person who has been convicted of any felony in this state or in  
1272 any United States District Court, or who has been convicted of  
1273 any offense in another jurisdiction which would be considered a  
1274 felony if committed in this state, is not eligible for board  
1275 membership unless such felon's civil rights have been restored  
1276 for at least 5 years as of the date such person seeks election

580-02650-18

20181274c1

1277 to the board. The validity of an action by the board is not  
1278 affected if it is later determined that a board member is  
1279 ineligible for board membership due to having been convicted of  
1280 a felony.

1281 3. When a unit owner files a written inquiry by certified  
1282 mail with the board of administration, the board shall respond  
1283 in writing to the unit owner within 30 days of receipt of the  
1284 inquiry. The board's response shall either give a substantive  
1285 response to the inquirer, notify the inquirer that a legal  
1286 opinion has been requested, or notify the inquirer that advice  
1287 has been requested from the division. If the board requests  
1288 advice from the division, the board shall, within 10 days of its  
1289 receipt of the advice, provide in writing a substantive response  
1290 to the inquirer. If a legal opinion is requested, the board  
1291 shall, within 60 days after the receipt of the inquiry, provide  
1292 in writing a substantive response to the inquirer. The failure  
1293 to provide a substantive response to the inquirer as provided  
1294 herein precludes the board from recovering attorney's fees and  
1295 costs in any subsequent litigation, administrative proceeding,  
1296 or arbitration arising out of the inquiry. The association may,  
1297 through its board of administration, adopt reasonable rules and  
1298 regulations regarding the frequency and manner of responding to  
1299 the unit owners' inquiries, one of which may be that the  
1300 association is obligated to respond to only one written inquiry  
1301 per unit in any given 30-day period. In such case, any  
1302 additional inquiry or inquiries must be responded to in the  
1303 subsequent 30-day period, or periods, as applicable.

1304 (c) *Board of administration meetings.* ~~Members of the board~~  
1305 of administration may use e-mail as a means of communication but

580-02650-18

20181274c1

1306 may not cast a vote on an association matter via e-mail.  
1307 Meetings of the board of administration at which a quorum of the  
1308 members is present shall be open to all unit owners. Any unit  
1309 owner may tape record or videotape meetings of the board of  
1310 administration. The right to attend such meetings includes the  
1311 right to speak at such meetings with reference to all designated  
1312 agenda items. The division shall adopt reasonable rules  
1313 governing the tape recording and videotaping of the meeting. The  
1314 association may adopt reasonable written rules governing the  
1315 frequency, duration, and manner of unit owner statements.  
1316 Adequate notice of all meetings shall be posted in a conspicuous  
1317 place upon the cooperative property at least 48 continuous hours  
1318 preceding the meeting, except in an emergency. Any item not  
1319 included on the notice may be taken up on an emergency basis by  
1320 at least a majority plus one of the members of the board. Such  
1321 emergency action shall be noticed and ratified at the next  
1322 regular meeting of the board. Notice of any meeting in which  
1323 regular or special assessments against unit owners are to be  
1324 considered must specifically state that assessments will be  
1325 considered and provide the estimated cost for and description of  
1326 the purpose for such assessments. ~~However,~~ Written notice of any  
1327 meeting at which nonemergency special assessments, or at which  
1328 amendment to rules regarding unit use, will be considered shall  
1329 be mailed, delivered, or electronically transmitted to the unit  
1330 owners and posted conspicuously on the cooperative property not  
1331 less than 14 days before the meeting. Evidence of compliance  
1332 with this 14-day notice shall be made by an affidavit executed  
1333 by the person providing the notice and filed among the official  
1334 records of the association. Upon notice to the unit owners, the

580-02650-18

20181274c1

1335 board shall by duly adopted rule designate a specific location  
1336 on the cooperative property upon which all notices of board  
1337 meetings shall be posted. In lieu of or in addition to the  
1338 physical posting of notice of any meeting of the board of  
1339 administration on the cooperative property, the association may,  
1340 by reasonable rule, adopt a procedure for conspicuously posting  
1341 and repeatedly broadcasting the notice and the agenda on a  
1342 closed-circuit cable television system serving the cooperative  
1343 association. However, if broadcast notice is used in lieu of a  
1344 notice posted physically on the cooperative property, the notice  
1345 and agenda must be broadcast at least four times every broadcast  
1346 hour of each day that a posted notice is otherwise required  
1347 under this section. When broadcast notice is provided, the  
1348 notice and agenda must be broadcast in a manner and for a  
1349 sufficient continuous length of time so as to allow an average  
1350 reader to observe the notice and read and comprehend the entire  
1351 content of the notice and the agenda. In addition to any of the  
1352 authorized means of providing notice of a meeting of the board,  
1353 the association may, by rule, adopt a procedure for  
1354 conspicuously posting the meeting notice and the agenda on the  
1355 cooperative association's website for at least the minimum  
1356 period of time for which a notice of a meeting is also required  
1357 to be physically posted on the cooperative property. Any rule  
1358 adopted must, in addition to other matters, include a  
1359 requirement that the association send an electronic notice in  
1360 the same manner as a notice for a meeting of the members, which  
1361 must include a hyperlink to the website where the notice is  
1362 posted, to unit owners whose e-mail addresses are included in  
1363 the association's official records ~~Notice of any meeting in~~

580-02650-18

20181274c1

1364 ~~which regular assessments against unit owners are to be~~  
1365 ~~considered for any reason shall specifically contain a statement~~  
1366 ~~that assessments will be considered and the nature of any such~~  
1367 ~~assessments.~~ Meetings of a committee to take final action on  
1368 behalf of the board or to make recommendations to the board  
1369 regarding the association budget are subject to the provisions  
1370 of this paragraph. Meetings of a committee that does not take  
1371 final action on behalf of the board or make recommendations to  
1372 the board regarding the association budget are subject to the  
1373 provisions of this section, unless those meetings are exempted  
1374 from this section by the bylaws of the association.

