

1                   A bill to be entitled  
2           An act relating to community associations; amending s.  
3           34.01, F.S.; providing that county courts have  
4           original jurisdiction over certain associations;  
5           amending 514.0115, F.S.; providing that certain  
6           property association pools are exempt from Department  
7           of Health regulations; amending s. 627.714, F.S.;  
8           prohibiting subrogation rights against a condominium  
9           association under certain circumstances; amending s.  
10          718.111, F.S.; requiring certain records to be  
11          maintained for a specified time; prohibiting certain  
12          rules related to the inspection of records; requiring  
13          certain condominium associations to make specified  
14          documents available through a specified application;  
15          amending s. 718.112, F.S.; providing board member term  
16          limits beginning on a specified date; providing  
17          requirements for certain notices; prohibiting an  
18          association from charging certain fees; providing an  
19          exception; revising requirements for challenging the  
20          recall of board members; removing a prohibition  
21          against employing or contracting with certain service  
22          providers; amending s. 718.113, F.S.; revising  
23          regulations for electronic vehicles; amending s.  
24          718.117, F.S.; revising requirements for challenging a  
25          termination of a condominium; providing liability for

26 | certain owners; amending s. 718.1255, F.S.; requiring  
27 | presuit mediation for certain disputes; removing the  
28 | option of nonbinding arbitration for certain disputes;  
29 | revising legislative findings; providing a  
30 | standardized form for the offer to participate in  
31 | presuit mediation; providing requirements for presuit  
32 | mediation; amending s. 718.303, F.S.; revising  
33 | requirements for certain fines; amending s. 718.501,  
34 | F.S.; removing the requirement for the Division of  
35 | Florida Condominiums, Timeshares, and Mobile Homes to  
36 | certify mediators; amending s. 718.5014, F.S.;;  
37 | revising the location of the principal office of the  
38 | condominium ombudsman; amending s. 719.103, F.S.;;  
39 | revising the definition of the term "unit" to specify  
40 | that an interest in a cooperative unit is an interest  
41 | in real property; amending s. 719.104, F.S.;;  
42 | prohibiting certain rules related to the inspection of  
43 | records; amending s. 719.106, F.S.;; providing  
44 | requirements for participating in a meeting via  
45 | telecommunications; revising requirements for  
46 | challenging the recall of board members; requiring  
47 | mediation for certain disputes; amending s. 719.1255,  
48 | F.S.;; revising requirements for alternative resolution  
49 | of disputes; amending s. 719.501, F.S.;; removing the  
50 | requirement for the division to certify mediators;

51 amending s. 720.303, F.S.; authorizing an association  
 52 to adopt procedures for electronic meeting notices;  
 53 requiring certain records to be maintained for a  
 54 specified time; revising requirements for challenging  
 55 the recall of board members; amending s. 720.305,  
 56 F.S.; providing requirements for certain fines;  
 57 amending s. 720.306, F.S.; revising requirements for  
 58 providing certain notices and challenging certain  
 59 elections; amending s. 720.311, F.S.; revising  
 60 requirements for dispute resolution; providing a  
 61 definition; revising legislative findings; revising  
 62 the standardized form for the offer to participate in  
 63 presuit mediation; providing an effective date.

64  
 65 Be It Enacted by the Legislature of the State of Florida:

66  
 67 Section 1. Paragraph (d) of subsection (1) of section  
 68 34.01, Florida Statutes, is amended to read:

69 34.01 Jurisdiction of county court.—

70 (1) County courts shall have original jurisdiction:

71 (d) Of disputes occurring in condominium associations as  
 72 described in s. 718.1255, cooperative associations as described  
 73 in s. 719.1255, and the homeowners' associations as described in  
 74 s. 720.311(2) (a), which ~~is shall be~~ concurrent with jurisdiction  
 75 of the circuit courts.

76 Section 2. Paragraph (a) of subsection (2) of section  
 77 514.0115, Florida Statutes, is amended to read:

78 514.0115 Exemptions from supervision or regulation;  
 79 variances.—

80 (2) (a) Pools serving condominium, cooperative, and  
 81 homeowners' associations, as well as other property  
 82 associations, which have no more than 32 ~~condominium or~~  
 83 ~~cooperative~~ units or parcels and which are not operated as a  
 84 public lodging establishments are establishment shall be exempt  
 85 from supervision under this chapter, except for water quality.

86 Section 3. Subsection (4) of section 627.714, Florida  
 87 Statutes, is amended to read:

88 627.714 Residential condominium unit owner coverage; loss  
 89 assessment coverage required.—

90 (4) Every individual unit owner's residential property  
 91 policy must contain a provision stating that the coverage  
 92 afforded by such policy is excess coverage over the amount  
 93 recoverable under any other policy covering the same property.  
 94 An insurance policy issued to an individual unit owner may not  
 95 provide rights of subrogation against the condominium  
 96 association operating the condominium in which such individual's  
 97 unit is located.

98 Section 4. Paragraphs (a), (b), (c), and (g) of subsection  
 99 (12) of section 718.111, Florida Statutes, are amended to read:

100 718.111 The association.—

101 (12) OFFICIAL RECORDS.—

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

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

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

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

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

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

116 6. A book or books that contain the minutes of all  
 117 meetings of the association, the board of administration, and  
 118 the unit owners.

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

126 | is not provided in accordance with sub-subparagraph (c)3.e.  
 127 | However, the association is not liable for an inadvertent  
 128 | disclosure of the e-mail address or facsimile number for  
 129 | receiving electronic transmission of notices.

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

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

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

138 |         11. Accounting records for the association and separate  
 139 | accounting records for each condominium that the association  
 140 | operates. Any person who knowingly or intentionally defaces or  
 141 | destroys such records, or who knowingly or intentionally fails  
 142 | to create or maintain such records, with the intent of causing  
 143 | harm to the association or one or more of its members, is  
 144 | personally subject to a civil penalty pursuant to s.  
 145 | 718.501(1)(d). The accounting records must include, but are not  
 146 | limited to:

147 |             a. Accurate, itemized, and detailed records of all  
 148 | receipts and expenditures.

149 |             b. A current account and a monthly, bimonthly, or  
 150 | quarterly statement of the account for each unit designating the

151 name of the unit owner, the due date and amount of each  
 152 assessment, the amount paid on the account, and the balance due.

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

155 d. All contracts for work to be performed. Bids for work  
 156 to be performed are also considered official records and must be  
 157 maintained by the association for at least 1 year after receipt  
 158 of the bid.

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

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

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

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

171 15.16. A copy of the inspection report as described in s.  
 172 718.301(4)(p).

173 ~~16.17.~~ Bids for materials, equipment, or services.

174 17. All other records of the association not specifically  
 175 included in subparagraphs 1.-16. which are related to the

176 | operation of the association.

177 |       (b) The official records specified in subparagraphs (a)1.-  
178 | 6. must be permanently maintained from the inception of the  
179 | association. Bids for work to be performed or for materials,  
180 | equipment, or services must be maintained for 1 year after  
181 | receipt of the bid. All other official records must be  
182 | maintained within the state for at least 7 years, unless  
183 | otherwise provided by general law. The records of the  
184 | association shall be made available to a unit owner within 45  
185 | miles of the condominium property or within the county in which  
186 | the condominium property is located within 10 working days after  
187 | receipt of a written request by the board or its designee.  
188 | However, such distance requirement does not apply to an  
189 | association governing a timeshare condominium. This paragraph  
190 | may be complied with by having a copy of the official records of  
191 | the association available for inspection or copying on the  
192 | condominium property or association property, or the association  
193 | may offer the option of making the records available to a unit  
194 | owner electronically via the Internet or by allowing the records  
195 | to be viewed in electronic format on a computer screen and  
196 | printed upon request. The association is not responsible for the  
197 | use or misuse of the information provided to an association  
198 | member or his or her authorized representative pursuant to the  
199 | compliance requirements of this chapter unless the association  
200 | has an affirmative duty not to disclose such information



201 pursuant to this chapter.

202 (c)1. The official records of the association are open to  
203 inspection by any association member or the authorized  
204 representative of such member at all reasonable times. The right  
205 to inspect the records includes the right to make or obtain  
206 copies, at the reasonable expense, if any, of the member or  
207 authorized representative of such member. A renter of a unit has  
208 a right to inspect and copy the association's bylaws and rules.  
209 The association may adopt reasonable rules regarding the  
210 frequency, time, location, notice, and manner of record  
211 inspections and copying, but may not require a member to  
212 demonstrate any purpose or state any reason for the inspection.  
213 The failure of an association to provide the records within 10  
214 working days after receipt of a written request creates a  
215 rebuttable presumption that the association willfully failed to  
216 comply with this paragraph. A unit owner who is denied access to  
217 official records is entitled to the actual damages or minimum  
218 damages for the association's willful failure to comply. Minimum  
219 damages are \$50 per calendar day for up to 10 days, beginning on  
220 the 11th working day after receipt of the written request. The  
221 failure to permit inspection entitles any person prevailing in  
222 an enforcement action to recover reasonable attorney fees from  
223 the person in control of the records who, directly or  
224 indirectly, knowingly denied access to the records.

225 2. Any person who knowingly or intentionally defaces or

226 destroys accounting records that are required by this chapter to  
227 be maintained during the period for which such records are  
228 required to be maintained, or who knowingly or intentionally  
229 fails to create or maintain accounting records that are required  
230 to be created or maintained, with the intent of causing harm to  
231 the association or one or more of its members, is personally  
232 subject to a civil penalty pursuant to s. 718.501(1)(d).

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

251           a. Any record protected by the lawyer-client privilege as  
252 described in s. 90.502 and any record protected by the work-  
253 product privilege, including a record prepared by an association  
254 attorney or prepared at the attorney's express direction, which  
255 reflects a mental impression, conclusion, litigation strategy,  
256 or legal theory of the attorney or the association, and which  
257 was prepared exclusively for civil or criminal litigation or for  
258 adversarial administrative proceedings, or which was prepared in  
259 anticipation of such litigation or proceedings until the  
260 conclusion of the litigation or proceedings.

261           b. Information obtained by an association in connection  
262 with the approval of the lease, sale, or other transfer of a  
263 unit.

264           c. Personnel records of association or management company  
265 employees, including, but not limited to, disciplinary, payroll,  
266 health, and insurance records. For purposes of this sub-  
267 subparagraph, the term "personnel records" does not include  
268 written employment agreements with an association employee or  
269 management company, or budgetary or financial records that  
270 indicate the compensation paid to an association employee.

271           d. Medical records of unit owners.

272           e. Social security numbers, driver license numbers, credit  
273 card numbers, e-mail addresses, telephone numbers, facsimile  
274 numbers, emergency contact information, addresses of a unit  
275 owner other than as provided to fulfill the association's notice

276 requirements, and other personal identifying information of any  
277 person, excluding the person's name, unit designation, mailing  
278 address, property address, and any address, e-mail address, or  
279 facsimile number provided to the association to fulfill the  
280 association's notice requirements. Notwithstanding the  
281 restrictions in this sub-subparagraph, an association may print  
282 and distribute to parcel owners a directory containing the name,  
283 parcel address, and all telephone numbers of each parcel owner.  
284 However, an owner may exclude his or her telephone numbers from  
285 the directory by so requesting in writing to the association. An  
286 owner may consent in writing to the disclosure of other contact  
287 information described in this sub-subparagraph. The association  
288 is not liable for the inadvertent disclosure of information that  
289 is protected under this sub-subparagraph if the information is  
290 included in an official record of the association and is  
291 voluntarily provided by an owner and not requested by the  
292 association.

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

295 g. The software and operating system used by the  
296 association which allow the manipulation of data, even if the  
297 owner owns a copy of the same software used by the association.  
298 The data is part of the official records of the association.

299 (g)1. By January 1, 2019, an association managing a  
300 condominium with 150 or more units which does not contain

301 | timeshare units shall post digital copies of the documents  
 302 | specified in subparagraph 2. on its website or make such  
 303 | documents available through an application that can be  
 304 | downloaded on a mobile device.

305 |         a. The association's website or application must be:

306 |             (I) An independent website, application, or web portal  
 307 | wholly owned and operated by the association; or

308 |             (II) A website, application, or web portal operated by a  
 309 | third-party provider with whom the association owns, leases,  
 310 | rents, or otherwise obtains the right to operate a web page,  
 311 | subpage, web portal, ~~or~~ collection of subpages or web portals,  
 312 | or application which is dedicated to the association's  
 313 | activities and on which required notices, records, and documents  
 314 | may be posted or made available by the association.

315 |         b. The association's website or application must be  
 316 | accessible through the Internet and must contain a subpage, web  
 317 | portal, or other protected electronic location that is  
 318 | inaccessible to the general public and accessible only to unit  
 319 | owners and employees of the association.

320 |         c. Upon a unit owner's written request, the association  
 321 | must provide the unit owner with a username and password and  
 322 | access to the protected sections of the association's website or  
 323 | application that contain any notices, records, or documents that  
 324 | must be electronically provided.

325 |         2. A current copy of the following documents must be

326 | posted in digital format on the association's website or made  
 327 | available through an application that can be downloaded on a  
 328 | mobile device:

329 |       a. The recorded declaration of condominium of each  
 330 | condominium operated by the association and each amendment to  
 331 | each declaration.

332 |       b. The recorded bylaws of the association and each  
 333 | amendment to the bylaws.

334 |       c. The articles of incorporation of the association, or  
 335 | other documents creating the association, and each amendment  
 336 | thereto. The copy posted pursuant to this sub-subparagraph must  
 337 | be a copy of the articles of incorporation filed with the  
 338 | Department of State.

339 |       d. The rules of the association.

340 |       e. A list of all executory contracts or documents to which  
 341 | the association is a party or under which the association or the  
 342 | unit owners have an obligation or responsibility and, after  
 343 | bidding for the related materials, equipment, or services has  
 344 | closed, a list of bids received by the association within the  
 345 | past year. Summaries of bids for materials, equipment, or  
 346 | services which exceed \$500 must be maintained on the website or  
 347 | application for 1 year. In lieu of summaries, complete copies of  
 348 | the bids may be posted.

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

351 g. The financial report required by subsection (13) and  
352 any monthly income or expense statement to be considered at a  
353 meeting.

354 h. The certification of each director required by s.  
355 718.112(2)(d)4.b.

356 i. All contracts or transactions between the association  
357 and any director, officer, corporation, firm, or association  
358 that is not an affiliated condominium association or any other  
359 entity in which an association director is also a director or  
360 officer and financially interested.

361 j. Any contract or document regarding a conflict of  
362 interest or possible conflict of interest as provided in ss.  
363 468.436(2)(b)6. and 718.3027(3).

364 k. The notice of any unit owner meeting and the agenda for  
365 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
366 days before the meeting. The notice must be posted in plain view  
367 on the front page of the website or application, or on a  
368 separate subpage of the website or application labeled "Notices"  
369 which is conspicuously visible and linked from the front page.  
370 The association must also post on its website or application any  
371 document to be considered and voted on by the owners during the  
372 meeting or any document listed on the agenda at least 7 days  
373 before the meeting at which the document or the information  
374 within the document will be considered.

375 l. Notice of any board meeting, the agenda, and any other

376 document required for the meeting as required by s.  
377 718.112(2)(c), which must be posted no later than the date  
378 required for notice pursuant to s. 718.112(2)(c).

379 3. The association shall ensure that the information and  
380 records described in paragraph (c), which are not allowed to be  
381 accessible to unit owners, are not posted on the association's  
382 website or the association's application that can be downloaded  
383 on a mobile device. If protected information or information  
384 restricted from being accessible to unit owners is included in  
385 documents that are required to be posted on the association's  
386 website or application, the association shall ensure the  
387 information is redacted before posting the documents ~~online~~.  
388 Notwithstanding the foregoing, the association or its agent is  
389 not liable for disclosing information that is protected or  
390 restricted pursuant to this paragraph unless such disclosure was  
391 made with a knowing or intentional disregard of the protected or  
392 restricted nature of such information.

393 4. The failure of the association to post information  
394 required under subparagraph 2. is not in and of itself  
395 sufficient to invalidate any action or decision of the  
396 association's board or its committees.

397 Section 5. Paragraphs (d), (i), (j), (k), and (p) of  
398 subsection (2) of section 718.112, Florida Statutes, are amended  
399 to read:

400 718.112 Bylaws.—



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

404 (d) Unit owner meetings.—

405 1. An annual meeting of the unit owners must be held at  
406 the location provided in the association bylaws and, if the  
407 bylaws are silent as to the location, the meeting must be held  
408 within 45 miles of the condominium property. However, such  
409 distance requirement does not apply to an association governing  
410 a timeshare condominium.

