

By Senator Hooper

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1                   A bill to be entitled  
2       An act relating to mobile home park lot tenancies;  
3       amending s. 723.011, F.S.; providing that certain  
4       deficiencies are limited to direct violations of a  
5       specified chapter; authorizing a park owner to request  
6       a certain receipt; amending s. 723.012, F.S.;  
7       requiring the disclosure of certain factors that  
8       affect the lot rental amount, if applicable; amending  
9       s. 723.035, F.S.; authorizing a park owner to enter a  
10      homeowner's lot to correct specified violations under  
11      certain conditions; prohibiting the date by which  
12      specified violations must be corrected from being  
13      extended; authorizing a park owner to charge a  
14      homeowner a certain fee; providing construction;  
15      amending s. 723.061, F.S.; requiring a park owner to  
16      provide a copy of an eviction notice to the Division  
17      of Florida Condominiums, Timeshares, and Mobile Homes  
18      within a specified time; requiring the division to  
19      provide a copy of the notice to the Executive Director  
20      of the Florida Mobile Home Relocation Corporation;  
21      requiring the notice to be sent by United States mail;  
22      amending s. 723.076, F.S.; requiring a homeowners'  
23      association to notify a park owner upon election or  
24      appointment of new officers or members; amending s.  
25      723.078, F.S.; providing election and ballot  
26      requirements; requiring the division to adopt rules  
27      relating to elections; providing that certain meetings  
28      are closed to members; requiring certain board of  
29      director nominations to be made at least 27 days

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30 before an annual meeting; authorizing electronic  
31 transmission of certain notices; providing that  
32 certain documents are privileged and confidential;  
33 requiring the association to retain meeting minutes  
34 within the state for at least 5 years; amending s.  
35 723.079, F.S.; requiring the association to retain  
36 certain documents within the state for at least 5  
37 years; requiring the board to make official records  
38 available to members for inspection or photocopying  
39 within 20 business days after receipt of a written  
40 request; revising provisions relating to statutory  
41 damages for members who are denied access to official  
42 records; requiring mandatory binding arbitration in  
43 certain disputes; amending s. 723.1255, F.S.;

44 requiring mandatory binding arbitration in certain  
45 disputes; providing for the award of attorney fees and  
46 costs; requiring the division to adopt rules relating  
47 to mandatory binding arbitration; providing an  
48 effective date.

49  
50 Be It Enacted by the Legislature of the State of Florida:

51  
52 Section 1. Section 723.011, Florida Statutes, is amended to  
53 read:

54 723.011 Disclosure before ~~prior to~~ rental of a mobile home  
55 lot; prospectus, offering circular, filing, approval.-

56 (1) (a) In a mobile home park containing 26 or more lots,  
57 the park owner shall file a prospectus with the division. Prior  
58 to entering into an enforceable rental agreement for a mobile

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59 home lot, the park owner shall deliver to the homeowner a  
60 prospectus approved by the division. This subsection does not  
61 invalidate those lot rental agreements for which an approved  
62 prospectus was required to be delivered and which was delivered  
63 on or before July 1, 1986, if the mobile home park owner had:

64 1. Filed a prospectus with the division prior to entering  
65 into the lot rental agreement;

66 2. Made a good faith effort to correct deficiencies cited  
67 by the division by responding within the time limit set by the  
68 division, if one was set; and

69 3. Delivered the approved prospectus to the mobile home  
70 owner within 45 days of approval by the division.

71

72 This paragraph does not preclude the finding that a lot rental  
73 agreement is invalid on other grounds and does not limit any  
74 rights of a mobile home owner or preclude a mobile home owner  
75 from seeking any remedies allowed by this chapter, including a  
76 determination that the lot rental agreement or any part thereof  
77 is unreasonable.

78 (b) The division shall determine whether the proposed  
79 prospectus or offering circular is adequate to meet the  
80 requirements of this chapter and shall notify the park owner by  
81 mail, within 45 days after receipt of the document, that the  
82 division has found that the prospectus or offering circular is  
83 adequate or has found specified deficiencies. Specified  
84 deficiencies are limited to those items that are a direct  
85 violation of this chapter. If the division does not make either  
86 finding within 45 days, the prospectus or offering circular is  
87 considered to be ~~shall be deemed to have been found~~ adequate.

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88 (c)1. Filings for mobile home parks in which lots have not  
89 been offered for lease prior to June 4, 1984, shall be  
90 accompanied by a filing fee of \$10 per lot offered for lease by  
91 the park owner; however, the fee shall not be less than \$100.