1375 Notwithstanding any other law to the contrary, the requirement  
1376 that board meetings and committee meetings be open to the unit  
1377 owners does not apply to board or committee meetings held for  
1378 the purpose of discussing personnel matters or meetings between  
1379 the board or a committee and the association's attorney, with  
1380 respect to proposed or pending litigation, if the meeting is  
1381 held for the purpose of seeking or rendering legal advice.

1382 (d) *Shareholder meetings.*—There shall be an annual meeting  
1383 of the shareholders. All members of the board of administration  
1384 shall be elected at the annual meeting unless the bylaws provide  
1385 for staggered election terms or for their election at another  
1386 meeting. Any unit owner desiring to be a candidate for board  
1387 membership must comply with subparagraph 1. The bylaws must  
1388 provide the method for calling meetings, including annual  
1389 meetings. Written notice, which must incorporate an  
1390 identification of agenda items, shall be given to each unit  
1391 owner at least 14 days before the annual meeting and posted in a  
1392 conspicuous place on the cooperative property at least 14

580-02650-18

20181274c1

1393 continuous days preceding the annual meeting. Upon notice to the  
1394 unit owners, the board must by duly adopted rule designate a  
1395 specific location on the cooperative property upon which all  
1396 notice of unit owner meetings are posted. In lieu of or in  
1397 addition to the physical posting of the meeting notice, the  
1398 association may, by reasonable rule, adopt a procedure for  
1399 conspicuously posting and repeatedly broadcasting the notice and  
1400 the agenda on a closed-circuit cable television system serving  
1401 the cooperative association. However, if broadcast notice is  
1402 used in lieu of a posted notice, the notice and agenda must be  
1403 broadcast at least four times every broadcast hour of each day  
1404 that a posted notice is otherwise required under this section.  
1405 If broadcast notice is provided, the notice and agenda must be  
1406 broadcast in a manner and for a sufficient continuous length of  
1407 time to allow an average reader to observe the notice and read  
1408 and comprehend the entire content of the notice and the agenda.  
1409 In addition to any of the authorized means of providing notice  
1410 of a meeting of the shareholders, the association may, by rule,  
1411 adopt a procedure for conspicuously posting the meeting notice  
1412 and the agenda on the cooperative association's website for at  
1413 least the minimum period of time for which a notice of a meeting  
1414 is also required to be physically posted on the cooperative  
1415 property. Any rule adopted must, in addition to other matters,  
1416 include a requirement that the association send an electronic  
1417 notice in the same manner as a notice for a meeting of the  
1418 members, which must include a hyperlink to the website where the  
1419 notice is posted, to unit owners whose e-mail addresses are  
1420 included in the association's official records. Unless a unit  
1421 owner waives in writing the right to receive notice of the

580-02650-18

20181274c1

1422 annual meeting, the notice of the annual meeting must be sent by  
1423 mail, hand delivered, or electronically transmitted to each unit  
1424 owner. An officer of the association must provide an affidavit  
1425 or United States Postal Service certificate of mailing, to be  
1426 included in the official records of the association, affirming  
1427 that notices of the association meeting were mailed, hand  
1428 delivered, or electronically transmitted, in accordance with  
1429 this provision, to each unit owner at the address last furnished  
1430 to the association.

1431 1. The board of administration shall be elected by written  
1432 ballot or voting machine. A proxy may not be used in electing  
1433 the board of administration in general elections or elections to  
1434 fill vacancies caused by recall, resignation, or otherwise  
1435 unless otherwise provided in this chapter.

1436 a. At least 60 days before a scheduled election, the  
1437 association shall mail, deliver, or transmit, whether by  
1438 separate association mailing, delivery, or electronic  
1439 transmission or included in another association mailing,  
1440 delivery, or electronic transmission, including regularly  
1441 published newsletters, to each unit owner entitled to vote, a  
1442 first notice of the date of the election. Any unit owner or  
1443 other eligible person desiring to be a candidate for the board  
1444 of administration must give written notice to the association at  
1445 least 40 days before a scheduled election. Together with the  
1446 written notice and agenda as set forth in this section, the  
1447 association shall mail, deliver, or electronically transmit a  
1448 second notice of election to all unit owners entitled to vote,  
1449 together with a ballot that lists all candidates. Upon request  
1450 of a candidate, the association shall include an information

580-02650-18

20181274c1

1451 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
1452 furnished by the candidate at least 35 days before the election,  
1453 to be included with the mailing, delivery, or electronic  
1454 transmission of the ballot, with the costs of mailing, delivery,  
1455 or transmission and copying to be borne by the association. The  
1456 association is not liable for the contents of the information  
1457 sheets provided by the candidates. In order to reduce costs, the  
1458 association may print or duplicate the information sheets on  
1459 both sides of the paper. The division shall by rule establish  
1460 voting procedures consistent with this subparagraph, including  
1461 rules establishing procedures for giving notice by electronic  
1462 transmission and rules providing for the secrecy of ballots.  
1463 Elections shall be decided by a plurality of those ballots cast.  
1464 There is no quorum requirement. However, at least 20 percent of  
1465 the eligible voters must cast a ballot in order to have a valid  
1466 election. A unit owner may not permit any other person to vote  
1467 his or her ballot, and any such ballots improperly cast are  
1468 invalid. A unit owner who needs assistance in casting the ballot  
1469 for the reasons stated in s. 101.051 may obtain assistance in  
1470 casting the ballot. Any unit owner violating this provision may  
1471 be fined by the association in accordance with s. 719.303. The  
1472 regular election must occur on the date of the annual meeting.  
1473 This subparagraph does not apply to timeshare cooperatives.  
1474 Notwithstanding this subparagraph, an election and balloting are  
1475 not required unless more candidates file a notice of intent to  
1476 run or are nominated than vacancies exist on the board. Any  
1477 challenge to the election process must be commenced within 60  
1478 days after the election results are announced.