411 2. Unless the bylaws provide otherwise, a vacancy on the  
412 board caused by the expiration of a director's term must be  
413 filled by electing a new board member, and the election must be  
414 by secret ballot. An election is not required if the number of  
415 vacancies equals or exceeds the number of candidates. For  
416 purposes of this paragraph, the term "candidate" means an  
417 eligible person who has timely submitted the written notice, as  
418 described in sub-subparagraph 4.a., of his or her intention to  
419 become a candidate. Except in a timeshare or nonresidential  
420 condominium, or if the staggered term of a board member does not  
421 expire until a later annual meeting, or if all members' terms  
422 would otherwise expire but there are no candidates, the terms of  
423 all board members expire at the annual meeting, and such members  
424 may stand for reelection unless prohibited by the bylaws. Board  
425 members may serve terms longer than 1 year if permitted by the

426 | bylaws or articles of incorporation. A board member may not  
427 | serve more than 8 consecutive years unless approved by an  
428 | affirmative vote of unit owners representing two-thirds of all  
429 | votes cast in the election or unless there are not enough  
430 | eligible candidates to fill the vacancies on the board at the  
431 | time of the vacancy. Only board service that occurs on or after  
432 | July 1, 2018, may be used when calculating a board member's term  
433 | limit. If the number of board members whose terms expire at the  
434 | annual meeting equals or exceeds the number of candidates, the  
435 | candidates become members of the board effective upon the  
436 | adjournment of the annual meeting. Unless the bylaws provide  
437 | otherwise, any remaining vacancies shall be filled by the  
438 | affirmative vote of the majority of the directors making up the  
439 | newly constituted board even if the directors constitute less  
440 | than a quorum or there is only one director. In a residential  
441 | condominium association of more than 10 units or in a  
442 | residential condominium association that does not include  
443 | timeshare units or timeshare interests, coowners of a unit may  
444 | not serve as members of the board of directors at the same time  
445 | unless they own more than one unit or unless there are not  
446 | enough eligible candidates to fill the vacancies on the board at  
447 | the time of the vacancy. A unit owner in a residential  
448 | condominium desiring to be a candidate for board membership must  
449 | comply with sub-subparagraph 4.a. and must be eligible to be a  
450 | candidate to serve on the board of directors at the time of the

451 deadline for submitting a notice of intent to run in order to  
452 have his or her name listed as a proper candidate on the ballot  
453 or to serve on the board. A person who has been suspended or  
454 removed by the division under this chapter, or who is delinquent  
455 in the payment of any monetary obligation due to the  
456 association, is not eligible to be a candidate for board  
457 membership and may not be listed on the ballot. A person who has  
458 been convicted of any felony in this state or in a United States  
459 District or Territorial Court, or who has been convicted of any  
460 offense in another jurisdiction which would be considered a  
461 felony if committed in this state, is not eligible for board  
462 membership unless such felon's civil rights have been restored  
463 for at least 5 years as of the date such person seeks election  
464 to the board. The validity of an action by the board is not  
465 affected if it is later determined that a board member is  
466 ineligible for board membership due to having been convicted of  
467 a felony. This subparagraph does not limit the term of a member  
468 of the board of a nonresidential or timeshare condominium.

469 3. The bylaws must provide the method of calling meetings  
470 of unit owners, including annual meetings. Written notice must  
471 include an agenda, must be mailed, hand delivered, or  
472 electronically transmitted to each unit owner at least 14 days  
473 before the annual meeting, and must be posted in a conspicuous  
474 place on the condominium property at least 14 continuous days  
475 before the annual meeting. Upon notice to the unit owners, the

476 board shall, by duly adopted rule, designate a specific location  
477 on the condominium property where all notices of unit owner  
478 meetings must be posted. This requirement does not apply if  
479 there is no condominium property for posting notices. In lieu  
480 of, or in addition to, the physical posting of meeting notices,  
481 the association may, by reasonable rule, adopt a procedure for  
482 conspicuously posting and repeatedly broadcasting the notice and  
483 the agenda on a closed-circuit cable television system serving  
484 the condominium association. However, if broadcast notice is  
485 used in lieu of a notice posted physically on the condominium  
486 property, the notice and agenda must be broadcast at least four  
487 times every broadcast hour of each day that a posted notice is  
488 otherwise required under this section. If broadcast notice is  
489 provided, the notice and agenda must be broadcast in a manner  
490 and for a sufficient continuous length of time so as to allow an  
491 average reader to observe the notice and read and comprehend the  
492 entire content of the notice and the agenda. In addition to any  
493 of the authorized means of providing notice of a meeting of the  
494 board, the association may, by rule, adopt a procedure for  
495 conspicuously posting the meeting notice and the agenda on a  
496 website serving the condominium association for at least the  
497 minimum period of time for which a notice of a meeting is also  
498 required to be physically posted on the condominium property.  
499 Any rule adopted shall, in addition to other matters, include a  
500 requirement that the association send an electronic notice in

501 the same manner as a notice for a meeting of the members, which  
502 must include a hyperlink to the website where the notice is  
503 posted, to unit owners whose e-mail addresses are included in  
504 the association's official records. Unless a unit owner waives  
505 in writing the right to receive notice of the annual meeting,  
506 such notice must be hand delivered, mailed, or electronically  
507 transmitted to each unit owner. Notice for meetings and notice  
508 for all other purposes must be mailed to each unit owner at the  
509 address last furnished to the association by the unit owner, or  
510 hand delivered to each unit owner. However, if a unit is owned  
511 by more than one person, the association must provide notice to  
512 the address that the developer identifies for that purpose and  
513 thereafter as one or more of the owners of the unit advise the  
514 association in writing, or if no address is given or the owners  
515 of the unit do not agree, to the address provided on the deed of  
516 record. An officer of the association, or the manager or other  
517 person providing notice of the association meeting, must provide  
518 an affidavit or United States Postal Service certificate of  
519 mailing, to be included in the official records of the  
520 association affirming that the notice was mailed or hand  
521 delivered in accordance with this provision.

522 4. The members of the board of a residential condominium  
523 shall be elected by written ballot or voting machine. Proxies  
524 may not be used in electing the board in general elections or  
525 elections to fill vacancies caused by recall, resignation, or

526 otherwise, unless otherwise provided in this chapter. This  
527 subparagraph does not apply to an association governing a  
528 timeshare condominium.

529 a. At least 60 days before a scheduled election, the  
530 association shall mail, deliver, or electronically transmit, by  
531 separate association mailing or included in another association  
532 mailing, delivery, or transmission, including regularly  
533 published newsletters, to each unit owner entitled to a vote, a  
534 first notice of the date of the election. A unit owner or other  
535 eligible person desiring to be a candidate for the board must  
536 give written notice of his or her intent to be a candidate to  
537 the association at least 40 days before a scheduled election.  
538 Together with the written notice and agenda as set forth in  
539 subparagraph 3., the association shall mail, deliver, or  
540 electronically transmit a second notice of the election to all  
541 unit owners entitled to vote, together with a ballot that lists  
542 all candidates not less than 14 days or more than 34 days before  
543 the date of the election. Upon request of a candidate, an  
544 information sheet, no larger than 8 1/2 inches by 11 inches,  
545 which must be furnished by the candidate at least 35 days before  
546 the election, must be included with the mailing, delivery, or  
547 transmission of the ballot, with the costs of mailing, delivery,  
548 or electronic transmission and copying to be borne by the  
549 association. The association is not liable for the contents of  
550 the information sheets prepared by the candidates. In order to

551 reduce costs, the association may print or duplicate the  
552 information sheets on both sides of the paper. The division  
553 shall by rule establish voting procedures consistent with this  
554 sub-subparagraph, including rules establishing procedures for  
555 giving notice by electronic transmission and rules providing for  
556 the secrecy of ballots. Elections shall be decided by a  
557 plurality of ballots cast. There is no quorum requirement;  
558 however, at least 20 percent of the eligible voters must cast a  
559 ballot in order to have a valid election. A unit owner may not  
560 authorize any other person to vote his or her ballot, and any  
561 ballots improperly cast are invalid. A unit owner who violates  
562 this provision may be fined by the association in accordance  
563 with s. 718.303. A unit owner who needs assistance in casting  
564 the ballot for the reasons stated in s. 101.051 may obtain such  
565 assistance. The regular election must occur on the date of the  
566 annual meeting. Notwithstanding this sub-subparagraph, an  
567 election is not required unless more candidates file notices of  
568 intent to run or are nominated than board vacancies exist.

569       b. Within 90 days after being elected or appointed to the  
570 board of an association of a residential condominium, each newly  
571 elected or appointed director shall certify in writing to the  
572 secretary of the association that he or she has read the  
573 association's declaration of condominium, articles of  
574 incorporation, bylaws, and current written policies; that he or  
575 she will work to uphold such documents and policies to the best

576 of his or her ability; and that he or she will faithfully  
577 discharge his or her fiduciary responsibility to the  
578 association's members. In lieu of this written certification,  
579 within 90 days after being elected or appointed to the board,  
580 the newly elected or appointed director may submit a certificate  
581 of having satisfactorily completed the educational curriculum  
582 administered by a division-approved condominium education  
583 provider within 1 year before or 90 days after the date of  
584 election or appointment. The written certification or  
585 educational certificate is valid and does not have to be  
586 resubmitted as long as the director serves on the board without  
587 interruption. A director of an association of a residential  
588 condominium who fails to timely file the written certification  
589 or educational certificate is suspended from service on the  
590 board until he or she complies with this sub-subparagraph. The  
591 board may temporarily fill the vacancy during the period of  
592 suspension. The secretary shall cause the association to retain  
593 a director's written certification or educational certificate  
594 for inspection by the members for 5 years after a director's  
595 election or the duration of the director's uninterrupted tenure,  
596 whichever is longer. Failure to have such written certification  
597 or educational certificate on file does not affect the validity  
598 of any board action.

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



601           5. Any approval by unit owners called for by this chapter  
602 or the applicable declaration or bylaws, including, but not  
603 limited to, the approval requirement in s. 718.111(8), must be  
604 made at a duly noticed meeting of unit owners and is subject to  
605 all requirements of this chapter or the applicable condominium  
606 documents relating to unit owner decisionmaking, except that  
607 unit owners may take action by written agreement, without  
608 meetings, on matters for which action by written agreement  
609 without meetings is expressly allowed by the applicable bylaws  
610 or declaration or any law that provides for such action.

611           6. Unit owners may waive notice of specific meetings if  
612 allowed by the applicable bylaws or declaration or any law.  
613 Notice of meetings of the board of administration, unit owner  
614 meetings, except unit owner meetings called to recall board  
615 members under paragraph (j), and committee meetings may be given  
616 by electronic transmission to unit owners who consent to receive  
617 notice by electronic transmission. A unit owner who consents to  
618 receiving notices by electronic transmission is solely  
619 responsible for removing or bypassing filters that block receipt  
620 of mass e-mails ~~emails~~ sent to members on behalf of the  
621 association in the course of giving electronic notices.

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

626 8. A unit owner may tape record or videotape a meeting of  
627 the unit owners subject to reasonable rules adopted by the  
628 division.

629 9. Unless otherwise provided in the bylaws, any vacancy  
630 occurring on the board before the expiration of a term may be  
631 filled by the affirmative vote of the majority of the remaining  
632 directors, even if the remaining directors constitute less than  
633 a quorum, or by the sole remaining director. In the alternative,  
634 a board may hold an election to fill the vacancy, in which case  
635 the election procedures must conform to sub-subparagraph 4.a.  
636 unless the association governs 10 units or fewer and has opted  
637 out of the statutory election process, in which case the bylaws  
638 of the association control. Unless otherwise provided in the  
639 bylaws, a board member appointed or elected under this section  
640 shall fill the vacancy for the unexpired term of the seat being  
641 filled. Filling vacancies created by recall is governed by  
642 paragraph (j) and rules adopted by the division.

643 10. This chapter does not limit the use of general or  
644 limited proxies, require the use of general or limited proxies,  
645 or require the use of a written ballot or voting machine for any  
646 agenda item or election at any meeting of a timeshare  
647 condominium association or nonresidential condominium  
648 association.

649  
650 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an

651 association of 10 or fewer units may, by affirmative vote of a  
652 majority of the total voting interests, provide for different  
653 voting and election procedures in its bylaws, which may be by a  
654 proxy specifically delineating the different voting and election  
655 procedures. The different voting and election procedures may  
656 provide for elections to be conducted by limited or general  
657 proxy.

658 (i) Transfer fees.~~An association may not~~ no charge an  
659 applicant any fees, except the actual costs of any background  
660 check or screening performed shall be made by the association,  
661 ~~or any body thereof~~ in connection with the sale, mortgage,  
662 lease, sublease, or other transfer of a unit unless the  
663 association is required to approve such transfer and a fee for  
664 such approval is provided for in the declaration, articles, or  
665 bylaws. Except for the actual costs of any background check or  
666 screening performed by the association, any such fee may be  
667 preset, but may not ~~in no event may such fee~~ exceed \$100 per  
668 applicant other than a husband and wife or parent and dependent  
669 child ~~husband/wife or parent/dependent child~~, which are  
670 considered one applicant. However, if the lease or sublease is a  
671 renewal of a lease or sublease with the same lessee or  
672 sublessee, a charge may not ~~no charge shall~~ be made. The  
673 foregoing notwithstanding, an association may, if the authority  
674 to do so appears in the declaration, articles, or bylaws,  
675 require that a prospective lessee place a security deposit, in

676 an amount not to exceed the equivalent of 1 month's rent, into  
677 an escrow account maintained by the association. The security  
678 deposit shall protect against damages to the common elements or  
679 association property. Payment of interest, claims against the  
680 deposit, refunds, and disputes under this paragraph shall be  
681 handled in the same fashion as provided in part II of chapter  
682 83.

683 (j) Recall of board members.—Subject to s. 718.301, any  
684 member of the board of administration may be recalled and  
685 removed from office with or without cause by the vote or  
686 agreement in writing by a majority of all the voting interests.  
687 A special meeting of the unit owners to recall a member or  
688 members of the board of administration may be called by 10  
689 percent of the voting interests giving notice of the meeting as  
690 required for a meeting of unit owners, and the notice shall  
691 state the purpose of the meeting. Electronic transmission may  
692 not be used as a method of giving notice of a meeting called in  
693 whole or in part for this purpose.

694 1. If the recall is approved by a majority of all voting  
695 interests by a vote at a meeting, the recall will be effective  
696 as provided in this paragraph. The board shall duly notice and  
697 hold a board meeting within 5 full business days after the  
698 adjournment of the unit owner meeting to recall one or more  
699 board members. Such member or members shall be recalled  
700 effective immediately upon conclusion of the board meeting,

701 provided that the recall is facially valid. A recalled member  
702 must turn over to the board, within 10 full business days after  
703 the vote, any and all records and property of the association in  
704 his or her ~~their~~ possession.

705         2. If the proposed recall is by an agreement in writing by  
706 a majority of all voting interests, the agreement in writing or  
707 a copy thereof shall be served on the association by certified  
708 mail or by personal service in the manner authorized by chapter  
709 48 and the Florida Rules of Civil Procedure. The board of  
710 administration shall duly notice and hold a meeting of the board  
711 within 5 full business days after receipt of the agreement in  
712 writing. Such member or members shall be recalled effective  
713 immediately upon the conclusion of the board meeting, provided  
714 that the recall is facially valid. A recalled member must turn  
715 over to the board, within 10 full business days, any and all  
716 records and property of the association in his or her ~~their~~  
717 possession.

718         3. If the board fails to duly notice and hold a board  
719 meeting within 5 full business days after service of an  
720 agreement in writing or within 5 full business days after the  
721 adjournment of the unit owner recall meeting, the recall shall  
722 be deemed effective and the board members so recalled shall turn  
723 over to the board within 10 full business days after the vote  
724 any and all records and property of the association.

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

726 meeting or at the conclusion of the meeting determines that the  
727 recall is not facially valid, the unit owner representative may  
728 file an action ~~a petition~~ pursuant to s. 718.1255 challenging  
729 the board's failure to act or challenging the board's  
730 determination on facial validity. The action ~~petition~~ must be  
731 filed within 60 days after the expiration of the applicable 5-  
732 full-business-day period. The review of an action ~~a petition~~  
733 under this subparagraph is limited to the sufficiency of service  
734 on the board and the facial validity of the written agreement or  
735 ballots filed.