92 2. Filings for mobile home parks in which lots have been  
93 offered for lease prior to the effective date of this chapter  
94 shall be accompanied by a filing fee as follows:

- 95 a. For a park in which there are 26-50 lots: \$100.
- 96 b. For a park in which there are 51-100 lots: \$150.
- 97 c. For a park in which there are 101-150 lots: \$200.
- 98 d. For a park in which there are 151-200 lots: \$250.
- 99 e. For a park in which there are 201 or more lots: \$300.

100 (d) The division shall maintain copies of each prospectus  
101 and all amendments to each prospectus which are considered  
102 adequate by the division. The division shall provide copies of  
103 documents requested in writing under this subsection within 10  
104 days after the written request is received.

105 (2) The park owner shall furnish a copy of the prospectus  
106 or offering circular together with all of the exhibits thereto  
107 to each prospective lessee. Delivery shall be made prior to  
108 execution of the lot rental agreement or at the time of  
109 occupancy, whichever occurs first. Upon delivery of a prospectus  
110 to a prospective lessee, the lot rental agreement is voidable by  
111 the lessee for a period of 15 days. However, the park owner is  
112 not required to furnish a copy of the prospectus or offering  
113 circular if the tenancy is a renewal of a tenancy and the mobile  
114 home owner has previously received the prospectus or offering  
115 circular.

116 (3) The prospectus or offering circular together with its

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117 exhibits is a disclosure document intended to afford protection  
118 to homeowners and prospective homeowners in the mobile home  
119 park. The purpose of the document is to disclose the  
120 representations of the mobile home park owner concerning the  
121 operations of the mobile home park.

122 (4) With regard to a tenancy in existence on the effective  
123 date of this chapter, the prospectus or offering circular  
124 offered by the mobile home park owner shall contain the same  
125 terms and conditions as rental agreements offered to all other  
126 mobile home owners residing in the park on the effective date of  
127 this act, excepting only rent variations based upon lot location  
128 and size, and shall not require any mobile home owner to install  
129 any permanent improvements.

130 (5) The mobile home park owner may request that the  
131 homeowner sign a receipt indicating that the homeowner has  
132 received a copy of the prospectus, the rules and regulations,  
133 the rental agreement, and other pertinent documents so long as  
134 any such documents are clearly identified in the receipt itself.  
135 Such a receipt shall indicate nothing more than that the  
136 documents identified herein have been received by the mobile  
137 home owner. The receipt, if requested, shall be signed at the  
138 time of delivery of the identified documents. If the homeowner  
139 refuses to sign the receipt, the park owner shall still deliver  
140 to the homeowner a copy of the prospectus, rules and  
141 regulations, rental agreement, and other pertinent documents ~~any~~  
142 ~~other documents~~ which otherwise would have been delivered upon  
143 execution of the receipt. However, the homeowner shall  
144 thereafter be barred from claiming that the park owner has  
145 failed to deliver such documents. The refusal of the homeowner

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146 to sign the receipt shall under no circumstances constitute a  
147 ground for eviction of the homeowner or of a mobile home or for  
148 the imposition of any other penalty.

149 Section 2. Paragraph (b) of subsection (9) of section  
150 723.012, Florida Statutes, is amended to read:

151 723.012 Prospectus or offering circular.—The prospectus or  
152 offering circular, which is required to be provided by s.  
153 723.011, must contain the following information:

154 (9) An explanation of the manner in which the lot rental  
155 amount will be raised, including, but not limited to:

156 (b) Disclosure of any factors which ~~may~~ affect the lot  
157 rental amount, if applicable, including, but not limited to:

- 158 1. Water rates.
- 159 2. Sewer rates.
- 160 3. Waste disposal rates.
- 161 4. Maintenance costs, including costs of deferred  
162 maintenance.
- 163 5. Management costs.
- 164 6. Property taxes.
- 165 7. Major repairs or improvements.
- 166 8. Any other fees, costs, entrance fees, or charges to  
167 which the mobile home owner may be subjected.

168 Section 3. Subsection (2) of section 723.035, Florida  
169 Statutes, is amended, and subsection (3) is added to that  
170 section, to read:

171 723.035 Rules and regulations.—

172 (2) A ~~No~~ rule or regulation may not ~~shall~~ provide for  
173 payment of any fee, fine, assessment, or charge, except as  
174 otherwise provided in the prospectus or offering circular filed

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175 under s. 723.012, if one is required to be provided, and until  
176 after the park owner has complied with the procedure set forth  
177 in s. 723.037.