1479       b. Within 90 days after being elected or appointed to the

580-02650-18

20181274c1

1480 board, each new director shall certify in writing to the  
1481 secretary of the association that he or she has read the  
1482 association's bylaws, articles of incorporation, proprietary  
1483 lease, and current written policies; that he or she will work to  
1484 uphold such documents and policies to the best of his or her  
1485 ability; and that he or she will faithfully discharge his or her  
1486 fiduciary responsibility to the association's members. Within 90  
1487 days after being elected or appointed to the board, in lieu of  
1488 this written certification, the newly elected or appointed  
1489 director may submit a certificate of having satisfactorily  
1490 completed the educational curriculum administered by an  
1491 education provider as approved by the division pursuant to the  
1492 requirements established in chapter 718 within 1 year before or  
1493 90 days after the date of election or appointment. The  
1494 educational certificate is valid and does not have to be  
1495 resubmitted as long as the director serves on the board without  
1496 interruption. A director who fails to timely file the written  
1497 certification or educational certificate is suspended from  
1498 service on the board until he or she complies with this sub-  
1499 subparagraph. The board may temporarily fill the vacancy during  
1500 the period of suspension. The secretary of the association shall  
1501 cause the association to retain a director's written  
1502 certification or educational certificate for inspection by the  
1503 members for 5 years after a director's election or the duration  
1504 of the director's uninterrupted tenure, whichever is longer.  
1505 Failure to have such written certification or educational  
1506 certificate on file does not affect the validity of any board  
1507 action.

1508 2. Any approval by unit owners called for by this chapter,

580-02650-18

20181274c1

1509 or the applicable cooperative documents, must be made at a duly  
1510 noticed meeting of unit owners and is subject to this chapter or  
1511 the applicable cooperative documents relating to unit owner  
1512 decisionmaking, except that unit owners may take action by  
1513 written agreement, without meetings, on matters for which action  
1514 by written agreement without meetings is expressly allowed by  
1515 the applicable cooperative documents or law which provides for  
1516 the unit owner action.

1517 3. Unit owners may waive notice of specific meetings if  
1518 allowed by the applicable cooperative documents or law. Notice  
1519 of meetings of the board of administration, shareholder  
1520 meetings, except shareholder meetings called to recall board  
1521 members under paragraph (f), and committee meetings may be given  
1522 by electronic transmission to unit owners who consent to receive  
1523 notice by electronic transmission. A unit owner who consents to  
1524 receiving notices by electronic transmission is solely  
1525 responsible for removing or bypassing filters that may block  
1526 receipt of mass e-mails sent to members on behalf of the  
1527 association in the course of giving electronic notices.

1528 4. Unit owners have the right to participate in meetings of  
1529 unit owners with reference to all designated agenda items.  
1530 However, the association may adopt reasonable rules governing  
1531 the frequency, duration, and manner of unit owner participation.

1532 5. Any unit owner may tape record or videotape meetings of  
1533 the unit owners subject to reasonable rules adopted by the  
1534 division.

1535 6. Unless otherwise provided in the bylaws, a vacancy  
1536 occurring on the board before the expiration of a term may be  
1537 filled by the affirmative vote of the majority of the remaining

580-02650-18

20181274c1

1538 directors, even if the remaining directors constitute less than  
1539 a quorum, or by the sole remaining director. In the alternative,  
1540 a board may hold an election to fill the vacancy, in which case  
1541 the election procedures must conform to the requirements of  
1542 subparagraph 1. unless the association has opted out of the  
1543 statutory election process, in which case the bylaws of the  
1544 association control. Unless otherwise provided in the bylaws, a  
1545 board member appointed or elected under this subparagraph shall  
1546 fill the vacancy for the unexpired term of the seat being  
1547 filled. Filling vacancies created by recall is governed by  
1548 paragraph (f) and rules adopted by the division.

1549  
1550 Notwithstanding subparagraphs (b)2. and (d)1., an association  
1551 may, by the affirmative vote of a majority of the total voting  
1552 interests, provide for a different voting and election procedure  
1553 in its bylaws, which vote may be by a proxy specifically  
1554 delineating the different voting and election procedures. The  
1555 different voting and election procedures may provide for  
1556 elections to be conducted by limited or general proxy.

1557 (m) Director or officer delinquencies.—A director or  
1558 officer more than 90 days delinquent in the payment of any  
1559 monetary obligation due the association is deemed to have  
1560 abandoned the office, and such vacancy in the office must be  
1561 filled according to law.

1562 Section 10. Paragraph (b) of subsection (1) of section  
1563 719.107, Florida Statutes, is amended to read:

1564 719.107 Common expenses; assessment.—

1565 (1)

1566 (b) If so provided in the bylaws, the cost of

580-02650-18

20181274c1

1567 communications services as defined in chapter 202, information  
1568 services, or Internet services ~~a master antenna television~~  
1569 ~~system or duly franchised cable television service~~ obtained  
1570 pursuant to a bulk contract shall be deemed a common expense,  
1571 and if not obtained pursuant to a bulk contract, such cost shall  
1572 be considered common expense if it is designated as such in a  
1573 written contract between the board of administration and the  
1574 company providing the communications services as defined in  
1575 chapter 202, information services, or Internet services ~~master~~  
1576 ~~television antenna system or the cable television service~~. The  
1577 contract shall be for a term of not less than 2 years.

1578         1. Any contract made by the board after April 2, 1992, for  
1579 a community antenna system or duly franchised cable television  
1580 service, communications services as defined in chapter 202,  
1581 information services, or Internet services may be canceled by a  
1582 majority of the voting interests present at the next regular or  
1583 special meeting of the association. Any member may make a motion  
1584 to cancel the contract, but if no motion is made or if such  
1585 motion fails to obtain the required majority at the next regular  
1586 or special meeting, whichever is sooner, following the making of  
1587 the contract, then such contract shall be deemed ratified for  
1588 the term therein expressed.