736 5. If a vacancy occurs on the board as a result of a  
737 recall or removal and less than a majority of the board members  
738 are removed, the vacancy may be filled by the affirmative vote  
739 of a majority of the remaining directors, notwithstanding any  
740 provision to the contrary contained in this subsection. If  
741 vacancies occur on the board as a result of a recall and a  
742 majority or more of the board members are removed, the vacancies  
743 shall be filled in accordance with the bylaws ~~procedural rules~~  
744 ~~to be adopted by the division, which rules need not be~~  
745 ~~consistent with this subsection. The rules must provide~~  
746 ~~procedures governing the conduct of the recall election as well~~  
747 ~~as the operation of the association during the period after a~~  
748 ~~recall but before the recall election.~~

749 6. A board member who has been recalled may file an action  
750 ~~a petition~~ pursuant to s. 718.1255 challenging the validity of

751 the recall. The action ~~petition~~ must be filed within 60 days  
752 after the recall. The association and the unit owner  
753 representative shall be named as the defendants ~~respondents~~. The  
754 action ~~petition~~ may challenge the facial validity of the written  
755 agreement or ballots filed or the substantial compliance with  
756 the procedural requirements for the recall. If the court  
757 ~~arbitrator~~ determines the recall was invalid, the plaintiff  
758 ~~petitioning board member~~ shall immediately be reinstated and the  
759 recall is null and void. A board member who is successful in  
760 challenging a recall is entitled to recover reasonable attorney  
761 fees and costs from the defendants ~~respondents~~. The court shall  
762 ~~arbitrator~~ may award reasonable attorney fees and costs to the  
763 defendants ~~respondents~~ if they prevail, if the court ~~arbitrator~~  
764 makes a finding that the plaintiff's ~~petitioner's~~ claim is  
765 frivolous.

766 7. An action may not be filed regarding ~~The division may~~  
767 ~~not accept for filing~~ a recall ~~petition~~, whether filed pursuant  
768 to subparagraph 1., subparagraph 2., subparagraph 4., or  
769 subparagraph 6., when there are 60 or fewer days until the  
770 scheduled reelection of the board member sought to be recalled  
771 or when 60 or fewer days have elapsed since the election of the  
772 board member sought to be recalled.

773 (k) Mediation Arbitration.—There shall be a provision for  
774 mandatory mediation ~~nonbinding arbitration~~ as provided for in s.  
775 718.1255 for any residential condominium.

776 ~~(p) Service providers; conflicts of interest. An~~  
777 ~~association, which is not a timeshare condominium association,~~  
778 ~~may not employ or contract with any service provider that is~~  
779 ~~owned or operated by a board member or with any person who has a~~  
780 ~~financial relationship with a board member or officer, or a~~  
781 ~~relative within the third degree of consanguinity by blood or~~  
782 ~~marriage of a board member or officer. This paragraph does not~~  
783 ~~apply to a service provider in which a board member or officer,~~  
784 ~~or a relative within the third degree of consanguinity by blood~~  
785 ~~or marriage of a board member or officer, owns less than 1~~  
786 ~~percent of the equity shares.~~

787 Section 6. Paragraphs (a) and (c) of subsection (8) of  
788 section 718.113, Florida Statutes, are amended to read:

789 718.113 Maintenance; limitation upon improvement; display  
790 of flag; hurricane shutters and protection; display of religious  
791 decorations.—

792 (8) The Legislature finds that the use of electric  
793 vehicles conserves and protects the state's environmental  
794 resources, provides significant economic savings to drivers, and  
795 serves an important public interest. The participation of  
796 condominium associations is essential to the state's efforts to  
797 conserve and protect the state's environmental resources and  
798 provide economic savings to drivers. Therefore, the installation  
799 of an electric vehicle charging station shall be governed as  
800 follows:



801 (a) A declaration of condominium or restrictive covenant  
 802 may not prohibit or be enforced so as to prohibit any unit owner  
 803 from installing an electric vehicle charging station within the  
 804 boundaries of the unit owner's limited common element or  
 805 exclusively designated parking area. The board of administration  
 806 of a condominium association may not prohibit a unit owner from  
 807 installing an electric vehicle charging station for an electric  
 808 vehicle, as defined in s. 320.01, within the boundaries of his  
 809 or her limited common element or exclusively designated parking  
 810 area. The installation of such charging stations are subject to  
 811 the provisions of this subsection.

812 (c) The electricity for the electric vehicle charging  
 813 station must be separately metered or must use an embedded meter  
 814 and be payable by the unit owner installing such charging  
 815 station.

816 Section 7. Subsection (16) of section 718.117, Florida  
 817 Statutes, is amended to read:

818 718.117 Termination of condominium.—

819 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest  
 820 a plan of termination by initiating a summary procedure pursuant  
 821 to s. 51.011 ~~petition for mandatory nonbinding arbitration~~  
 822 ~~pursuant to s. 718.1255~~ within 90 days after the date the plan  
 823 is recorded. A unit owner or lienor may only contest the  
 824 fairness and reasonableness of the apportionment of the proceeds  
 825 from the sale among the unit owners, that the liens of the first

826 mortgages of unit owners other than the bulk owner have not or  
827 will not be satisfied to the extent required by subsection (3),  
828 or that the required vote to approve the plan was not obtained.  
829 A unit owner or lienor who does not contest the plan within the  
830 90-day period is barred from asserting or prosecuting a claim  
831 against the association, the termination trustee, any unit  
832 owner, or any successor in interest to the condominium property.  
833 In an action contesting a plan of termination, the person  
834 contesting the plan has the burden of pleading and proving that  
835 the apportionment of the proceeds from the sale among the unit  
836 owners was not fair and reasonable or that the required vote was  
837 not obtained. The apportionment of sale proceeds is presumed  
838 fair and reasonable if it was determined pursuant to the methods  
839 prescribed in subsection (12). The court ~~arbitrator~~ shall  
840 determine the rights and interests of the parties in the  
841 apportionment of the sale proceeds. If the court ~~arbitrator~~  
842 determines that the apportionment of sales proceeds is not fair  
843 and reasonable, the court ~~arbitrator~~ may void the plan or may  
844 modify the plan to apportion the proceeds in a fair and  
845 reasonable manner pursuant to this section based upon the  
846 proceedings and order the modified plan of termination to be  
847 implemented. If the court ~~arbitrator~~ determines that the plan  
848 was not properly approved, or that the procedures to adopt the  
849 plan were not properly followed, the court ~~arbitrator~~ may void  
850 the plan or grant other relief it deems just and proper. The

851 bulk owner is liable for any damages, as determined by the  
 852 court, ~~The arbitrator shall automatically void the plan upon a~~  
 853 finding that any of the disclosures required in subparagraph  
 854 (3)(c)5. are omitted, misleading, incomplete, or inaccurate. Any  
 855 challenge to a plan, other than a challenge that the required  
 856 vote was not obtained, does not affect title to the condominium  
 857 property or the vesting of the condominium property in the  
 858 trustee, but shall only be a claim against the proceeds of the  
 859 plan. In any such action, the prevailing party shall recover  
 860 reasonable attorney fees and costs.

861 Section 8. Section 718.1255, Florida Statutes, is amended  
 862 to read:

863 718.1255 Alternative dispute resolution; mandatory  
 864 ~~voluntary~~ mediation; ~~mandatory nonbinding arbitration;~~  
 865 legislative findings.—

866 (1) DEFINITIONS.—As used in this section, the term  
 867 "dispute" means any disagreement between two or more parties  
 868 that involves:

869 (a) The authority of the board of directors, under this  
 870 chapter or association document to:

871 1. Require any owner to take any action, or not to take  
 872 any action, involving that owner's unit or the appurtenances  
 873 thereto.

874 2. Alter or add to a common area or element.

875 (b) The failure of a governing body, when required by this

876 chapter or an association document, to:

877 1. Maintain common elements, association property, or  
 878 portions of the unit for which the association is responsible

879 ~~Properly conduct elections.~~

880 2. Give adequate notice of meetings or other actions.

881 3. Properly conduct meetings of the board and committees  
 882 appointed by the board and membership meetings. This

883 subparagraph does not apply to elections held at a meeting.

884 4. Allow inspection of books and records.

885 ~~(c) A plan of termination pursuant to s. 718.117.~~

886  
 887 "Dispute" does not include any disagreement that primarily  
 888 involves: title to any unit or common element; the  
 889 interpretation or enforcement of any warranty; the levy of a fee  
 890 or assessment, or the collection of an assessment levied against  
 891 a party; the eviction or other removal of a tenant from a unit;  
 892 alleged breaches of fiduciary duty by one or more directors; or  
 893 claims for damages to a unit based upon the alleged failure of  
 894 the association to maintain the common elements or condominium  
 895 property.

896 ~~(2) VOLUNTARY MEDIATION. Voluntary mediation through~~  
 897 ~~Citizen Dispute Settlement Centers as provided for in s. 44.201~~  
 898 ~~is encouraged.~~

899 ~~(2)-(3) LEGISLATIVE FINDINGS.-~~

900 ~~(a)~~ The Legislature finds that alternative dispute

901 resolution reduces court dockets and trials and offers a more  
902 efficient, cost-effective option to litigation. However, the  
903 Legislature also finds that alternative dispute resolution  
904 should not be used as a mechanism to encourage the filing of  
905 frivolous or nuisance actions. Upon serving a demand for presuit  
906 mediation as provided for in this section, the applicable  
907 statute of limitations is tolled until 30 days after mediation  
908 is completed and no agreement has been made, 10 days after the  
909 date by which a party must accept presuit mediation, or until  
910 the conclusion of the period of time during which a mediation  
911 must be conducted under this section ~~unit owners are frequently~~  
912 ~~at a disadvantage when litigating against an association.~~  
913 ~~Specifically, a condominium association, with its statutory~~  
914 ~~assessment authority, is often more able to bear the costs and~~  
915 ~~expenses of litigation than the unit owner who must rely on his~~  
916 ~~or her own financial resources to satisfy the costs of~~  
917 ~~litigation against the association.~~

918 ~~(b) The Legislature finds that alternative dispute~~  
919 ~~resolution has been making progress in reducing court dockets~~  
920 ~~and trials and in offering a more efficient, cost-effective~~  
921 ~~option to court litigation. However, the Legislature also finds~~  
922 ~~that alternative dispute resolution should not be used as a~~  
923 ~~mechanism to encourage the filing of frivolous or nuisance~~  
924 ~~suits.~~

925 ~~(c) There exists a need to develop a flexible means of~~

926 ~~alternative dispute resolution that directs disputes to the most~~  
927 ~~efficient means of resolution.~~

928 ~~(d) The high cost and significant delay of circuit court~~  
929 ~~litigation faced by unit owners in the state can be alleviated~~  
930 ~~by requiring nonbinding arbitration and mediation in appropriate~~  
931 ~~cases, thereby reducing delay and attorney's fees while~~  
932 ~~preserving the right of either party to have its case heard by a~~  
933 ~~jury, if applicable, in a court of law.~~

934 ~~(3)-(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF~~  
935 ~~DISPUTES.—~~

936 (a)1. Before an action may be filed in court, all  
937 disputes, except for disputes relating to the collection of any  
938 assessment, fine, or other financial obligation, including  
939 attorney fees and costs, between an association and a unit owner  
940 must be mediated pursuant to this subsection. An association or  
941 unit owner may file an action in court without presuit mediation  
942 to enforce a prior mediation settlement agreement between the  
943 parties or request injunctive relief. However, the court hearing  
944 the action for injunctive relief must refer the parties to a  
945 mediation program administered by the courts or mediation under  
946 this subsection after the injunctive relief issues are  
947 determined. Presuit mediation proceedings must be conducted in  
948 accordance with the applicable rules of the Florida Rules of  
949 Civil Procedure and chapter 44. The proceedings under this  
950 subsection are privileged and confidential to the same extent as

951 court-ordered mediation. Except for each party's counsel, a  
 952 corporate representative designated by the association, and a  
 953 representative from the association's insurance carrier, if  
 954 applicable, a person who is not a party to the dispute may not  
 955 attend the presuit mediation without the consent of all the  
 956 parties. If the presuit mediation is attended by a quorum of the  
 957 board, the mediation is not considered a board meeting for  
 958 purposes of notice and participation as required in s. 718.112.  
 959 An aggrieved party shall serve a written demand to participate  
 960 in presuit mediation on the responding party in substantially  
 961 the following form:

962  
 963 STATUTORY OFFER TO PARTICIPATE  
 964 IN PRESUIT MEDIATION  
 965

966 The alleged aggrieved party, ....., hereby demands  
 967 that ....., as the responding party, engage in  
 968 mandatory presuit mediation in connection with the following  
 969 disputes, which are statutorily subject to presuit mediation:

970  
 971 (List each dispute to be mediated and the basis for the  
 972 violation.)

973  
 974 Under section 718.1255, Florida Statutes, this demand to resolve  
 975 the dispute through presuit mediation is required before a

976 lawsuit can be filed concerning the dispute. The parties are  
977 required to engage in presuit mediation with a neutral third-  
978 party mediator in order to attempt to resolve this dispute  
979 without court action, and the aggrieved party demands that you  
980 likewise agree to this process. If you fail to participate in  
981 the presuit mediation process, an action may be brought against  
982 you without further warning.

983  
984 Presuit mediation involves a supervised negotiation process in  
985 which a trained, neutral third-party mediator meets with both  
986 parties and assists them in exploring possible opportunities for  
987 resolving part or all of the dispute. By agreeing to participate  
988 in presuit mediation, you are not bound in any way to change  
989 your position. Furthermore, the mediator has no authority to  
990 make any decisions in this matter or to determine who is right  
991 or wrong; he or she merely acts as a facilitator to ensure that  
992 each party understands the position of the other party and that  
993 all options for reasonable settlement are fully explored.

994  
995 If an agreement is reached, it must be reduced to writing and  
996 signed, at which time the agreement becomes a binding and  
997 enforceable contract between the parties. A resolution of one or  
998 more disputes in this fashion avoids the need to litigate those  
999 issues in court. The failure of a party to participate in the  
1000 process or the failure of the parties to reach an agreement



1001 during the mediation process results in the aggrieved party  
1002 being able to proceed to court on all outstanding and unsettled  
1003 disputes. If you fail or refuse to participate in the presuit  
1004 mediation process, you will not be entitled to recover your  
1005 attorney fees, even if you prevail during the court process.

1006  
1007 The aggrieved party has selected and hereby lists five circuit  
1008 court civil mediators certified by the Florida Supreme Court who  
1009 the aggrieved party believes to be neutral and qualified to  
1010 mediate the dispute. You have the right to select any one of  
1011 these mediators. The fact that one party may be familiar with  
1012 one or more of the listed mediators does not mean that the  
1013 mediator cannot act as a neutral and impartial facilitator. Any  
1014 mediator who cannot act in this capacity is required ethically  
1015 to decline to accept the engagement. The mediators that we  
1016 suggest, and their current hourly rates, are as follows:

1017  
1018 (List the names, physical addresses, e-mail addresses, telephone  
1019 numbers, and hourly rates of the mediators. Other pertinent  
1020 information about the backgrounds of the mediators may be  
1021 included as an attachment, including whether the mediator is  
1022 board certified by The Florida Bar in any practice area.)

1023  
1024 By mutual agreement, and before accepting presuit mediation, we  
1025 can also select mediators other than the Supreme Court-certified

1026 circuit court civil mediators named above as alternates to the  
1027 above-named mediators. The alternate mediators are not required  
1028 to be Supreme Court-certified circuit court civil mediators. The  
1029 alternate mediators that we suggest, and their hourly rates, are  
1030 as follows:

1031  
1032 (List the names, physical addresses, e-mail addresses, telephone  
1033 numbers, and hourly rates of the alternate mediators. Other  
1034 pertinent information about the backgrounds of the alternate  
1035 mediators may be included as an attachment.)

1036  
1037 You may contact the offices of these mediators to confirm that  
1038 the listed mediators will be neutral and will not show any  
1039 favoritism toward either party. The Florida Supreme Court can  
1040 provide you a list of mediators who are certified in the area of  
1041 circuit civil law.