1589         2. Any such contract shall provide, and shall be deemed to  
1590 provide if not expressly set forth, that any hearing impaired or  
1591 legally blind unit owner who does not occupy the unit with a  
1592 nonhearing impaired or sighted person may discontinue the  
1593 service without incurring disconnect fees, penalties, or  
1594 subsequent service charges, and as to such units, the owners may  
1595 ~~shall~~ not be required to pay any common expenses charge related

580-02650-18

20181274c1

1596 to such service. If less than all members of an association  
1597 share the expenses of cable television, the expense shall be  
1598 shared equally by all participating unit owners. The association  
1599 may use the provisions of s. 719.108 to enforce payment of the  
1600 shares of such costs by the unit owners receiving cable  
1601 television.

1602 Section 11. Paragraph (b) of subsection (3) of section  
1603 719.303, Florida Statutes, is amended to read:

1604 719.303 Obligations of owners.—

1605 (3) The association may levy reasonable fines for failure  
1606 of the unit owner or the unit's occupant, licensee, or invitee  
1607 to comply with any provision of the cooperative documents or  
1608 reasonable rules of the association. A fine may not become a  
1609 lien against a unit. A fine may be levied by the board on the  
1610 basis of each day of a continuing violation, with a single  
1611 notice and opportunity for hearing before a committee as  
1612 provided in paragraph (b). However, the fine may not exceed \$100  
1613 per violation, or \$1,000 in the aggregate.

1614 (b) A fine or suspension levied by the board of  
1615 administration may not be imposed unless the board first  
1616 provides at least 14 days' written notice ~~and an opportunity for~~  
1617 ~~a hearing~~ to the unit owner and, if applicable, to any its  
1618 occupant, licensee, or invitee of the unit owner sought to be  
1619 fined or suspended and provides an opportunity for a hearing.  
1620 ~~The hearing must be held~~ before a committee of at least three  
1621 members appointed by the board who are not officers, directors,  
1622 or employees of the association, or the spouse, parent, child,  
1623 brother, or sister of an officer, director, or employee ~~other~~  
1624 ~~unit owners who are neither board members nor persons residing~~

580-02650-18

20181274c1

1625 ~~in a board member's household.~~ The role of the committee is  
1626 limited to determining whether to confirm or reject the fine or  
1627 suspension levied by the board. If the committee does not  
1628 approve ~~agree with~~ the proposed fine or suspension by majority  
1629 vote, the fine or suspension ~~it~~ may not be imposed. If the  
1630 proposed fine or suspension is approved by the committee, the  
1631 fine payment is due 5 days after the date of the committee  
1632 meeting at which the fine is approved. The association must  
1633 provide written notice of such fine or suspension by mail or  
1634 hand delivery to the unit owner and, if applicable, to any  
1635 tenant, licensee, or invitee of the unit owner.

1636 Section 12. Paragraphs (a) and (c) of subsection (2) and  
1637 paragraphs (b) through (h) of subsection (6) of section 720.303,  
1638 Florida Statutes, are amended, and paragraphs (i) and (j) are  
1639 added to subsection (6) of that section, to read:

1640 720.303 Association powers and duties; meetings of board;  
1641 official records; budgets; financial reporting; association  
1642 funds; recalls.—

1643 (2) BOARD MEETINGS.—

1644 (a) Members of the board of administration may use e-mail  
1645 as a means of communication, but may not cast a vote on an  
1646 association matter via e-mail. A meeting of the board of  
1647 directors of an association occurs whenever a quorum of the  
1648 board gathers to conduct association business. Meetings of the  
1649 board must be open to all members, except for meetings between  
1650 the board and its attorney with respect to proposed or pending  
1651 litigation where the contents of the discussion would otherwise  
1652 be governed by the attorney-client privilege. A meeting of the  
1653 board must be held at a location that is accessible to a

580-02650-18

20181274c1

1654 physically handicapped person if requested by a physically  
1655 handicapped person who has a right to attend the meeting. The  
1656 provisions of this subsection shall also apply to the meetings  
1657 of any committee or other similar body when a final decision  
1658 will be made regarding the expenditure of association funds and  
1659 to meetings of any body vested with the power to approve or  
1660 disapprove architectural decisions with respect to a specific  
1661 parcel of residential property owned by a member of the  
1662 community.

1663 (c) The bylaws shall provide the following for giving  
1664 notice to parcel owners and members of all board meetings and,  
1665 if they do not do so, shall be deemed to include ~~provide~~ the  
1666 following:

1667 1. Notices of all board meetings must be posted in a  
1668 conspicuous place in the community at least 48 hours in advance  
1669 of a meeting, except in an emergency. In the alternative, if  
1670 notice is not posted in a conspicuous place in the community,  
1671 notice of each board meeting must be mailed or delivered to each  
1672 member at least 7 days before the meeting, except in an  
1673 emergency. Notwithstanding this general notice requirement, for  
1674 communities with more than 100 members, the association bylaws  
1675 may provide for a reasonable alternative to posting or mailing  
1676 of notice for each board meeting, including publication of  
1677 notice, provision of a schedule of board meetings, or the  
1678 conspicuous posting and repeated broadcasting of the notice on a  
1679 closed-circuit cable television system serving the homeowners'  
1680 association. However, if broadcast notice is used in lieu of a  
1681 notice posted physically in the community, the notice must be  
1682 broadcast at least four times every broadcast hour of each day

580-02650-18

20181274c1

1683 that a posted notice is otherwise required. When broadcast  
1684 notice is provided, the notice and agenda must be broadcast in a  
1685 manner and for a sufficient continuous length of time so as to  
1686 allow an average reader to observe the notice and read and  
1687 comprehend the entire content of the notice and the agenda. The  
1688 association may provide notice by electronic transmission in a  
1689 manner authorized by law for meetings of the board of directors,  
1690 committee meetings requiring notice under this section, and  
1691 annual and special meetings of the members to any member who has  
1692 provided a facsimile number or e-mail address to the association  
1693 to be used for such purposes; however, a member must consent in  
1694 writing to receiving notice by electronic transmission.

1695 2. An assessment may not be levied at a board meeting  
1696 unless the notice of the meeting includes a statement that  
1697 assessments will be considered and the nature of the  
1698 assessments. Written notice of any meeting at which special  
1699 assessments will be considered or at which amendments to rules  
1700 regarding parcel use will be considered must be mailed,  
1701 delivered, or electronically transmitted to the members and  
1702 parcel owners and posted conspicuously on the property or  
1703 broadcast on closed-circuit cable television not less than 14  
1704 days before the meeting.

1705 3. Directors may not vote by proxy or by secret ballot at  
1706 board meetings, except that secret ballots may be used in the  
1707 election of officers. This subsection also applies to the  
1708 meetings of any committee or other similar body, when a final  
1709 decision will be made regarding the expenditure of association  
1710 funds, and to any body vested with the power to approve or  
1711 disapprove architectural decisions with respect to a specific

580-02650-18

20181274c1

1712 parcel of residential property owned by a member of the  
1713 community.

1714 (6) BUDGETS; BUDGET MEETINGS.—

1715 (b) In addition to annual operating expenses, for all  
1716 associations incorporated on or after July 1, 2018, and any  
1717 association incorporated before that date that, by a majority  
1718 vote of the members of the association who are present at a  
1719 meeting, in person or by proxy, at which a quorum is present,  
1720 affirmatively votes to be bound by the provisions of this  
1721 subsection, the budget must ~~may~~ include reserve accounts for the  
1722 capital expenditures and deferred maintenance of any item with a  
1723 deferred maintenance expense exceeding \$100,000 which is the  
1724 obligation of ~~for which~~ the association ~~under~~ is responsible. If  
1725 reserve accounts are not established pursuant to paragraph (d),  
1726 funding of such reserves is limited to the extent that the  
1727 governing documents. However, subsequent to the transfer of  
1728 control of the association to its members, other than pursuant  
1729 to s. 720.307, and the developer no longer having authority to  
1730 appoint members to the board of directors, the board of  
1731 directors may elect to reserve money for any item that has a  
1732 deferred maintenance expense exceeding \$25,000. The board may  
1733 elect to reserve money for any item that has a deferred  
1734 maintenance expense of less than \$25,000 if approved by a  
1735 majority of the members present at a meeting, in person or by  
1736 proxy, at which a quorum is present. The amount to be reserved  
1737 must be calculated using a formula based upon the estimated  
1738 deferred maintenance expense of each reserve item divided by the  
1739 estimated remaining useful life of that item. However, and  
1740 notwithstanding the amount disclosed as being the total required

580-02650-18

20181274c1

1741 reserve amount, each parcel that is obligated to pay annual  
1742 reserves to the association each year must be assessed for only  
1743 the amount determined by dividing the total annual reserve  
1744 amount disclosed in the budget by the total number of parcels  
1745 that will ultimately be operated by the association. The  
1746 assessments actually collected must be less than the full amount  
1747 of required reserves as disclosed in the proposed annual budget  
1748 until all parcels that will ultimately be operated by the  
1749 association are obligated to pay assessments for reserves. The  
1750 association may adjust the deferred maintenance reserve  
1751 assessments annually to take into account any changes in  
1752 estimates or the useful life of a reserve item, of the  
1753 anticipated cost of the deferred maintenance, or any changes in  
1754 the number of parcels that will ultimately be operated by the  
1755 association. This paragraph does not apply to an adopted budget  
1756 when the members of the association have determined, by a  
1757 majority vote of the members present at a meeting, in person or  
1758 by proxy, at which a quorum is present, not to provide reserves  
1759 or reserves in an amount less than required by this subsection  
1760 ~~limit increases in assessments, including reserves. If the~~  
1761 ~~budget of the association includes reserve accounts established~~  
1762 ~~pursuant to paragraph (d), such reserves shall be determined,~~  
1763 ~~maintained, and waived in the manner provided in this~~  
1764 ~~subsection. Once an association provides for reserve accounts~~  
1765 ~~pursuant to paragraph (d), the association shall thereafter~~  
1766 ~~determine, maintain, and waive reserves in compliance with this~~  
1767 ~~subsection. This paragraph section does not preclude an~~  
1768 ~~association from ceasing to add money to a reserve account~~  
1769 established pursuant to this paragraph upon a majority vote of

580-02650-18

20181274c1

1770 the members present at a meeting, in person or by proxy, at  
1771 which a quorum is present. Upon such approval, reserves may not  
1772 be included in the budget for that year. Only parcels with  
1773 completed improvements as evidenced by certificates of occupancy  
1774 for such improvements are obligated to pay assessments for  
1775 reserves. A developer who subsidizes the association's budget  
1776 under s. 720.308(1) or establishes a guarantee under s.  
1777 720.308(2), is not obligated to include reserve contributions in  
1778 any such guarantee or subsidy payment ~~the termination of a~~  
1779 ~~reserve account established pursuant to this paragraph upon~~  
1780 ~~approval of a majority of the total voting interests of the~~  
1781 ~~association. Upon such approval, the terminating reserve account~~  
1782 ~~shall be removed from the budget.~~

1783 (c)1. The developer may vote the voting interests allocated  
1784 to its parcels with completed improvements, as evidenced by  
1785 certificates of occupancy for such improvements, to waive the  
1786 reserves or reduce the funding of reserves. If a meeting of the  
1787 parcel owners has been called to waive or reduce the funding of  
1788 reserves and a waiver or reduction is not achieved or a quorum  
1789 is not present, the reserves required by paragraph (b) must be  
1790 maintained ~~If the budget of the association does not provide for~~  
1791 ~~reserve accounts pursuant to paragraph (d) and the association~~  
1792 ~~is responsible for the repair and maintenance of capital~~  
1793 ~~improvements that may result in a special assessment if reserves~~  
1794 ~~are not provided, each financial report for the preceding fiscal~~  
1795 ~~year required by subsection (7) must contain the following~~  
1796 ~~statement in conspicuous type:~~  
1797 ~~THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE~~  
1798 ~~ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT~~