1042  
1043 Unless otherwise agreed to by the parties, section  
1044 718.1255(3)(d), Florida Statutes, requires that the parties  
1045 share equally the costs of presuit mediation, including the fee  
1046 charged by the mediator. A typical presuit mediation may require  
1047 3 to 4 hours of the mediator's time, including preparation time.  
1048 Parties who choose to hire an attorney will pay their own  
1049 attorney fees without a guarantee that the court will issue an  
1050 award for reimbursement of the fees. However, the use of an

1051 attorney is not required. The mediator may require an advance  
1052 payment for some or all of the anticipated fees. The aggrieved  
1053 party hereby agrees to pay, or prepay if requested by the  
1054 mediator, one-half of the mediator's estimated fees and to  
1055 forward this amount or such other reasonable advance deposits as  
1056 the mediator requires. Any funds you deposit will be returned to  
1057 you if the deposited funds are in excess of your share of the  
1058 fees incurred.

1059  
1060 To begin your participation in presuit mediation to try to  
1061 resolve the dispute and avoid further legal action, please sign  
1062 below and clearly indicate which mediator is acceptable to you.  
1063 We will then ask the mediator to schedule a mutually convenient  
1064 time and place for the presuit mediation conference to be held.  
1065 The presuit mediation conference must be held within 90 days  
1066 after the date of acceptance of presuit mediation, unless  
1067 extended by mutual written agreement. In the event that you fail  
1068 to respond within 30 days after the date of this letter, or if  
1069 you fail to agree to at least one of the mediators that we have  
1070 suggested or fail to pay or prepay to the mediator one-half of  
1071 the fees involved, the aggrieved party is authorized to proceed  
1072 with the filing of a lawsuit against you without further notice  
1073 and may then seek an award of attorney fees or costs incurred in  
1074 attempting to mediate this dispute.

1075

1076 Therefore, please give this matter your immediate attention. By  
1077 law, your response must be mailed by certified mail, return  
1078 receipt requested, and by first-class mail to the address shown  
1079 on this demand.

1080  
1081 .....  
1082 .....

1083  
1084 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO  
1085 THAT CHOICE.

1086  
1087 AGREEMENT TO MEDIATE

1088  
1089 The undersigned agrees to participate in presuit mediation and  
1090 agrees to attend a mediation conducted by the following mediator  
1091 or mediators who are listed above as individuals who would be  
1092 acceptable to mediate this dispute:

1093  
1094 (List acceptable mediator or mediators.)

1095  
1096 I/we further agree to pay or prepay one-half of the mediator's  
1097 fees and to forward such advance deposits as the mediator may  
1098 require for this purpose.

1099  
1100 .....

1101 Signature of responding party #1  
 1102  
 1103 .....  
 1104 Telephone number  
 1105  
 1106 .....  
 1107 Signature and telephone number of responding party #2, if  
 1108 applicable. (If property is owned by more than one person, all  
 1109 owners must sign.)

1111 2. The statutory demand must also contain the following  
 1112 statement in capitalized, bold letters in a font size larger  
 1113 than any other used in the statutory demand: A PERSON WHO FAILS  
 1114 OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION  
 1115 PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN  
 1116 SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

1117 (b) Service of the statutory demand to participate in  
 1118 presuit mediation shall be effected by sending a letter in  
 1119 substantially the above form by certified mail, return receipt  
 1120 requested, with an additional copy being sent by first-class  
 1121 mail, to the address of the responding party as it last appears  
 1122 on the books and records of the association. The responding  
 1123 party shall serve a written response to the aggrieved party  
 1124 within 30 days after the date of the mailing of the statutory  
 1125 demand. The response must be sent by certified mail, return

1126 receipt requested, with an additional copy being sent by first-  
1127 class mail, to the address shown on the statutory demand.

1128 (c) Once the parties have selected a mediator, the  
1129 mediator shall schedule the presuit mediation for a date and  
1130 time mutually convenient to the parties. Each proposed mediator  
1131 must be available to hold the presuit mediation in the county in  
1132 which the condominium is located or within 40 miles of the  
1133 condominium without charging extra for travel-related costs. If  
1134 a presuit mediation session cannot be scheduled and concluded  
1135 within 90 days after the date of acceptance of presuit mediation  
1136 and there is no agreement between the parties to extend the 90-  
1137 day deadline, the aggrieved party may file an action in court.

1138 (d) The parties shall share equally the costs of presuit  
1139 mediation, including any fee charged by the mediator, unless the  
1140 parties agree otherwise. The mediator may require advance  
1141 payment of his or her reasonable fees and costs, which must also  
1142 be shared equally. The failure of any party to respond to a  
1143 demand or response, to agree upon a mediator, to pay fees and  
1144 costs within the time established by the mediator, or to fail to  
1145 appear for a scheduled presuit mediation session without the  
1146 approval of the mediator constitutes the failure or refusal to  
1147 participate in the presuit mediation process, entitling the  
1148 other party to proceed in court and to seek an award of the  
1149 costs and fees associated with the presuit mediation.

1150 Additionally, and notwithstanding any other law, document, or

1151 contractual provision, any person who fails or refuses to  
1152 participate in the entire presuit mediation process may not  
1153 recover attorney fees and costs in subsequent litigation  
1154 relating to the dispute.

1155 (e) If presuit mediation as described in paragraph (a) is  
1156 not successful in resolving all issues between the parties, any  
1157 party may file suit regarding the unresolved dispute in a court  
1158 of competent jurisdiction. As to any issue or dispute that is  
1159 not resolved at presuit mediation, and as to any issue or  
1160 dispute that is settled at presuit mediation but is later  
1161 subject to an action seeking enforcement of the mediation  
1162 settlement, the prevailing party in any subsequent litigation or  
1163 proceeding is entitled to an award of all costs and attorney  
1164 fees incurred in the presuit mediation process.

1165 (f) The parties may agree to a mediator who is not  
1166 certified by the Florida Supreme Court. Unless such mediator is  
1167 agreed upon, a mediator may not conduct presuit mediation under  
1168 this section unless he or she has been certified as a circuit  
1169 court civil mediator pursuant to the requirements established by  
1170 the Florida Supreme Court. Settlement agreements resulting from  
1171 presuit mediation do not have precedential value in proceedings  
1172 involving parties other than those participating in the presuit  
1173 mediation to support a claim or defense in other disputes. The  
1174 Division of Florida Condominiums, Timeshares, and Mobile Homes  
1175 of the Department of Business and Professional Regulation may

1176 ~~employ full-time attorneys to act as arbitrators to conduct the~~  
1177 ~~arbitration hearings provided by this chapter. The division may~~  
1178 ~~also certify attorneys who are not employed by the division to~~  
1179 ~~act as arbitrators to conduct the arbitration hearings provided~~  
1180 ~~by this chapter. No person may be employed by the department as~~  
1181 ~~a full-time arbitrator unless he or she is a member in good~~  
1182 ~~standing of The Florida Bar. A person may only be certified by~~  
1183 ~~the division to act as an arbitrator if he or she has been a~~  
1184 ~~member in good standing of The Florida Bar for at least 5 years~~  
1185 ~~and has mediated or arbitrated at least 10 disputes involving~~  
1186 ~~condominiums in this state during the 3 years immediately~~  
1187 ~~preceding the date of application, mediated or arbitrated at~~  
1188 ~~least 30 disputes in any subject area in this state during the 3~~  
1189 ~~years immediately preceding the date of application, or attained~~  
1190 ~~board certification in real estate law or condominium and~~  
1191 ~~planned development law from The Florida Bar. Arbitrator~~  
1192 ~~certification is valid for 1 year. An arbitrator who does not~~  
1193 ~~maintain the minimum qualifications for initial certification~~  
1194 ~~may not have his or her certification renewed. The department~~  
1195 ~~may not enter into a legal services contract for an arbitration~~  
1196 ~~hearing under this chapter with an attorney who is not a~~  
1197 ~~certified arbitrator unless a certified arbitrator is not~~  
1198 ~~available within 50 miles of the dispute. The department shall~~  
1199 ~~adopt rules of procedure to govern such arbitration hearings~~  
1200 ~~including mediation incident thereto. The decision of an~~



1201 ~~arbitrator shall be final; however, a decision shall not be~~  
1202 ~~deemed final agency action. Nothing in this provision shall be~~  
1203 ~~construed to foreclose parties from proceeding in a trial de~~  
1204 ~~novo unless the parties have agreed that the arbitration is~~  
1205 ~~binding. If judicial proceedings are initiated, the final~~  
1206 ~~decision of the arbitrator shall be admissible in evidence in~~  
1207 ~~the trial de novo.~~

1208 ~~(a) Prior to the institution of court litigation, a party~~  
1209 ~~to a dispute shall petition the division for nonbinding~~  
1210 ~~arbitration. The petition must be accompanied by a filing fee in~~  
1211 ~~the amount of \$50. Filing fees collected under this section must~~  
1212 ~~be used to defray the expenses of the alternative dispute~~  
1213 ~~resolution program.~~

1214 ~~(b) The petition must recite, and have attached thereto,~~  
1215 ~~supporting proof that the petitioner gave the respondents:~~

1216 ~~1. Advance written notice of the specific nature of the~~  
1217 ~~dispute;~~

1218 ~~2. A demand for relief, and a reasonable opportunity to~~  
1219 ~~comply or to provide the relief; and~~

1220 ~~3. Notice of the intention to file an arbitration petition~~  
1221 ~~or other legal action in the absence of a resolution of the~~  
1222 ~~dispute.~~

1223  
1224 ~~Failure to include the allegations or proof of compliance with~~  
1225 ~~these prerequisites requires dismissal of the petition without~~

1226 ~~prejudice.~~

1227 ~~(c) Upon receipt, the petition shall be promptly reviewed~~  
1228 ~~by the division to determine the existence of a dispute and~~  
1229 ~~compliance with the requirements of paragraphs (a) and (b). If~~  
1230 ~~emergency relief is required and is not available through~~  
1231 ~~arbitration, a motion to stay the arbitration may be filed. The~~  
1232 ~~motion must be accompanied by a verified petition alleging facts~~  
1233 ~~that, if proven, would support entry of a temporary injunction,~~  
1234 ~~and if an appropriate motion and supporting papers are filed,~~  
1235 ~~the division may abate the arbitration pending a court hearing~~  
1236 ~~and disposition of a motion for temporary injunction.~~

1237 ~~(d) Upon determination by the division that a dispute~~  
1238 ~~exists and that the petition substantially meets the~~  
1239 ~~requirements of paragraphs (a) and (b) and any other applicable~~  
1240 ~~rules, the division shall assign or enter into a contract with~~  
1241 ~~an arbitrator and serve a copy of the petition upon all~~  
1242 ~~respondents. The arbitrator shall conduct a hearing within 30~~  
1243 ~~days after being assigned or entering into a contract unless the~~  
1244 ~~petition is withdrawn or a continuance is granted for good cause~~  
1245 ~~shown.~~

1246 ~~(e) Before or after the filing of the respondents' answer~~  
1247 ~~to the petition, any party may request that the arbitrator refer~~  
1248 ~~the case to mediation under this section and any rules adopted~~  
1249 ~~by the division. Upon receipt of a request for mediation, the~~  
1250 ~~division shall promptly contact the parties to determine if~~

1251 ~~there is agreement that mediation would be appropriate. If all~~  
1252 ~~parties agree, the dispute must be referred to mediation.~~  
1253 ~~Notwithstanding a lack of an agreement by all parties, the~~  
1254 ~~arbitrator may refer a dispute to mediation at any time.~~

1255 ~~(f) Upon referral of a case to mediation, the parties must~~  
1256 ~~select a mutually acceptable mediator. To assist in the~~  
1257 ~~selection, the arbitrator shall provide the parties with a list~~  
1258 ~~of both volunteer and paid mediators that have been certified by~~  
1259 ~~the division under s. 718.501. If the parties are unable to~~  
1260 ~~agree on a mediator within the time allowed by the arbitrator,~~  
1261 ~~the arbitrator shall appoint a mediator from the list of~~  
1262 ~~certified mediators. If a case is referred to mediation, the~~  
1263 ~~parties shall attend a mediation conference, as scheduled by the~~  
1264 ~~parties and the mediator. If any party fails to attend a duly~~  
1265 ~~noticed mediation conference, without the permission or approval~~  
1266 ~~of the arbitrator or mediator, the arbitrator must impose~~  
1267 ~~sanctions against the party, including the striking of any~~  
1268 ~~pleadings filed, the entry of an order of dismissal or default~~  
1269 ~~if appropriate, and the award of costs and attorney fees~~  
1270 ~~incurred by the other parties. Unless otherwise agreed to by the~~  
1271 ~~parties or as provided by order of the arbitrator, a party is~~  
1272 ~~deemed to have appeared at a mediation conference by the~~  
1273 ~~physical presence of the party or its representative having full~~  
1274 ~~authority to settle without further consultation, provided that~~  
1275 ~~an association may comply by having one or more representatives~~

1276 ~~present with full authority to negotiate a settlement and~~  
1277 ~~recommend that the board of administration ratify and approve~~  
1278 ~~such a settlement within 5 days from the date of the mediation~~  
1279 ~~conference. The parties shall share equally the expense of~~  
1280 ~~mediation, unless they agree otherwise.~~

1281 ~~(g) The purpose of mediation as provided for by this~~  
1282 ~~section is to present the parties with an opportunity to resolve~~  
1283 ~~the underlying dispute in good faith, and with a minimum~~  
1284 ~~expenditure of time and resources.~~

1285 ~~(h) Mediation proceedings must generally be conducted in~~  
1286 ~~accordance with the Florida Rules of Civil Procedure, and these~~  
1287 ~~proceedings are privileged and confidential to the same extent~~  
1288 ~~as court-ordered mediation. Persons who are not parties to the~~  
1289 ~~dispute are not allowed to attend the mediation conference~~  
1290 ~~without the consent of all parties, with the exception of~~  
1291 ~~counsel for the parties and corporate representatives designated~~  
1292 ~~to appear for a party. If the mediator declares an impasse after~~  
1293 ~~a mediation conference has been held, the arbitration proceeding~~  
1294 ~~terminates, unless all parties agree in writing to continue the~~  
1295 ~~arbitration proceeding, in which case the arbitrator's decision~~  
1296 ~~shall be binding or nonbinding, as agreed upon by the parties;~~  
1297 ~~in the arbitration proceeding, the arbitrator shall not consider~~  
1298 ~~any evidence relating to the unsuccessful mediation except in a~~  
1299 ~~proceeding to impose sanctions for failure to appear at the~~  
1300 ~~mediation conference. If the parties do not agree to continue~~

1301 ~~arbitration, the arbitrator shall enter an order of dismissal,~~  
1302 ~~and either party may institute a suit in a court of competent~~  
1303 ~~jurisdiction. The parties may seek to recover any costs and~~  
1304 ~~attorney fees incurred in connection with arbitration and~~  
1305 ~~mediation proceedings under this section as part of the costs~~  
1306 ~~and fees that may be recovered by the prevailing party in any~~  
1307 ~~subsequent litigation.~~

1308 ~~(i) Arbitration shall be conducted according to rules~~  
1309 ~~adopted by the division. The filing of a petition for~~  
1310 ~~arbitration shall toll the applicable statute of limitations.~~

1311 ~~(j) At the request of any party to the arbitration, the~~  
1312 ~~arbitrator shall issue subpoenas for the attendance of witnesses~~  
1313 ~~and the production of books, records, documents, and other~~  
1314 ~~evidence and any party on whose behalf a subpoena is issued may~~  
1315 ~~apply to the court for orders compelling such attendance and~~  
1316 ~~production. Subpoenas shall be served and shall be enforceable~~  
1317 ~~in the manner provided by the Florida Rules of Civil Procedure.~~  
1318 ~~Discovery may, in the discretion of the arbitrator, be permitted~~  
1319 ~~in the manner provided by the Florida Rules of Civil Procedure.~~  
1320 ~~Rules adopted by the division may authorize any reasonable~~  
1321 ~~sanctions except contempt for a violation of the arbitration~~  
1322 ~~procedural rules of the division or for the failure of a party~~  
1323 ~~to comply with a reasonable nonfinal order issued by an~~  
1324 ~~arbitrator which is not under judicial review.~~

1325 ~~(k) The arbitration decision shall be rendered within 30~~

1326 ~~days after the hearing and presented to the parties in writing.~~  
1327 ~~An arbitration decision is final in those disputes in which the~~  
1328 ~~parties have agreed to be bound. An arbitration decision is also~~  
1329 ~~final if a complaint for a trial de novo is not filed in a court~~  
1330 ~~of competent jurisdiction in which the condominium is located~~  
1331 ~~within 30 days. The right to file for a trial de novo entitles~~  
1332 ~~the parties to file a complaint in the appropriate trial court~~  
1333 ~~for a judicial resolution of the dispute. The prevailing party~~  
1334 ~~in an arbitration proceeding shall be awarded the costs of the~~  
1335 ~~arbitration and reasonable attorney fees in an amount determined~~  
1336 ~~by the arbitrator. Such an award shall include the costs and~~  
1337 ~~reasonable attorney fees incurred in the arbitration proceeding~~  
1338 ~~as well as the costs and reasonable attorney fees incurred in~~  
1339 ~~preparing for and attending any scheduled mediation. An~~  
1340 ~~arbitrator's failure to render a written decision within 30 days~~  
1341 ~~after the hearing may result in the cancellation of his or her~~  
1342 ~~arbitration certification.~~

1343 ~~(1) The party who files a complaint for a trial de novo~~  
1344 ~~shall be assessed the other party's arbitration costs, court~~  
1345 ~~costs, and other reasonable costs, including attorney fees,~~  
1346 ~~investigation expenses, and expenses for expert or other~~  
1347 ~~testimony or evidence incurred after the arbitration hearing if~~  
1348 ~~the judgment upon the trial de novo is not more favorable than~~  
1349 ~~the arbitration decision. If the judgment is more favorable, the~~  
1350 ~~party who filed a complaint for trial de novo shall be awarded~~

1351 ~~reasonable court costs and attorney fees.~~

1352 ~~(m) Any party to an arbitration proceeding may enforce an~~  
1353 ~~arbitration award by filing a petition in a court of competent~~  
1354 ~~jurisdiction in which the condominium is located. A petition may~~  
1355 ~~not be granted unless the time for appeal by the filing of a~~  
1356 ~~complaint for trial de novo has expired. If a complaint for a~~  
1357 ~~trial de novo has been filed, a petition may not be granted with~~  
1358 ~~respect to an arbitration award that has been stayed. If the~~  
1359 ~~petition for enforcement is granted, the petitioner shall~~  
1360 ~~recover reasonable attorney fees and costs incurred in enforcing~~  
1361 ~~the arbitration award. A mediation settlement may also be~~  
1362 ~~enforced through the county or circuit court, as applicable, and~~  
1363 ~~any costs and fees incurred in the enforcement of a settlement~~  
1364 ~~agreement reached at mediation must be awarded to the prevailing~~  
1365 ~~party in any enforcement action.~~

1366 ~~(5) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every~~  
1367 ~~arbitration petition received by the division and required to be~~  
1368 ~~filed under this section challenging the legality of the~~  
1369 ~~election of any director of the board of administration must be~~  
1370 ~~handled on an expedited basis in the manner provided by the~~  
1371 ~~division's rules for recall arbitration disputes.~~

1372 (4) ~~(6)~~ APPLICABILITY.—This section does not apply to a  
1373 nonresidential condominium unless otherwise specifically  
1374 provided for in the declaration of the nonresidential  
1375 condominium.

1376 Section 9. Paragraph (b) of subsection (3) of section  
1377 718.303, Florida Statutes, is amended to read:

1378 718.303 Obligations of owners and occupants; remedies.—

1379 (3) The association may levy reasonable fines for the  
1380 failure of the owner of the unit or its occupant, licensee, or  
1381 invitee to comply with any provision of the declaration, the  
1382 association bylaws, or reasonable rules of the association. A  
1383 fine may not become a lien against a unit. A fine may be levied  
1384 by the board on the basis of each day of a continuing violation,  
1385 with a single notice and opportunity for hearing before a  
1386 committee as provided in paragraph (b). However, the fine may  
1387 not exceed \$100 per violation, or \$1,000 in the aggregate.

1388 (b) A fine or suspension levied by the board of  
1389 administration may not be imposed unless the board first  
1390 provides at least 14 days' written notice to the unit owner and,  
1391 if applicable, any occupant, licensee, or invitee of the unit  
1392 owner sought to be fined or suspended, and an opportunity for a  
1393 hearing before a committee of at least three members appointed  
1394 by the board who are not officers, directors, or employees of  
1395 the association, or the spouse, parent, child, brother, or  
1396 sister of an officer, director, or employee. The role of the  
1397 committee is limited to determining whether to confirm or reject  
1398 the fine or suspension levied by the board. If the committee  
1399 does not approve the proposed fine or suspension by majority  
1400 vote, the fine or suspension may not be imposed. If the proposed



1401 fine or suspension is approved by the committee, the fine  
1402 payment is due 5 days after notice of the approved fine is  
1403 provided to the unit owner and, if applicable, to any tenant,  
1404 licensee, or invitee of the unit owner ~~the date of the committee~~  
1405 ~~meeting at which the fine is approved.~~ The association must  
1406 provide written notice of such fine or suspension by mail or  
1407 hand delivery to the unit owner and, if applicable, to any  
1408 tenant, licensee, or invitee of the unit owner.

1409 Section 10. Paragraphs (m) through (s) of subsection (1)  
1410 of section 718.501, Florida Statutes, are redesignated as  
1411 paragraphs (l) through (r), respectively, and present paragraphs  
1412 (d), (l), and (s) of that subsection are amended to read:

1413 718.501 Authority, responsibility, and duties of Division  
1414 of Florida Condominiums, Timeshares, and Mobile Homes.—

1415 (1) The division may enforce and ensure compliance with  
1416 the provisions of this chapter and rules relating to the  
1417 development, construction, sale, lease, ownership, operation,  
1418 and management of residential condominium units. In performing  
1419 its duties, the division has complete jurisdiction to  
1420 investigate complaints and enforce compliance with respect to  
1421 associations that are still under developer control or the  
1422 control of a bulk assignee or bulk buyer pursuant to part VII of  
1423 this chapter and complaints against developers, bulk assignees,  
1424 or bulk buyers involving improper turnover or failure to  
1425 turnover, pursuant to s. 718.301. However, after turnover has

1426 | occurred, the division has jurisdiction to investigate  
1427 | complaints related only to financial issues, elections, and unit  
1428 | owner access to association records pursuant to s. 718.111(12).

1429 |       (d) Notwithstanding any remedies available to unit owners  
1430 | and associations, if the division has reasonable cause to  
1431 | believe that a violation of any provision of this chapter or  
1432 | related rule has occurred, the division may institute  
1433 | enforcement proceedings in its own name against any developer,  
1434 | bulk assignee, bulk buyer, association, officer, or member of  
1435 | the board of administration, or its assignees or agents, as  
1436 | follows:

1437 |       1. The division may permit a person whose conduct or  
1438 | actions may be under investigation to waive formal proceedings  
1439 | and enter into a consent proceeding whereby orders, rules, or  
1440 | letters of censure or warning, whether formal or informal, may  
1441 | be entered against the person.

1442 |       2. The division may issue an order requiring the  
1443 | developer, bulk assignee, bulk buyer, association, developer-  
1444 | designated officer, or developer-designated member of the board  
1445 | of administration, developer-designated assignees or agents,  
1446 | bulk assignee-designated assignees or agents, bulk buyer-  
1447 | designated assignees or agents, community association manager,  
1448 | or community association management firm to cease and desist  
1449 | from the unlawful practice and take such affirmative action as  
1450 | in the judgment of the division carry out the purposes of this

1451 chapter. If the division finds that a developer, bulk assignee,  
1452 bulk buyer, association, officer, or member of the board of  
1453 administration, or its assignees or agents, is violating or is  
1454 about to violate any provision of this chapter, any rule adopted  
1455 or order issued by the division, or any written agreement  
1456 entered into with the division, and presents an immediate danger  
1457 to the public requiring an immediate final order, it may issue  
1458 an emergency cease and desist order reciting with particularity  
1459 the facts underlying such findings. The emergency cease and  
1460 desist order is effective for 90 days. If the division begins  
1461 nonemergency cease and desist proceedings, the emergency cease  
1462 and desist order remains effective until the conclusion of the  
1463 proceedings under ss. 120.569 and 120.57.

1464 3. If a developer, bulk assignee, or bulk buyer, fails to  
1465 pay any restitution determined by the division to be owed, plus  
1466 any accrued interest at the highest rate permitted by law,  
1467 within 30 days after expiration of any appellate time period of  
1468 a final order requiring payment of restitution or the conclusion  
1469 of any appeal thereof, whichever is later, the division must  
1470 bring an action in circuit or county court on behalf of any  
1471 association, class of unit owners, lessees, or purchasers for  
1472 restitution, declaratory relief, injunctive relief, or any other  
1473 available remedy. The division may also temporarily revoke its  
1474 acceptance of the filing for the developer to which the  
1475 restitution relates until payment of restitution is made.

1476           4. The division may petition the court for appointment of  
1477 a receiver or conservator. If appointed, the receiver or  
1478 conservator may take action to implement the court order to  
1479 ensure the performance of the order and to remedy any breach  
1480 thereof. In addition to all other means provided by law for the  
1481 enforcement of an injunction or temporary restraining order, the  
1482 circuit court may impound or sequester the property of a party  
1483 defendant, including books, papers, documents, and related  
1484 records, and allow the examination and use of the property by  
1485 the division and a court-appointed receiver or conservator.

1486           5. The division may apply to the circuit court for an  
1487 order of restitution whereby the defendant in an action brought  
1488 pursuant to subparagraph 4. is ordered to make restitution of  
1489 those sums shown by the division to have been obtained by the  
1490 defendant in violation of this chapter. At the option of the  
1491 court, such restitution is payable to the conservator or  
1492 receiver appointed pursuant to subparagraph 4. or directly to  
1493 the persons whose funds or assets were obtained in violation of  
1494 this chapter.

1495           6. The division may impose a civil penalty against a  
1496 developer, bulk assignee, or bulk buyer, or association, or its  
1497 assignee or agent, for any violation of this chapter or related  
1498 rule. The division may impose a civil penalty individually  
1499 against an officer or board member who willfully and knowingly  
1500 violates a provision of this chapter, adopted rule, or a final

1501 order of the division; may order the removal of such individual  
1502 as an officer or from the board of administration or as an  
1503 officer of the association; and may prohibit such individual  
1504 from serving as an officer or on the board of a community  
1505 association for a period of time. The term "willfully and  
1506 knowingly" means that the division informed the officer or board  
1507 member that his or her action or intended action violates this  
1508 chapter, a rule adopted under this chapter, or a final order of  
1509 the division and that the officer or board member refused to  
1510 comply with the requirements of this chapter, a rule adopted  
1511 under this chapter, or a final order of the division. The  
1512 division, before initiating formal agency action under chapter  
1513 120, must afford the officer or board member an opportunity to  
1514 voluntarily comply, and an officer or board member who complies  
1515 within 10 days is not subject to a civil penalty. A penalty may  
1516 be imposed on the basis of each day of continuing violation, but  
1517 the penalty for any offense may not exceed \$5,000. By January 1,  
1518 1998, the division shall adopt, by rule, penalty guidelines  
1519 applicable to possible violations or to categories of violations  
1520 of this chapter or rules adopted by the division. The guidelines  
1521 must specify a meaningful range of civil penalties for each such  
1522 violation of the statute and rules and must be based upon the  
1523 harm caused by the violation, the repetition of the violation,  
1524 and upon such other factors deemed relevant by the division. For  
1525 example, the division may consider whether the violations were

1526 committed by a developer, bulk assignee, or bulk buyer, or  
1527 owner-controlled association, the size of the association, and  
1528 other factors. The guidelines must designate the possible  
1529 mitigating or aggravating circumstances that justify a departure  
1530 from the range of penalties provided by the rules. It is the  
1531 legislative intent that minor violations be distinguished from  
1532 those which endanger the health, safety, or welfare of the  
1533 condominium residents or other persons and that such guidelines  
1534 provide reasonable and meaningful notice to the public of likely  
1535 penalties that may be imposed for proscribed conduct. This  
1536 subsection does not limit the ability of the division to  
1537 informally dispose of administrative actions or complaints by  
1538 stipulation, agreed settlement, or consent order. All amounts  
1539 collected shall be deposited with the Chief Financial Officer to  
1540 the credit of the Division of Florida Condominiums, Timeshares,  
1541 and Mobile Homes Trust Fund. If a developer, bulk assignee, or  
1542 bulk buyer fails to pay the civil penalty and the amount deemed  
1543 to be owed to the association, the division shall issue an order  
1544 directing that such developer, bulk assignee, or bulk buyer  
1545 cease and desist from further operation until such time as the  
1546 civil penalty is paid or may pursue enforcement of the penalty  
1547 in a court of competent jurisdiction. If an association fails to  
1548 pay the civil penalty, the division shall pursue enforcement in  
1549 a court of competent jurisdiction, and the order imposing the  
1550 civil penalty or the cease and desist order is not effective

1551 until 20 days after the date of such order. Any action commenced  
1552 by the division shall be brought in the county in which the  
1553 division has its executive offices or in the county where the  
1554 violation occurred.

1555 7. If a unit owner presents the division with proof that  
1556 the unit owner has requested access to official records in  
1557 writing by certified mail, and that after 10 days the unit owner  
1558 again made the same request for access to official records in  
1559 writing by certified mail, and that more than 10 days has  
1560 elapsed since the second request and the association has still  
1561 failed or refused to provide access to official records as  
1562 required by this chapter, the division shall issue a subpoena  
1563 requiring production of the requested records where the records  
1564 are kept pursuant to s. 718.112.

1565 8. In addition to subparagraph 6., the division may seek  
1566 the imposition of a civil penalty through the circuit court for  
1567 any violation for which the division may issue a notice to show  
1568 cause under paragraph (q) ~~paragraph (r)~~. The civil penalty shall  
1569 be at least \$500 but no more than \$5,000 for each violation. The  
1570 court may also award to the prevailing party court costs and  
1571 reasonable attorney's fees and, if the division prevails, may  
1572 also award reasonable costs of investigation.

1573 ~~(1) The division shall develop a program to certify both~~  
1574 ~~volunteer and paid mediators to provide mediation of condominium~~  
1575 ~~disputes. The division shall provide, upon request, a list of~~

1576 ~~such mediators to any association, unit owner, or other~~  
1577 ~~participant in arbitration proceedings under s. 718.1255~~  
1578 ~~requesting a copy of the list. The division shall include on the~~  
1579 ~~list of volunteer mediators only the names of persons who have~~  
1580 ~~received at least 20 hours of training in mediation techniques~~  
1581 ~~or who have mediated at least 20 disputes. In order to become~~  
1582 ~~initially certified by the division, paid mediators must be~~  
1583 ~~certified by the Supreme Court to mediate court cases in county~~  
1584 ~~or circuit courts. However, the division may adopt, by rule,~~  
1585 ~~additional factors for the certification of paid mediators,~~  
1586 ~~which must be related to experience, education, or background.~~  
1587 ~~Any person initially certified as a paid mediator by the~~  
1588 ~~division must, in order to continue to be certified, comply with~~  
1589 ~~the factors or requirements adopted by rule.~~

1590 (s) The division shall submit to the Governor, the  
1591 President of the Senate, the Speaker of the House of  
1592 Representatives, and the chairs of the legislative  
1593 appropriations committees an annual report that includes, but  
1594 need not be limited to, the number of training programs provided  
1595 for condominium association board members and unit owners, the  
1596 number of complaints received by type, the number and percent of  
1597 complaints acknowledged in writing within 30 days and the number  
1598 and percent of investigations acted upon within 90 days in  
1599 accordance with paragraph (l) ~~paragraph (m)~~, and the number of  
1600 investigations exceeding the 90-day requirement. The annual



1601 report must also include an evaluation of the division's core  
1602 business processes and make recommendations for improvements,  
1603 including statutory changes. The report shall be submitted by  
1604 September 30 following the end of the fiscal year.

1605 Section 11. Section 718.5014, Florida Statutes, is amended  
1606 to read:

1607 718.5014 Ombudsman location.—The ombudsman shall maintain  
1608 his or her principal office in any ~~Leon County on the premises~~  
1609 ~~of the division or, if suitable space cannot be provided there,~~  
1610 ~~at another~~ place convenient to the offices of the division which  
1611 will enable the ombudsman to expeditiously carry out the duties  
1612 and functions of his or her office. The ombudsman may establish  
1613 branch offices elsewhere in the state upon the concurrence of  
1614 the Governor.

1615 Section 12. Subsection (25) of section 719.103, Florida  
1616 Statutes, is amended to read:

1617 719.103 Definitions.—As used in this chapter:

1618 (25) "Unit" means a part of the cooperative property which  
1619 is subject to exclusive use and possession. A unit may be  
1620 improvements, land, or land and improvements together, as  
1621 specified in the cooperative documents. An interest in a unit is  
1622 an interest in real property.