580-02650-18

20181274c1

1799 ~~MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE~~  
1800 ~~FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA~~  
1801 ~~STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL~~  
1802 ~~VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A~~  
1803 ~~MEETING OR BY WRITTEN CONSENT.~~

1804 ~~2. If the budget of the association does provide for~~  
1805 ~~funding accounts for deferred expenditures, including, but not~~  
1806 ~~limited to, funds for capital expenditures and deferred~~  
1807 ~~maintenance, but such accounts are not created or established~~  
1808 ~~pursuant to paragraph (d), each financial report for the~~  
1809 ~~preceding fiscal year required under subsection (7) must also~~  
1810 ~~contain the following statement in conspicuous type:~~  
1811 ~~THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY~~  
1812 ~~DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES~~  
1813 ~~AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED~~  
1814 ~~IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED~~  
1815 ~~TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),~~  
1816 ~~FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE~~  
1817 ~~RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR~~  
1818 ~~ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

1819 ~~(d) Reserve funds and any interest accruing thereon must~~  
1820 ~~remain in the reserve account or accounts and may be used only~~  
1821 ~~for deferred maintenance An association is deemed to have~~  
1822 ~~provided for reserve accounts if reserve accounts have been~~  
1823 ~~initially established by the developer or if the membership of~~  
1824 ~~the association affirmatively elects to provide for reserves. If~~  
1825 ~~reserve accounts are established by the developer, the budget~~  
1826 ~~must designate the components for which the reserve accounts may~~  
1827 ~~be used. If reserve accounts are not initially provided by the~~

580-02650-18

20181274c1

1828 ~~developer, the membership of the association may elect to do so~~  
1829 ~~upon the affirmative approval of a majority of the total voting~~  
1830 ~~interests of the association. Such approval may be obtained by~~  
1831 ~~vote of the members at a duly called meeting of the membership~~  
1832 ~~or by the written consent of a majority of the total voting~~  
1833 ~~interests of the association. The approval action of the~~  
1834 ~~membership must state that reserve accounts shall be provided~~  
1835 ~~for in the budget and must designate the components for which~~  
1836 ~~the reserve accounts are to be established. Upon approval by the~~  
1837 ~~membership, the board of directors shall include the required~~  
1838 ~~reserve accounts in the budget in the next fiscal year following~~  
1839 ~~the approval and each year thereafter. Once established as~~  
1840 ~~provided in this subsection, the reserve accounts must be funded~~  
1841 ~~or maintained or have their funding waived in the manner~~  
1842 ~~provided in paragraph (f).~~

1843 (e) The only voting interests that are eligible to vote on  
1844 questions that involve waiving or reducing the funding of  
1845 reserves are the voting interests of the parcels subject to  
1846 assessment to fund the reserves in question. Any vote taken  
1847 pursuant to this subsection to waive or reduce reserves is  
1848 applicable only for 1 budget year. Proxy questions relating to  
1849 waiving or reducing the funding of reserves must contain the  
1850 following statement in capitalized, bold letters in a font size  
1851 larger than any other used on the face of the proxy ballot:  
1852 WAIVING OF RESERVES, IN WHOLE OR IN PART, MAY RESULT IN PARCEL  
1853 OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS  
1854 REGARDING THOSE ITEMS ~~The amount to be reserved in any account~~  
1855 ~~established shall be computed by means of a formula that is~~  
1856 ~~based upon estimated remaining useful life and estimated~~

580-02650-18

20181274c1

1857 ~~replacement cost or deferred maintenance expense of each reserve~~  
1858 ~~item. The association may adjust replacement reserve assessments~~  
1859 ~~annually to take into account any changes in estimates of cost~~  
1860 ~~or useful life of a reserve item.~~

1861 (f) Except as provided in paragraph (g), funding formulas  
1862 for reserves required by this section must be based on a pooled  
1863 analysis method of two or more of the assets for which reserves  
1864 are required to be accrued. The projected annual cash inflows  
1865 may include estimated earnings from investment of principal. The  
1866 reserve funding formula must result in constant funding each  
1867 year. However, based on the method for calculating the  
1868 assessment for reserves as described in paragraph (b), the  
1869 assessments actually collected may be less than the full amount  
1870 of required reserves disclosed in the proposed annual budget  
1871 until all parcels that will ultimately be operated by the  
1872 association are obligated to pay assessments for reserves After  
1873 ~~one or more reserve accounts are established, the membership of~~  
1874 ~~the association, upon a majority vote at a meeting at which a~~  
1875 ~~quorum is present, may provide for no reserves or less reserves~~  
1876 ~~than required by this section. If a meeting of the unit owners~~  
1877 ~~has been called to determine whether to waive or reduce the~~  
1878 ~~funding of reserves and such result is not achieved or a quorum~~  
1879 ~~is not present, the reserves as included in the budget go into~~  
1880 ~~effect. After the turnover, the developer may vote its voting~~  
1881 ~~interest to waive or reduce the funding of reserves. Any vote~~  
1882 ~~taken pursuant to this subsection to waive or reduce reserves is~~  
1883 ~~applicable only to one budget year.~~

1884 (g) As an alternative to the pooled analysis method  
1885 described in paragraph (f), if approved by a majority vote of

580-02650-18

20181274c1

1886 the members present at a meeting, in person or by proxy, at  
1887 which a quorum is present, the funding formulas for the  
1888 disclosure of reserves required ~~authorized~~ by this section may  
1889 ~~must~~ be based on a separate analysis of each of the required  
1890 assets under the straight-line accounting method ~~or a pooled~~  
1891 ~~analysis of two or more of the required assets.~~

1892 ~~1.~~ If the association maintains separate reserve accounts  
1893 for each of the required assets, under the straight-line  
1894 accounting method the amount of the contribution to each reserve  
1895 account is the sum of the following two calculations:

1896 ~~1.a.~~ The total amount necessary, if any, to bring a  
1897 negative component balance to zero.