1623 Section 13. Paragraph (c) of subsection (2) of section  
1624 719.104, Florida Statutes, is amended to read:

1625 719.104 Cooperatives; access to units; records; financial

1626 reports; assessments; purchase of leases.—

1627 (2) OFFICIAL RECORDS.—

1628 (c) The official records of the association are open to

1629 inspection by any association member or the authorized

1630 representative of such member at all reasonable times. The right

1631 to inspect the records includes the right to make or obtain

1632 copies, at the reasonable expense, if any, of the association

1633 member. The association may adopt reasonable rules regarding the

1634 frequency, time, location, notice, and manner of record

1635 inspections and copying, but may not require a member to

1636 demonstrate any purpose or state any reason for the inspection.

1637 The failure of an association to provide the records within 10

1638 working days after receipt of a written request creates a

1639 rebuttable presumption that the association willfully failed to

1640 comply with this paragraph. A member ~~unit owner~~ who is denied

1641 access to official records is entitled to the actual damages or

1642 minimum damages for the association's willful failure to comply.

1643 The minimum damages are \$50 per calendar day for up to 10 days,

1644 beginning on the 11th working day after receipt of the written

1645 request. The failure to permit inspection entitles any person

1646 prevailing in an enforcement action to recover reasonable

1647 attorney fees from the person in control of the records who,

1648 directly or indirectly, knowingly denied access to the records.

1649 Any person who knowingly or intentionally defaces or destroys

1650 accounting records that are required by this chapter to be

1651 maintained during the period for which such records are required  
1652 to be maintained, or who knowingly or intentionally fails to  
1653 create or maintain accounting records that are required to be  
1654 created or maintained, with the intent of causing harm to the  
1655 association or one or more of its members, is personally subject  
1656 to a civil penalty pursuant to s. 719.501(1)(d). The association  
1657 shall maintain an adequate number of copies of the declaration,  
1658 articles of incorporation, bylaws, and rules, and all amendments  
1659 to each of the foregoing, as well as the question and answer  
1660 sheet as described in s. 719.504 and year-end financial  
1661 information required by the department, on the cooperative  
1662 property to ensure their availability to members ~~unit owners~~ and  
1663 prospective purchasers, and may charge its actual costs for  
1664 preparing and furnishing these documents to those requesting the  
1665 same. An association shall allow a member or his or her  
1666 authorized representative to use a portable device, including a  
1667 smartphone, tablet, portable scanner, or any other technology  
1668 capable of scanning or taking photographs, to make an electronic  
1669 copy of the official records in lieu of the association  
1670 providing the member or his or her authorized representative  
1671 with a copy of such records. The association may not charge a  
1672 member or his or her authorized representative for the use of a  
1673 portable device. Notwithstanding this paragraph, the following  
1674 records shall not be accessible to members ~~unit owners~~:  
1675 1. Any record protected by the lawyer-client privilege as

1676 described in s. 90.502 and any record protected by the work-  
1677 product privilege, including any record prepared by an  
1678 association attorney or prepared at the attorney's express  
1679 direction which reflects a mental impression, conclusion,  
1680 litigation strategy, or legal theory of the attorney or the  
1681 association, and which was prepared exclusively for civil or  
1682 criminal litigation or for adversarial administrative  
1683 proceedings, or which was prepared in anticipation of such  
1684 litigation or proceedings until the conclusion of the litigation  
1685 or proceedings.

1686         2. Information obtained by an association in connection  
1687 with the approval of the lease, sale, or other transfer of a  
1688 unit.

1689         3. Personnel records of association or management company  
1690 employees, including, but not limited to, disciplinary, payroll,  
1691 health, and insurance records. For purposes of this  
1692 subparagraph, the term "personnel records" does not include  
1693 written employment agreements with an association employee or  
1694 management company, or budgetary or financial records that  
1695 indicate the compensation paid to an association employee.

1696         4. Medical records of unit owners.

1697         5. Social security numbers, driver license numbers, credit  
1698 card numbers, e-mail addresses, telephone numbers, facsimile  
1699 numbers, emergency contact information, addresses of a unit  
1700 owner other than as provided to fulfill the association's notice

1701 requirements, and other personal identifying information of any  
1702 person, excluding the person's name, unit designation, mailing  
1703 address, property address, and any address, e-mail address, or  
1704 facsimile number provided to the association to fulfill the  
1705 association's notice requirements. Notwithstanding the  
1706 restrictions in this subparagraph, an association may print and  
1707 distribute to parcel owners a directory containing the name,  
1708 parcel address, and all telephone numbers of each parcel owner.  
1709 However, an owner may exclude his or her telephone numbers from  
1710 the directory by so requesting in writing to the association. An  
1711 owner may consent in writing to the disclosure of other contact  
1712 information described in this subparagraph. The association is  
1713 not liable for the inadvertent disclosure of information that is  
1714 protected under this subparagraph if the information is included  
1715 in an official record of the association and is voluntarily  
1716 provided by an owner and not requested by the association.

1717         6. Electronic security measures that are used by the  
1718 association to safeguard data, including passwords.

1719         7. The software and operating system used by the  
1720 association which allow the manipulation of data, even if the  
1721 owner owns a copy of the same software used by the association.  
1722 The data is part of the official records of the association.

1723         Section 14. Paragraphs (b), (f), and (l) of subsection (1)  
1724 of section 719.106, Florida Statutes, are amended to read:

1725         719.106 Bylaws; cooperative ownership.—

1726 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1727 documents shall provide for the following, and if they do not,  
1728 they shall be deemed to include the following:

1729 (b) Quorum; voting requirements; proxies.—

1730 1. Unless otherwise provided in the bylaws, the percentage  
1731 of voting interests required to constitute a quorum at a meeting  
1732 of the members shall be a majority of voting interests, and  
1733 decisions shall be made by owners of a majority of the voting  
1734 interests. Unless otherwise provided in this chapter, or in the  
1735 articles of incorporation, bylaws, or other cooperative  
1736 documents, and except as provided in subparagraph (d)1.,  
1737 decisions shall be made by owners of a majority of the voting  
1738 interests represented at a meeting at which a quorum is present.

1739 2. Except as specifically otherwise provided herein, after  
1740 January 1, 1992, unit owners may not vote by general proxy, but  
1741 may vote by limited proxies substantially conforming to a  
1742 limited proxy form adopted by the division. Limited proxies and  
1743 general proxies may be used to establish a quorum. Limited  
1744 proxies shall be used for votes taken to waive or reduce  
1745 reserves in accordance with subparagraph (j)2., for votes taken  
1746 to waive the financial reporting requirements of s.

1747 719.104(4)(b), for votes taken to amend the articles of  
1748 incorporation or bylaws pursuant to this section, and for any  
1749 other matter for which this chapter requires or permits a vote  
1750 of the unit owners. Except as provided in paragraph (d), after

1751 January 1, 1992, no proxy, limited or general, shall be used in  
1752 the election of board members. General proxies may be used for  
1753 other matters for which limited proxies are not required, and  
1754 may also be used in voting for nonsubstantive changes to items  
1755 for which a limited proxy is required and given. Notwithstanding  
1756 the provisions of this section, unit owners may vote in person  
1757 at unit owner meetings. Nothing contained herein shall limit the  
1758 use of general proxies or require the use of limited proxies or  
1759 require the use of limited proxies for any agenda item or  
1760 election at any meeting of a timeshare cooperative.

1761 3. Any proxy given shall be effective only for the  
1762 specific meeting for which originally given and any lawfully  
1763 adjourned meetings thereof. In no event shall any proxy be valid  
1764 for a period longer than 90 days after the date of the first  
1765 meeting for which it was given. Every proxy shall be revocable  
1766 at any time at the pleasure of the unit owner executing it.

1767 4. A member of the board of administration or a committee  
1768 may submit in writing his or her agreement or disagreement with  
1769 any action taken at a meeting that the member did not attend.  
1770 This agreement or disagreement may not be used as a vote for or  
1771 against the action taken and may not be used for the purposes of  
1772 creating a quorum.

1773 5. A board or committee member's participation in a  
1774 meeting via telephone, real-time video conferencing, or similar  
1775 real-time electronic or video communication counts toward a

1776 quorum, and such member may vote as if physically present ~~When~~  
1777 ~~some or all of the board or committee members meet by telephone~~  
1778 ~~conference, those board or committee members attending by~~  
1779 ~~telephone conference may be counted toward obtaining a quorum~~  
1780 ~~and may vote by telephone. A telephone speaker must shall be~~  
1781 ~~used ~~utilized~~ so that the conversation of such ~~those board or~~~~  
1782 ~~committee members attending by telephone may be heard by the~~  
1783 ~~board or committee members attending in person, as well as by~~  
1784 ~~any unit owners present at a meeting.~~

1785 (f) Recall of board members.—Subject to s. 719.301, any  
1786 member of the board of administration may be recalled and  
1787 removed from office with or without cause by the vote or  
1788 agreement in writing by a majority of all the voting interests.  
1789 A special meeting of the voting interests to recall any member  
1790 of the board of administration may be called by 10 percent of  
1791 the unit owners giving notice of the meeting as required for a  
1792 meeting of unit owners, and the notice shall state the purpose  
1793 of the meeting. Electronic transmission may not be used as a  
1794 method of giving notice of a meeting called in whole or in part  
1795 for this purpose.

1796 1. If the recall is approved by a majority of all voting  
1797 interests by a vote at a meeting, the recall shall be effective  
1798 as provided in this paragraph. The board shall duly notice and  
1799 hold a board meeting within 5 full business days after the  
1800 adjournment of the unit owner meeting to recall one or more



1801 board members. At the meeting, the board shall either certify  
1802 the recall, in which case such member or members shall be  
1803 recalled effective immediately and shall turn over to the board  
1804 within 5 full business days any and all records and property of  
1805 the association in their possession, or shall proceed as set  
1806 forth in subparagraph 3.

1807 2. If the proposed recall is by an agreement in writing by  
1808 a majority of all voting interests, the agreement in writing or  
1809 a copy thereof shall be served on the association by certified  
1810 mail or by personal service in the manner authorized by chapter  
1811 48 and the Florida Rules of Civil Procedure. The board of  
1812 administration shall duly notice and hold a meeting of the board  
1813 within 5 full business days after receipt of the agreement in  
1814 writing. Such member or members shall be recalled effective  
1815 immediately upon the conclusion of the board meeting, provided  
1816 that the recall is facially valid. A recalled member shall turn  
1817 over to the board within 10 full business days after the date of  
1818 the recall any and all records and property of the association  
1819 in his or her possession ~~At the meeting, the board shall either~~  
1820 ~~certify the written agreement to recall members of the board, in~~  
1821 ~~which case such members shall be recalled effective immediately~~  
1822 ~~and shall turn over to the board, within 5 full business days,~~  
1823 ~~any and all records and property of the association in their~~  
1824 ~~possession, or proceed as described in subparagraph 3.~~

1825 3. ~~If the board determines not to certify the written~~

1826 ~~agreement to recall members of the board, or does not certify~~  
1827 ~~the recall by a vote at a meeting, the board shall, within 5~~  
1828 ~~full business days after the board meeting, file with the~~  
1829 ~~division a petition for binding arbitration pursuant to the~~  
1830 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~  
1831 ~~unit owners who voted at the meeting or who executed the~~  
1832 ~~agreement in writing shall constitute one party under the~~  
1833 ~~petition for arbitration. If the arbitrator certifies the recall~~  
1834 ~~as to any member of the board, the recall shall be effective~~  
1835 ~~upon mailing of the final order of arbitration to the~~  
1836 ~~association. If the association fails to comply with the order~~  
1837 ~~of the arbitrator, the division may take action pursuant to s.~~  
1838 ~~719.501. Any member so recalled shall deliver to the board any~~  
1839 ~~and all records and property of the association in the member's~~  
1840 ~~possession within 5 full business days after the effective date~~  
1841 ~~of the recall.~~

1842 3.4. If the board fails to duly notice and hold a board  
1843 meeting within 5 full business days after service of an  
1844 agreement in writing or within 5 full business days after the  
1845 adjournment of the unit owner recall meeting, the recall is  
1846 ~~shall be deemed~~ effective and the board members so recalled  
1847 shall immediately turn over to the board any and all records and  
1848 property of the association.

1849 4.5. If the board fails to duly notice and hold the  
1850 required meeting or at the conclusion of the meeting determines

1851 that the recall is not facially valid, the unit owner  
1852 representative may file an action under s. 719.1255 challenging  
1853 the board's failure to act or challenging the board's  
1854 determination on facial validity. The action must be filed  
1855 within 60 days after the expiration of the applicable 5-full-  
1856 business-day period. The review of an action under this  
1857 subparagraph is limited to the sufficiency of service on the  
1858 board and the facial validity of the written agreement or  
1859 ~~ballots filed fails to file the required petition, the unit~~  
1860 ~~owner representative may file a petition pursuant to s. 719.1255~~  
1861 ~~challenging the board's failure to act. The petition must be~~  
1862 ~~filed within 60 days after the expiration of the applicable 5-~~  
1863 ~~full-business-day period. The review of a petition under this~~  
1864 ~~subparagraph is limited to the sufficiency of service on the~~  
1865 ~~board and the facial validity of the written agreement or~~  
1866 ~~ballots filed.~~

1867 5.6. If a vacancy occurs on the board as a result of a  
1868 recall and less than a majority of the board members are  
1869 removed, the vacancy may be filled by the affirmative vote of a  
1870 majority of the remaining directors, notwithstanding any  
1871 provision to the contrary contained in this subsection ~~chapter~~.  
1872 If vacancies occur on the board as a result of a recall and a  
1873 majority or more of the board members are removed, the vacancies  
1874 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~  
1875 ~~rules to be adopted by the division, which rules need not be~~

1876 ~~consistent with this chapter. The rules must provide procedures~~  
1877 ~~governing the conduct of the recall election as well as the~~  
1878 ~~operation of the association during the period after a recall~~  
1879 ~~but before the recall election.~~

1880 6.7. A board member who has been recalled may file an  
1881 action under ~~a petition pursuant to~~ s. 719.1255 challenging the  
1882 validity of the recall. The action ~~petition~~ must be filed within  
1883 60 days after the recall is deemed certified. The association  
1884 and the unit owner representative shall be named as the  
1885 defendants ~~respondents~~.

1886 7.8. An action may not be filed to challenge the validity  
1887 of the division may not accept for filing a recall petition,  
1888 whether filed pursuant to subparagraph 1., subparagraph 2.,  
1889 subparagraph 4.5., or subparagraph 6.7. and regardless of  
1890 whether the recall was certified, when there are 60 or fewer  
1891 days until the scheduled reelection of the board member sought  
1892 to be recalled or when 60 or fewer days have not elapsed since  
1893 the election of the board member sought to be recalled.

1894 (1) Mediation Arbitration.—There shall be a provision for  
1895 mandatory mediation ~~nonbinding arbitration~~ of internal disputes  
1896 arising from the operation of the cooperative in accordance with  
1897 s. 719.1255.

1898 Section 15. Section 719.1255, Florida Statutes, is amended  
1899 to read:

1900 719.1255 Alternative resolution of disputes.—~~The Division~~

1901 ~~of Florida Condominiums, Timeshares, and Mobile Homes of the~~  
1902 ~~Department of Business and Professional Regulation shall provide~~  
1903 ~~for~~ Alternative dispute resolution shall be conducted in  
1904 accordance with s. 718.1255.

1905 Section 16. Paragraph (n) of subsection (1) of section  
1906 719.501, Florida Statutes, is amended to read:

1907 719.501 Powers and duties of Division of Florida  
1908 Condominiums, Timeshares, and Mobile Homes.—

1909 (1) The Division of Florida Condominiums, Timeshares, and  
1910 Mobile Homes of the Department of Business and Professional  
1911 Regulation, referred to as the "division" in this part, in  
1912 addition to other powers and duties prescribed by chapter 718,  
1913 has the power to enforce and ensure compliance with this chapter  
1914 and adopted rules relating to the development, construction,  
1915 sale, lease, ownership, operation, and management of residential  
1916 cooperative units. In performing its duties, the division shall  
1917 have the following powers and duties:

1918 ~~(n) The division shall develop a program to certify both~~  
1919 ~~volunteer and paid mediators to provide mediation of cooperative~~  
1920 ~~disputes. The division shall provide, upon request, a list of~~  
1921 ~~such mediators to any association, unit owner, or other~~  
1922 ~~participant in arbitration proceedings under s. 718.1255~~  
1923 ~~requesting a copy of the list. The division shall include on the~~  
1924 ~~list of voluntary mediators only persons who have received at~~  
1925 ~~least 20 hours of training in mediation techniques or have~~

1926 ~~mediated at least 20 disputes. In order to become initially~~  
1927 ~~certified by the division, paid mediators must be certified by~~  
1928 ~~the Supreme Court to mediate court cases in county or circuit~~  
1929 ~~courts. However, the division may adopt, by rule, additional~~  
1930 ~~factors for the certification of paid mediators, which factors~~  
1931 ~~must be related to experience, education, or background. Any~~  
1932 ~~person initially certified as a paid mediator by the division~~  
1933 ~~must, in order to continue to be certified, comply with the~~  
1934 ~~factors or requirements imposed by rules adopted by the~~  
1935 ~~division.~~

1936 Section 17. Paragraph (c) of subsection (2), paragraph (l)  
1937 of subsection (4), and paragraphs (d), (g), (h), (k), and (l) of  
1938 subsection (10) of section 720.303, Florida Statutes, are  
1939 amended, and paragraph (m) is added to subsection (4) of that  
1940 section, to read:

1941 720.303 Association powers and duties; meetings of board;  
1942 official records; budgets; financial reporting; association  
1943 funds; recalls.—

1944 (2) BOARD MEETINGS.—

1945 (c) The bylaws shall provide the following for giving  
1946 notice to parcel owners and members of all board meetings and,  
1947 if they do not do so, shall be deemed to include the following:

1948 1. Notices of all board meetings must be posted in a  
1949 conspicuous place in the community at least 48 hours in advance  
1950 of a meeting, except in an emergency. In the alternative, if

1951 notice is not posted in a conspicuous place in the community,  
1952 notice of each board meeting must be mailed or delivered to each  
1953 member at least 7 days before the meeting, except in an  
1954 emergency. Notwithstanding this general notice requirement, for  
1955 communities with more than 100 members, the association bylaws  
1956 may provide for a reasonable alternative to posting or mailing  
1957 of notice for each board meeting, including publication of  
1958 notice, provision of a schedule of board meetings, or the  
1959 conspicuous posting and repeated broadcasting of the notice on a  
1960 closed-circuit cable television system serving the homeowners'  
1961 association. However, if broadcast notice is used in lieu of a  
1962 notice posted physically in the community, the notice must be  
1963 broadcast at least four times every broadcast hour of each day  
1964 that a posted notice is otherwise required. When broadcast  
1965 notice is provided, the notice and agenda must be broadcast in a  
1966 manner and for a sufficient continuous length of time so as to  
1967 allow an average reader to observe the notice and read and  
1968 comprehend the entire content of the notice and the agenda. In  
1969 addition to any of the authorized means of providing notice of a  
1970 meeting of the board, the association may, by rule, adopt a  
1971 procedure for conspicuously posting the meeting notice and the  
1972 agenda on a website serving the association for at least the  
1973 minimum period of time for which a notice of a meeting is also  
1974 required to be physically posted on the association property.  
1975 Any rule adopted shall, in addition to other matters, include a

1976 requirement that the association send an electronic notice in  
1977 the same manner as is required for a notice for a meeting of the  
1978 members, which must include a hyperlink to the website where the  
1979 notice is posted, to members whose e-mail addresses are included  
1980 in the association's official records. The association may  
1981 provide notice by electronic transmission in a manner authorized  
1982 by law for meetings of the board of directors, committee  
1983 meetings requiring notice under this section, and annual and  
1984 special meetings of the members to any member who has provided a  
1985 facsimile number or e-mail address to the association to be used  
1986 for such purposes; however, a member must consent in writing to  
1987 receiving notice by electronic transmission.

1988         2. An assessment may not be levied at a board meeting  
1989 unless the notice of the meeting includes a statement that  
1990 assessments will be considered and the nature of the  
1991 assessments. Written notice of any meeting at which special  
1992 assessments will be considered or at which amendments to rules  
1993 regarding parcel use will be considered must be mailed,  
1994 delivered, or electronically transmitted to the members and  
1995 parcel owners and posted conspicuously on the property or  
1996 broadcast on closed-circuit cable television not less than 14  
1997 days before the meeting.

1998         3. Directors may not vote by proxy or by secret ballot at  
1999 board meetings, except that secret ballots may be used in the  
2000 election of officers. This subsection also applies to the



2001 meetings of any committee or other similar body, when a final  
 2002 decision will be made regarding the expenditure of association  
 2003 funds, and to any body vested with the power to approve or  
 2004 disapprove architectural decisions with respect to a specific  
 2005 parcel of residential property owned by a member of the  
 2006 community.

2007 (4) OFFICIAL RECORDS.—The association shall maintain each  
 2008 of the following items, when applicable, which constitute the  
 2009 official records of the association:

2010 (1) Ballots, sign-in sheets, voting proxies, and all other  
 2011 papers and electronic records relating to voting by parcel  
 2012 owners, which shall be maintained for at least 1 year after the  
 2013 date of the election, vote, or meeting to which the document  
 2014 relates.

2015 (m) All other ~~written~~ records of the association not  
 2016 specifically included in paragraphs (a) through (l) the  
 2017 ~~foregoing~~ which are related to the operation of the association.

2018 (10) RECALL OF DIRECTORS.—

2019 (d) If the board determines not to certify the written  
 2020 agreement or written ballots to recall a director or directors  
 2021 of the board or does not certify the recall by a vote at a  
 2022 meeting, the board shall, within 5 full business days after the  
 2023 meeting, file an action under ~~with the department a petition for~~  
 2024 ~~binding arbitration pursuant to~~ the applicable procedures in ss.  
 2025 718.112(2)(j) and 718.1255 ~~and the rules adopted thereunder.~~ For

2026 | the purposes of this section, the members who voted at the  
2027 | meeting or who executed the agreement in writing shall  
2028 | constitute one party under the action ~~petition for arbitration~~.  
2029 | If the court ~~arbitrator~~ certifies the recall as to any director  
2030 | or directors of the board, the recall is ~~will be~~ effective upon  
2031 | entry ~~mailing~~ of the final order ~~of arbitration to the~~  
2032 | ~~association~~. The director or directors so recalled shall deliver  
2033 | to the board any and all records of the association in their  
2034 | possession within 5 full business days after the effective date  
2035 | of the recall.

2036 |         (g) If the board fails to duly notice and hold the  
2037 | required meeting or fails to file the required action ~~petition~~,  
2038 | the parcel ~~unit~~ owner representative may file an action under a  
2039 | ~~petition pursuant to~~ s. 718.1255 challenging the board's failure  
2040 | to act. The action ~~petition~~ must be filed within 60 days after  
2041 | the expiration of the applicable 5-full-business-day period. The  
2042 | review of an action ~~a petition~~ under this paragraph is limited  
2043 | to the sufficiency of service on the board and the facial  
2044 | validity of the written agreement or ballots filed.

2045 |         (h) If a director who is removed fails to relinquish his  
2046 | or her office or turn over records as required under this  
2047 | section, the county ~~circuit~~ court in the county where the  
2048 | association maintains its principal office may, upon the  
2049 | petition of the association, summarily order the director to  
2050 | relinquish his or her office and turn over all association

2051 records upon application of the association.

2052 (k) A board member who has been recalled may file an  
 2053 action under ~~a petition pursuant to~~ ss. 718.112(2)(j) and  
 2054 718.1255 ~~and the rules adopted~~ challenging the validity of the  
 2055 recall. The action ~~petition~~ must be filed within 60 days after  
 2056 the recall is deemed certified. The association and the unit  
 2057 owner representative shall be named as defendants ~~respondents~~.

2058 (l) An action may not be filed challenging the validity of  
 2059 ~~the division may not accept for filing a recall petition,~~  
 2060 whether filed pursuant to paragraph (b), paragraph (c),  
 2061 paragraph (g), or paragraph (k) and regardless of whether the  
 2062 recall was certified, when there are 60 or fewer days until the  
 2063 scheduled reelection of the board member sought to be recalled  
 2064 or when 60 or fewer days have not elapsed since the election of  
 2065 the board member sought to be recalled.

2066 Section 18. Subsections (1) and (2) of section 720.305,  
 2067 Florida Statutes, are amended to read:

2068 720.305 Obligations of members; remedies at law or in  
 2069 equity; levy of fines and suspension of use rights.—

2070 (1) Each member and the member's tenants, guests, and  
 2071 invitees, and each association, are governed by, and must comply  
 2072 with, this chapter and, ~~the governing documents of the~~  
 2073 ~~community, and the rules of the association~~. Actions at law or  
 2074 in equity, or both, to redress alleged failure or refusal to  
 2075 comply with these provisions may be brought by the association

2076 or by any member against:

2077 (a) The association;

2078 (b) A member;

2079 (c) Any director or officer of an association who

2080 willfully and knowingly fails to comply with these provisions;

2081 and

2082 (d) Any tenants, guests, or invitees occupying a parcel or

2083 using the common areas.

2084

2085 The prevailing party in any such litigation is entitled to

2086 recover reasonable attorney fees and costs. A member prevailing

2087 in an action between the association and the member under this

2088 section, in addition to recovering his or her reasonable

2089 attorney fees, may recover additional amounts as determined by

2090 the court to be necessary to reimburse the member for his or her

2091 share of assessments levied by the association to fund its

2092 expenses of the litigation. This relief does not exclude other

2093 remedies provided by law. This section does not deprive any

2094 person of any other available right or remedy.

2095 (2) An ~~The~~ association may levy reasonable fines. A fine

2096 may not exceed \$100 per violation against any member or any

2097 member's tenant, guest, or invitee for the failure of the owner

2098 of the parcel or its occupant, licensee, or invitee to comply

2099 with any provision of the governing documents ~~declaration, the~~

2100 ~~association bylaws, or reasonable rules of the association~~

2101 unless otherwise provided in the governing documents. A fine may  
2102 be levied by the board for each day of a continuing violation,  
2103 with a single notice and opportunity for hearing, except that  
2104 the fine may not exceed \$1,000 in the aggregate unless otherwise  
2105 provided in the governing documents. A fine of less than \$1,000  
2106 may not become a lien against a parcel. In any action to recover  
2107 a fine, the prevailing party is entitled to reasonable attorney  
2108 fees and costs from the nonprevailing party as determined by the  
2109 court.

2110 (a) An association may suspend, for a reasonable period of  
2111 time, the right of a member, or a member's tenant, guest, or  
2112 invitee, to use common areas and facilities for the failure of  
2113 the owner of the parcel or its occupant, licensee, or invitee to  
2114 comply with any provision of the declaration or, the association  
2115 bylaws, ~~or reasonable rules of the association~~. This paragraph  
2116 does not apply to that portion of common areas used to provide  
2117 access or utility services to the parcel. A suspension may not  
2118 prohibit an owner or tenant of a parcel from having vehicular  
2119 and pedestrian ingress to and egress from the parcel, including,  
2120 but not limited to, the right to park.

2121 (b) A fine or suspension levied by the board of  
2122 administration may not be imposed unless the board first  
2123 provides at least 14 days' notice to the parcel owner and, if  
2124 applicable, any occupant, licensee, or invitee of the parcel  
2125 owner, sought to be fined or suspended and an opportunity for a

2126 hearing before a committee of at least three members appointed  
 2127 by the board who are not officers, directors, or employees of  
 2128 the association, or the spouse, parent, child, brother, or  
 2129 sister of an officer, director, or employee. If the committee,  
 2130 by majority vote, does not approve a proposed fine or  
 2131 suspension, the proposed fine or suspension may not be imposed.  
 2132 The role of the committee is limited to determining whether to  
 2133 confirm or reject the fine or suspension levied by the board. If  
 2134 the proposed fine or suspension levied by the board is approved  
 2135 by the committee, the fine payment is due 5 days after notice of  
 2136 the approved fine is provided to the parcel owner and, if  
 2137 applicable, to any occupant, licensee, or invitee of the parcel  
 2138 owner ~~the date of the committee meeting at which the fine is~~  
 2139 ~~approved~~. The association must provide written notice of such  
 2140 fine or suspension by mail or hand delivery to the parcel owner  
 2141 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee  
 2142 of the parcel owner.

2143 Section 19. Paragraph (g) of subsection (1) and paragraph  
 2144 (c) of subsection (9) of section 720.306, Florida Statutes, are  
 2145 amended to read:

2146 720.306 Meetings of members; voting and election  
 2147 procedures; amendments.—

2148 (1) QUORUM; AMENDMENTS.—

2149 (g) A notice required under this section must be mailed or  
 2150 delivered to the address identified as the parcel owner's

2151 mailing address in the official records of the association as  
2152 required under s. 720.303(4) ~~on the property appraiser's website~~  
2153 ~~for the county in which the parcel is located,~~ or electronically  
2154 transmitted in a manner authorized by the association if the  
2155 parcel owner has consented, in writing, to receive notice by  
2156 electronic transmission.

2157 (9) ELECTIONS AND BOARD VACANCIES.—

2158 (c) Any election dispute between a member and an  
2159 association must be filed with the county court in the county  
2160 where the association maintains its principal office ~~submitted~~  
2161 ~~to mandatory binding arbitration with the division.~~ Such  
2162 proceedings must be conducted in the manner provided by s.  
2163 718.1255 ~~and the procedural rules adopted by the division.~~  
2164 Unless otherwise provided in the bylaws, any vacancy occurring  
2165 on the board before the expiration of a term may be filled by an  
2166 affirmative vote of the majority of the remaining directors,  
2167 even if the remaining directors constitute less than a quorum,  
2168 or by the sole remaining director. In the alternative, a board  
2169 may hold an election to fill the vacancy, in which case the  
2170 election procedures must conform to the requirements of the  
2171 governing documents. Unless otherwise provided in the bylaws, a  
2172 board member appointed or elected under this section is  
2173 appointed for the unexpired term of the seat being filled.  
2174 Filling vacancies created by recall is governed by s.  
2175 720.303(10) ~~and rules adopted by the division.~~

2176 Section 20. Section 720.311, Florida Statutes, is amended  
 2177 to read:

2178 720.311 Dispute resolution.—

2179 (1) (a) As used in this section, the term "dispute" means  
 2180 any disagreement between two or more parties which involves:

2181 1. The authority of the board of directors, under this  
 2182 chapter or an association document, to:

2183 a. Require any owner to take any action, or not to take  
 2184 any action, involving that owner's parcel.

2185 b. Alter or add to a common area.

2186 2. The failure of a governing body, when required by this  
 2187 chapter or an association document, to:

2188 a. Properly enforce the governing documents.

2189 b. Provide adequate notice of meetings or other actions.

2190 c. Properly conduct meetings of the board and committees

2191 appointed by the board and membership meetings. This sub-  
 2192 subparagraph does not apply to elections held at a meeting.

2193 d. To maintain a common area.

2194 (b) The term "dispute" does not include any disagreement  
 2195 that primarily involves:

2196 1. Title to any parcel or common area;

2197 2. The interpretation or enforcement of any warranty;

2198 3. The levy of a fee or assessment or the collection of an  
 2199 assessment levied against a party;

2200 4. The eviction or removal of an occupant, licensee, or



2201 invitee from a parcel;

2202 5. An alleged breach of fiduciary duty by one or more  
2203 directors; or

2204 6. Claims for damages to a parcel based upon the alleged  
2205 failure of the association to maintain the common areas or  
2206 association property.