1898 ~~2.b.~~ The total estimated deferred maintenance expense or  
1899 estimated replacement cost of the reserve component less the  
1900 estimated balance of the reserve component as of the beginning  
1901 of the period the budget will be in effect. The remainder, if  
1902 greater than zero, shall be divided by the estimated remaining  
1903 useful life of the component.

1904  
1905 The formula may be adjusted each year for changes in estimates  
1906 and deferred maintenance performed during the year and may  
1907 include factors such as inflation and earnings on invested  
1908 funds. An association may convert its funding formulas from a  
1909 straight-line accounting method to a pooled analysis method, as  
1910 described in paragraph (f), and back to a straight-line  
1911 accounting method at any time if approved by a majority vote of  
1912 the members present at a meeting, in person or by proxy, at  
1913 which a quorum is present.

1914 ~~2. If the association maintains a pooled account of two or~~

580-02650-18

20181274c1

1915 ~~more of the required reserve assets, the amount of the~~  
1916 ~~contribution to the pooled reserve account as disclosed on the~~  
1917 ~~proposed budget may not be less than that required to ensure~~  
1918 ~~that the balance on hand at the beginning of the period the~~  
1919 ~~budget will go into effect plus the projected annual cash~~  
1920 ~~inflows over the remaining estimated useful life of all of the~~  
1921 ~~assets that make up the reserve pool are equal to or greater~~  
1922 ~~than the projected annual cash outflows over the remaining~~  
1923 ~~estimated useful lives of all the assets that make up the~~  
1924 ~~reserve pool, based on the current reserve analysis. The~~  
1925 ~~projected annual cash inflows may include estimated earnings~~  
1926 ~~from investment of principal and accounts receivable minus the~~  
1927 ~~allowance for doubtful accounts. The reserve funding formula may~~  
1928 ~~not include any type of balloon payments.~~

1929 (h)1. Meetings at which a proposed annual budget of an  
1930 association will be considered by the board must be open to all  
1931 parcel owners ~~Reserve funds and any interest accruing thereon~~  
1932 ~~shall remain in the reserve account or accounts and shall be~~  
1933 ~~used only for authorized reserve expenditures unless their use~~  
1934 ~~for other purposes is approved in advance by a majority vote at~~  
1935 ~~a meeting at which a quorum is present. Prior to turnover of~~  
1936 ~~control of an association by a developer to parcel owners, the~~  
1937 ~~developer-controlled association shall not vote to use reserves~~  
1938 ~~for purposes other than those for which they were intended~~  
1939 ~~without the approval of a majority of all nondeveloper voting~~  
1940 ~~interests voting in person or by limited proxy at a duly called~~  
1941 ~~meeting of the association.~~

1942 2.a. If a board adopts an annual budget that requires  
1943 assessments against parcel owners which exceed 115 percent of

580-02650-18

20181274c1

1944 assessments for the preceding fiscal year and the board  
1945 receives, within 21 days after adoption of the annual budget, a  
1946 written request for a special meeting from at least 10 percent  
1947 of all voting interests, the board must conduct a special  
1948 meeting of the parcel owners to consider a substitute budget.  
1949 The special meeting must be conducted within 60 days after  
1950 adoption of the annual budget. At least 14 days before such  
1951 special meeting, the board shall hand deliver to each parcel  
1952 owner, or mail to each parcel owner at the address last  
1953 furnished to the association, a notice of the meeting. An  
1954 officer or manager of the association, or other person providing  
1955 notice of such meeting, shall execute an affidavit evidencing  
1956 compliance with this notice requirement and file the affidavit  
1957 among the official records of the association. Parcel owners may  
1958 consider and adopt a substitute budget at the special meeting. A  
1959 substitute budget is adopted if approved by a majority of all  
1960 voting interests unless the governing documents require adoption  
1961 by a greater percentage of voting interests. If there is not a  
1962 quorum at the special meeting or a substitute budget is not  
1963 adopted, the annual budget previously adopted by the board takes  
1964 effect as scheduled.

1965 b. Any determination on whether assessments exceed 115  
1966 percent of assessments for the prior fiscal year shall exclude  
1967 any provision for reasonable reserves for repair or deferred  
1968 maintenance of items that are the obligation of the association  
1969 under the governing documents, anticipated expenses of the  
1970 association which the board does not expect to be incurred on a  
1971 regular or annual basis, or assessments for improvements to the  
1972 common areas or association property, or other items that are

580-02650-18

20181274c1

1973 the obligation of the association under the governing documents.

1974 (i) Paragraphs (b)-(g) do not apply to mandatory reserve  
1975 accounts for the deferred maintenance of the infrastructure  
1976 which are required to be established and maintained by an  
1977 association at the direction of a county or municipal  
1978 government, water or drainage management district, community  
1979 development district, or other political subdivision that has  
1980 the authority to approve and control subdivision infrastructure  
1981 that is being entrusted to the care of an association.

1982 (j) Reserve funds must be held in a separate bank account  
1983 established for such funds.

1984 Section 13. Paragraph (b) of subsection (2) of section  
1985 720.305, Florida Statutes, is amended to read:

1986 720.305 Obligations of members; remedies at law or in  
1987 equity; levy of fines and suspension of use rights.-

1988 (2) The association may levy reasonable fines. A fine may  
1989 not exceed \$100 per violation against any member or any member's  
1990 tenant, guest, or invitee for the failure of the owner of the  
1991 parcel or its occupant, licensee, or invitee to comply with any  
1992 provision of the declaration, the association bylaws, or  
1993 reasonable rules of the association unless otherwise provided in  
1994 the governing documents. A fine may be levied by the board for  
1995 each day of a continuing violation, with a single notice and  
1996 opportunity for hearing, except that the fine may not exceed  
1997 \$1,000 in the aggregate unless otherwise provided in the  
1998 governing documents. A fine of less than \$1,000 may not become a  
1999 lien against a parcel. In any action to recover a fine, the  
2000 prevailing party is entitled to reasonable attorney fees and  
2001 costs from the nonprevailing party as determined by the court.

580-02650-18

20181274c1

2002 (b) A fine or suspension levied ~~may not be imposed~~ by the  
2003 board of administration may not be imposed unless the board  
2004 first provides ~~without~~ at least 14 days' notice to the parcel  
2005 owner and, if applicable, to any occupant, licensee, or invitee  
2006 of the parcel owner, person sought to be fined or suspended and  
2007 provides an opportunity for a hearing before a committee of at  
2008 least three members appointed by the board who are not officers,  
2009 directors, or employees of the association, or the spouse,  
2010 parent, child, brother, or sister of an officer, director, or  
2011 employee. If the committee, by majority vote, does not approve a  
2012 proposed fine or suspension, the proposed fine or suspension ~~it~~  
2013 may not be imposed. The role of the committee is limited to  
2014 determining whether to confirm or reject the fine or suspension  
2015 levied by the board. If the proposed ~~board of administration~~  
2016 ~~imposes a~~ fine or suspension levied by the board is approved by  
2017 the committee, the fine payment is due 5 days after the date of  
2018 the committee meeting at which the fine is approved. The  
2019 association shall ~~must~~ provide written notice of such fine or  
2020 suspension by mail or hand delivery to the parcel owner and, if  
2021 applicable, to any tenant, licensee, or invitee of the parcel  
2022 owner.

2023 Section 14. Paragraph (a) of subsection (9) of section  
2024 720.306, Florida Statutes, is amended to read:

2025 720.306 Meetings of members; voting and election  
2026 procedures; amendments.—

2027 (9) ELECTIONS AND BOARD VACANCIES.—

2028 (a) Elections of directors must be conducted in accordance  
2029 with the procedures set forth in the governing documents of the  
2030 association. Except as provided in paragraph (b), all members of

580-02650-18

20181274c1

2031 the association are eligible to serve on the board of directors,  
2032 and a member may nominate himself or herself as a candidate for  
2033 the board at a meeting where the election is to be held;  
2034 provided, however, that if the election process allows  
2035 candidates to be nominated in advance of the meeting, the  
2036 association is not required to allow nominations at the meeting.  
2037 An election is not required unless more candidates are nominated  
2038 than vacancies exist. If an election is not required because  
2039 there are either an equal number of candidates or fewer  
2040 qualified candidates than vacancies, and if nominations from the  
2041 floor are not required pursuant to this section or the bylaws,  
2042 write-in nominations are not permitted, and such qualified  
2043 candidates shall commence service on the board of directors,  
2044 regardless of whether a quorum is attained at the annual  
2045 meeting. Except as otherwise provided in the governing  
2046 documents, boards of directors must be elected by a plurality of  
2047 the votes cast by eligible voters. Any challenge to the election  
2048 process must be commenced within 60 days after the election  
2049 results are announced.

2050 Section 15. Paragraph (b) of subsection (3) of section  
2051 720.3085, Florida Statutes, is amended to read:

2052 720.3085 Payment for assessments; lien claims.—

2053 (3) Assessments and installments on assessments that are  
2054 not paid when due bear interest from the due date until paid at  
2055 the rate provided in the declaration of covenants or the bylaws  
2056 of the association, which rate may not exceed the rate allowed  
2057 by law. If no rate is provided in the declaration or bylaws,  
2058 interest accrues at the rate of 18 percent per year.

2059 (b) Any payment received by an association and accepted

580-02650-18

20181274c1

2060 must ~~shall~~ be applied first to any interest accrued, then to any  
 2061 administrative late fee, then to any costs and reasonable  
 2062 attorney fees incurred in collection, and then to the delinquent  
 2063 assessment. This paragraph applies notwithstanding any  
 2064 restrictive endorsement, designation, or instruction placed on  
 2065 or accompanying a payment. A late fee is not subject to ~~the~~  
 2066 ~~provisions of chapter 687 and is not a fine.~~ This paragraph is  
 2067 applicable notwithstanding s. 673.3111, any purported accord and  
 2068 satisfaction, or any restrictive endorsement, designation, or  
 2069 instruction placed on or accompanying a payment. The preceding  
 2070 sentence is intended to clarify existing law.

2071 Section 16. Paragraph (a) of subsection (1) of section  
 2072 720.401, Florida Statutes, is amended to read:

2073 720.401 Prospective purchasers subject to association  
 2074 membership requirement; disclosure required; covenants;  
 2075 assessments; contract cancellation.—

2076 (1) (a) A prospective parcel owner in a community must be  
 2077 presented a disclosure summary before executing the contract for  
 2078 sale. The disclosure summary must be in a form substantially  
 2079 similar to the following form:

2080  
 2081 DISCLOSURE SUMMARY  
 2082 FOR  
 2083 (NAME OF COMMUNITY)  
 2084

2085 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL  
 2086 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2087 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
 2088 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS

580-02650-18

20181274c1

2089 COMMUNITY.

2090 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
2091 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
2092 APPLICABLE, THE CURRENT AMOUNT IS \$.... PER .....

2093 YOU WILL ALSO  
2094 BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
2095 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
2096 IF APPLICABLE, THE CURRENT AMOUNT IS \$.... PER .....

2096 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
2097 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
2098 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

2099 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS  
2100 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A  
2101 LIEN ON YOUR PROPERTY.

2102 6. THE BUDGET OF THE ASSOCIATION DOES NOT NECESSARILY  
2103 INCLUDE RESERVE FUNDS FOR DEFERRED MAINTENANCE SUFFICIENT TO  
2104 COVER THE FULL COST OF DEFERRED MAINTENANCE OF COMMON AREAS. YOU  
2105 SHOULD REVIEW THE BUDGET TO DETERMINE THE LEVEL OF RESERVE  
2106 FUNDING, IF ANY.

2107 ~~7.6.~~ THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE  
2108 FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
2109 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
2110 APPLICABLE, THE CURRENT AMOUNT IS \$.... PER .....

2111 ~~8.7.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
2112 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
2113 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

2114 ~~9.8.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
2115 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
2116 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
2117 DOCUMENTS BEFORE PURCHASING PROPERTY.