2207 (2) The Legislature finds that alternative dispute  
2208 resolution ~~reduces~~ ~~has made progress in reducing~~ court dockets  
2209 and trials and ~~offers~~ ~~in offering~~ a more efficient, cost-  
2210 effective option to litigation. The ~~filing of any petition for~~  
2211 ~~arbitration or the~~ serving of a demand for presuit mediation as  
2212 provided for in this section ~~tolls~~ ~~shall toll~~ the applicable  
2213 statute of limitations until 30 days after mediation is  
2214 completed and no agreement has been made, 10 days after the date  
2215 by which a party must accept presuit mediation, or until the  
2216 conclusion of the period of time during which a mediation must  
2217 be conducted under this section. Any recall ~~action~~ must be in  
2218 accordance with ss. 718.112(2)(j) and 718.1255. Election  
2219 disputes and recall disputes are not eligible for presuit  
2220 mediation ~~dispute filed with the department pursuant to s.~~  
2221 ~~720.303(10) shall be conducted by the department in accordance~~  
2222 ~~with the provisions of ss. 718.112(2)(j) and 718.1255 and the~~  
2223 ~~rules adopted by the division. In addition, the department shall~~  
2224 ~~conduct mandatory binding arbitration of election disputes~~  
2225 ~~between a member and an association pursuant to s. 718.1255 and~~

2226 ~~rules adopted by the division. Neither election disputes nor~~  
2227 ~~recall disputes are eligible for presuit mediation; these~~  
2228 ~~disputes shall be arbitrated by the department. At the~~  
2229 ~~conclusion of the proceeding, the department shall charge the~~  
2230 ~~parties a fee in an amount adequate to cover all costs and~~  
2231 ~~expenses incurred by the department in conducting the~~  
2232 ~~proceeding. Initially, the petitioner shall remit a filing fee~~  
2233 ~~of at least \$200 to the department. The fees paid to the~~  
2234 ~~department shall become a recoverable cost in the arbitration~~  
2235 ~~proceeding, and the prevailing party in an arbitration~~  
2236 ~~proceeding shall recover its reasonable costs and attorney's~~  
2237 ~~fees in an amount found reasonable by the arbitrator. The~~  
2238 ~~department shall adopt rules to effectuate the purposes of this~~  
2239 ~~section.~~

2240 (3) (a) 1.~~(2) (a)~~ Disputes between an association and a  
2241 parcel owner regarding use of or changes to the parcel or the  
2242 common areas and other covenant enforcement disputes, disputes  
2243 regarding amendments to the association documents, disputes  
2244 regarding meetings of the board and committees appointed by the  
2245 board, membership meetings not including election meetings, and  
2246 access to the official records of the association shall be the  
2247 subject of a demand for presuit mediation served by an aggrieved  
2248 party before the dispute is filed in court. Presuit mediation  
2249 proceedings must be conducted in accordance with the applicable  
2250 rules of the Florida Rules of Civil Procedure and chapter 44,

2251 and these proceedings are privileged and confidential to the  
2252 same extent as court-ordered mediation. Disputes subject to  
2253 presuit mediation under this section may ~~shall~~ not include the  
2254 collection of any assessment, fine, or other financial  
2255 obligation, including attorney ~~attorney's~~ fees and costs,  
2256 claimed to be due or any action to enforce a prior mediation  
2257 settlement agreement between the parties. ~~Also,~~ In any dispute  
2258 subject to presuit mediation under this section where  
2259 preliminary injunctive ~~emergency~~ relief is required, a motion  
2260 for temporary injunctive relief may be filed with the court  
2261 without first complying with the presuit mediation requirements  
2262 of this section. After any issues regarding preliminary  
2263 injunctive ~~emergency or temporary~~ relief are resolved, the court  
2264 may ~~either~~ refer the parties to a mediation program administered  
2265 by the courts or require mediation under this section. A ~~An~~  
2266 ~~arbitrator or~~ judge may not consider any information or evidence  
2267 arising from the presuit mediation proceeding except in a  
2268 proceeding to impose sanctions for failure to attend a presuit  
2269 mediation session or to enforce a mediated settlement agreement.  
2270 Persons who are not parties to the dispute may not attend the  
2271 presuit mediation conference without the consent of all parties,  
2272 except for counsel for the parties, and a corporate  
2273 representative designated by the association, and a  
2274 representative from the association's insurance carrier, if  
2275 applicable. When mediation is attended by a quorum of the board,

2276 such mediation is not a board meeting for purposes of notice and  
 2277 participation set forth in s. 720.303. An aggrieved party shall  
 2278 serve on the responding party a written demand to participate in  
 2279 presuit mediation in substantially the following form:

2280  
 2281                                   STATUTORY OFFER TO PARTICIPATE  
 2282                                   IN PRESUIT MEDIATION  
 2283

2284 The alleged aggrieved party, ....., hereby demands  
 2285 that ....., as the responding party, engage in  
 2286 mandatory presuit mediation in connection with the following  
 2287 disputes, which by statute are of a type that are subject to  
 2288 presuit mediation:

2289  
 2290 (List specific nature of the dispute or disputes to be mediated  
 2291 and the authority supporting a finding of a violation as to each  
 2292 dispute.)  
 2293

2294 Pursuant to section 720.311, Florida Statutes, this demand to  
 2295 resolve the dispute through presuit mediation is required before  
 2296 a lawsuit can be filed concerning the dispute. Pursuant to the  
 2297 statute, the parties are required to engage in presuit mediation  
 2298 with a neutral third-party mediator in order to attempt to  
 2299 resolve this dispute without court action, and the aggrieved  
 2300 party demands that you likewise agree to this process. If you

2301 fail to participate in the mediation process, suit may be  
 2302 brought against you without further warning.

2303  
 2304 The process of mediation involves a supervised negotiation  
 2305 process in which a trained, neutral third-party mediator meets  
 2306 with both parties and assists them in exploring possible  
 2307 opportunities for resolving part or all of the dispute. By  
 2308 agreeing to participate in presuit mediation, you are not bound  
 2309 in any way to change your position. Furthermore, the mediator  
 2310 has no authority to make any decisions in this matter or to  
 2311 determine who is right or wrong and merely acts as a facilitator  
 2312 to ensure that each party understands the position of the other  
 2313 party and that all options for reasonable settlement are fully  
 2314 explored.

2315  
 2316 If an agreement is reached, it must ~~shall~~ be reduced to writing  
 2317 and signed, at which time the agreement becomes a binding and  
 2318 enforceable contract between ~~commitment of~~ the parties. A  
 2319 resolution of one or more disputes in this fashion avoids the  
 2320 need to litigate those ~~these~~ issues in court. The failure ~~to~~  
 2321 ~~reach an agreement, or the failure~~ of a party to participate in  
 2322 the process or the failure of the parties to reach an agreement  
 2323 during the mediation process, results in the aggrieved party  
 2324 being able to ~~mediator declaring an impasse in the mediation,~~  
 2325 ~~after which the aggrieved party may proceed to court on all~~

2326 outstanding ~~and,~~ unsettled disputes. If you fail or refuse ~~have~~  
 2327 ~~failed or refused~~ to participate in the entire mediation  
 2328 process, you will not be entitled to recover attorney ~~attorney's~~  
 2329 fees, even if you prevail.

2330  
 2331 The aggrieved party has selected and hereby lists five circuit  
 2332 court civil ~~certified~~ mediators certified by the Florida Supreme  
 2333 Court who the aggrieved party believes ~~we believe~~ to be neutral  
 2334 and qualified to mediate the dispute. You have the right to  
 2335 select any one of these mediators. The fact that one party may  
 2336 be familiar with one or more of the listed mediators does not  
 2337 mean that the mediator cannot act as a neutral and impartial  
 2338 facilitator. Any mediator who cannot act in this capacity is  
 2339 required ethically to decline to accept engagement. The  
 2340 mediators that we suggest, and their current hourly rates, are  
 2341 as follows:

2342  
 2343 (List the names, physical addresses, e-mail addresses, telephone  
 2344 numbers, and hourly rates of the mediators. Other pertinent  
 2345 information about the backgrounds ~~background~~ of the mediators  
 2346 may be included as an attachment, including whether the mediator  
 2347 is board certified by The Florida Bar in any practice area.)  
 2348 By mutual agreement, and before accepting presuit mediation, we  
 2349 can also select mediators other than the Supreme Court-certified  
 2350 circuit court civil mediators named above as alternates to the

2351 above-named mediators. The alternate mediators are not required  
2352 to be Supreme Court-certified circuit court civil mediators. The  
2353 alternate mediators that we suggest, and their hourly rates, are  
2354 as follows:

2355 (List the names, physical addresses, e-mail addresses, telephone  
2356 numbers, and hourly rates of the alternate mediators. Other  
2357 pertinent information about the backgrounds of the alternate  
2358 mediators may be included as an attachment.)

2359  
2360 You may contact the offices of these mediators to confirm that  
2361 the listed mediators will be neutral and will not show any  
2362 favoritism toward either party. The Florida Supreme Court can  
2363 provide you a list of ~~certified~~ mediators who are certified in  
2364 the area of circuit civil law.

2365  
2366 Unless otherwise agreed by the parties, section 720.311(2)(b),  
2367 Florida Statutes, requires that the parties share equally the  
2368 costs of presuit mediation ~~equally~~, including the fee charged by  
2369 the mediator. A typical ~~An average~~ mediation may require three  
2370 to four hours of the mediator's time, including some preparation  
2371 time, and the parties would need to share equally the mediator's  
2372 fees as well as pay their own attorney ~~attorney's~~ fees if they  
2373 choose to employ an attorney in connection with the mediation.  
2374 However, use of an attorney is not required and is at the option  
2375 of each party. The mediators may require the advance payment of

CS/HB 1075

2019

2376 | some or all of the anticipated fees. The aggrieved party hereby  
2377 | agrees to pay or prepay one-half of the mediator's estimated  
2378 | fees and to forward this amount or such other reasonable advance  
2379 | deposits as the mediator requires for this purpose. Any funds  
2380 | deposited will be returned to you if these are in excess of your  
2381 | share of the fees incurred.

2382 |  
2383 | To begin your participation in presuit mediation to try to  
2384 | resolve the dispute and avoid further legal action, please sign  
2385 | below and clearly indicate which mediator is acceptable to you.  
2386 | We will then ask the mediator to schedule a mutually convenient  
2387 | time and place for the mediation conference to be held. The  
2388 | mediation conference must be held within 90 ~~ninety (90)~~ days  
2389 | after the date of acceptance of presuit mediation of this date,  
2390 | unless extended by mutual written agreement. In the event that  
2391 | you fail to respond within 30 days after ~~20 days from~~ the date  
2392 | of this letter, or if you fail to agree to at least one of the  
2393 | mediators that we have suggested or to pay or prepay to the  
2394 | mediator one-half of the costs involved, the aggrieved party  
2395 | will be authorized to proceed with the filing of a lawsuit  
2396 | against you without further notice and may seek an award of  
2397 | attorney ~~attorney's~~ fees or costs incurred in attempting to  
2398 | obtain mediation.

2399 |  
2400 | Therefore, please give this matter your immediate attention. By



2401 law, your response must be mailed by certified mail, return  
2402 receipt requested, and by first-class mail to the address shown  
2403 on this demand.

2404

2405 .....

2406 .....

2407

2408 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO  
2409 THAT CHOICE.

2410

2411 AGREEMENT TO MEDIATE

2412 The undersigned hereby agrees to participate in presuit  
2413 mediation and agrees to attend a mediation conducted by the  
2414 following mediator or mediators who are listed above as  
2415 individuals ~~someone~~ who would be acceptable to mediate this  
2416 dispute:

2417

2418 (List acceptable mediator or mediators.)

2419

2420 I/we further agree to pay or prepay one-half of the mediator's  
2421 fees and to forward such advance deposits as the mediator may  
2422 require for this purpose.

2423

2424 .....

2425 Signature of responding party #1

2426  
2427  
2428  
2429  
2430  
2431  
2432  
2433  
2434  
2435  
2436  
2437  
2438  
2439  
2440  
2441  
2442  
2443  
2444  
2445  
2446  
2447  
2448  
2449  
2450

.....  
Telephone contact information  
.....  
Signature and telephone contact information of responding party  
#2 (if applicable) (if property is owned by more than one person,  
all owners must sign)

2. The statutory demand must also contain the following statement in capitalized, bold letters in a font size larger than any other used in the statutory demand: A PERSON WHO FAILS OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

(b) Service of the statutory demand to participate in presuit mediation shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address of the responding party as it last appears on the books and records of the association. The responding party has 30 ~~20~~ days after ~~from~~ the date of the mailing of the statutory demand to serve a response to the aggrieved party in writing. The response must be sent ~~shall be served~~ by certified mail, return receipt requested, with an

2451 additional copy being sent by ~~regular~~ first-class mail, to the  
2452 address shown on the statutory demand. Notwithstanding the  
2453 foregoing, once the parties have agreed on a mediator, the  
2454 mediator may schedule ~~reschedule~~ the mediation for a date and  
2455 time mutually convenient to the parties. Each proposed mediator  
2456 must be available to hold the mediation in the county in which  
2457 the parcel is located or within 40 miles of the parcel without  
2458 charging extra for travel-related costs. If a presuit mediation  
2459 session cannot be scheduled and concluded within 90 days after  
2460 the date of acceptance of presuit mediation and there is no  
2461 agreement between the parties to extend the 90-day deadline, the  
2462 aggrieved party may file an action in court. The parties shall  
2463 share equally the costs of presuit mediation ~~equally~~, including  
2464 the fee charged by the mediator, if any, unless the parties  
2465 agree otherwise, and the mediator may require advance payment of  
2466 its reasonable fees and costs. The failure of any party to  
2467 respond to a demand or response, to agree upon a mediator, to  
2468 make payment of fees and costs within the time established by  
2469 the mediator, or to appear for a scheduled mediation session  
2470 without the approval of the mediator, constitutes ~~shall~~  
2471 ~~constitute~~ the failure or refusal to participate in the  
2472 mediation process and operates ~~shall operate~~ as an impasse in  
2473 the presuit mediation by such party, entitling the other party  
2474 to proceed in court and to seek an award of the costs and fees  
2475 associated with the mediation. Additionally, notwithstanding ~~the~~

2476 ~~provisions of any other law or document, persons who fail or~~  
2477 ~~refuse to participate in the entire mediation process may not~~  
2478 ~~recover attorney ~~attorney's~~ fees and costs in subsequent~~  
2479 ~~litigation relating to the dispute. If any presuit mediation~~  
2480 ~~session cannot be scheduled and conducted within 90 days after~~  
2481 ~~the offer to participate in mediation was filed, an impasse~~  
2482 ~~shall be deemed to have occurred unless both parties agree to~~  
2483 ~~extend this deadline.~~

2484 (c) If presuit mediation as described in paragraph (a) is  
2485 not successful in resolving all issues between the parties, any  
2486 party ~~the parties~~ may file an action regarding the unresolved  
2487 dispute in a court of competent jurisdiction ~~or elect to enter~~  
2488 ~~into binding or nonbinding arbitration pursuant to the~~  
2489 ~~procedures set forth in s. 718.1255 and rules adopted by the~~  
2490 ~~division, with the arbitration proceeding to be conducted by a~~  
2491 ~~department arbitrator or by a private arbitrator certified by~~  
2492 ~~the department. If all parties do not agree to arbitration~~  
2493 ~~proceedings following an unsuccessful presuit mediation, any~~  
2494 ~~party may file the dispute in court. A final order resulting~~  
2495 ~~from nonbinding arbitration is final and enforceable in the~~  
2496 ~~courts if a complaint for trial de novo is not filed in a court~~  
2497 ~~of competent jurisdiction within 30 days after entry of the~~  
2498 ~~order. As to any issue or dispute that is not resolved at~~  
2499 ~~presuit mediation, and as to any issue that is settled at~~  
2500 ~~presuit mediation but is thereafter subject to an action seeking~~

2501 enforcement of the mediation settlement, the prevailing party in  
2502 any subsequent arbitration or litigation proceeding shall be  
2503 entitled to seek recovery of all costs and attorney's fees  
2504 incurred in the presuit mediation process.

2505 (d) The parties may agree to a mediator who is not  
2506 certified by the Florida Supreme Court. Unless such mediator is  
2507 agreed upon, a mediator may not ~~or arbitrator shall be~~  
2508 ~~authorized to~~ conduct mediation or arbitration under this  
2509 section unless ~~only if~~ he or she has been certified as a circuit  
2510 court civil mediator ~~or arbitrator, respectively,~~ pursuant to  
2511 the requirements established by the Florida Supreme Court.  
2512 Settlement agreements resulting from mediation may ~~shall~~ not  
2513 have precedential value in proceedings involving parties other  
2514 than those participating in the mediation to support either a  
2515 claim or defense in other disputes.

2516 (e) The presuit mediation procedures provided by this  
2517 subsection may be used by a Florida corporation responsible for  
2518 the operation of a community in which the voting members are  
2519 parcel owners or their representatives, in which membership in  
2520 the corporation is not a mandatory condition of parcel  
2521 ownership, or which is not authorized to impose an assessment  
2522 that may become a lien on the parcel.

2523 (4) Any dispute challenging the legality of the election  
2524 or the recall of any member of the board of directors must be  
2525 filed as a summary procedure under s. 51.011, and in any such

CS/HB 1075

2019

2526 | action the prevailing party is entitled to recover reasonable  
2527 | attorney fees and costs. Any action filed pursuant to this  
2528 | subsection must be tried without a jury.

2529 | Section 21. This act shall take effect July 1, 2019.