178 (3) (a) A mobile home park owner may take action, including  
179 entering a homeowner's mobile home lot, to correct the following  
180 violations of mobile home park rules and regulations after  
181 proper notice is given to the homeowner:

182 1. Failure to mow or edge the lot or lawn, or to trim the  
183 trees or shrubbery. The park owner must give the homeowner  
184 written notice by mail, and also post the written notice on the  
185 home or provide a copy of the notice to the homeowner by  
186 electronic transmission, specifying the action needed to correct  
187 the violation and the date by which the homeowner must correct  
188 the violation. Such date may not be less than 3 business days  
189 after the date of mailing of the notice to the homeowner's park  
190 address. The notice shall also provide the cost that the  
191 homeowner is responsible for paying if the park owner must take  
192 action to correct the violation.

193 2. Failure to pressure wash the home, repair skirting or  
194 siding on the home, paint the home, or remove debris or junk  
195 from the lot. The park owner must give the homeowner written  
196 notice by mail, and also post the written notice on the home or  
197 provide a copy of the notice to the homeowner by electronic  
198 transmission, specifying the action needed to correct the  
199 violation and the date by which the homeowner must correct the  
200 violation. Such date may not be less than 30 business days after  
201 the date of mailing of the notice to the homeowner's park  
202 address. The notice shall also provide the cost that the  
203 homeowner is responsible for paying if the park owner must take

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204 action to correct the violation.

205 (b) The date by which the homeowner must correct the  
206 violation specified in the notice as required in paragraph (a)  
207 may not be extended because the notice was mailed.

208 (c) If the homeowner does not remedy the violation  
209 specified in the notice as required in paragraph (a), the park  
210 owner may enter the homeowner's lot and take corrective action  
211 to remedy the violation. The park owner may charge a fee  
212 sufficient to recover the costs incurred for taking corrective  
213 action and to encourage compliance in the future. The fee may  
214 not be unreasonable, as defined in s. 723.003, and does not need  
215 to be disclosed in the prospectus or rental agreement in order  
216 to be charged under this subsection.

217 (d) This subsection is a separate enforcement procedure  
218 available to the park owner and is not required to be separately  
219 stated in the prospectus, rental agreement, rules and  
220 regulations, or other pertinent documents. However, the rules  
221 and regulations must generally describe the requirements that  
222 may be the basis of a violation under this subsection.

223 (e) This subsection does not limit a park owner's right of  
224 entry onto a mobile home lot as provided in s. 723.025.

225 Section 4. Paragraph (d) of subsection (1) and subsection  
226 (4) of section 723.061, Florida Statutes, are amended to read:

227 723.061 Eviction; grounds, proceedings.—

228 (1) A mobile home park owner may evict a mobile home owner,  
229 a mobile home tenant, a mobile home occupant, or a mobile home  
230 only on one or more of the following grounds:

231 (d) Change in use of the land comprising the mobile home  
232 park, or the portion thereof from which mobile homes are to be



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233 evicted, from mobile home lot rentals to some other use, if:

234 1. The park owner gives written notice to the homeowners'  
235 association formed and operating under ss. 723.075-723.079 of  
236 its right to purchase the mobile home park, if the land  
237 comprising the mobile home park is changing use from mobile home  
238 lot rentals to a different use, at the price and under the terms  
239 and conditions set forth in the written notice.

240 a. The notice shall be delivered to the officers of the  
241 homeowners' association by United States mail. Within 45 days  
242 after the date of mailing of the notice, the homeowners'  
243 association may execute and deliver a contract to the park owner  
244 to purchase the mobile home park at the price and under the  
245 terms and conditions set forth in the notice. If the contract  
246 between the park owner and the homeowners' association is not  
247 executed and delivered to the park owner within the 45-day  
248 period, the park owner is under no further obligation to the  
249 homeowners' association except as provided in sub-subparagraph  
250 b.

251 b. If the park owner elects to offer or sell the mobile  
252 home park at a price lower than the price specified in her or  
253 his initial notice to the officers of the homeowners'  
254 association, the homeowners' association has an additional 10  
255 days to meet the revised price, terms, and conditions of the  
256 park owner by executing and delivering a revised contract to the  
257 park owner.

258 c. The park owner is not obligated under this subparagraph  
259 or s. 723.071 to give any other notice to, or to further  
260 negotiate with, the homeowners' association for the sale of the  
261 mobile home park to the homeowners' association after 6 months

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262 after the date of the mailing of the initial notice under sub-  
263 subparagraph a.

264 2. The park owner gives the affected mobile home owners and  
265 tenants at least 6 months' notice of the eviction due to the  
266 projected change in use and of their need to secure other  
267 accommodations. The park owner shall provide a copy of each  
268 eviction notice that is given to an affected mobile home owner  
269 to the division within 20 days after giving the notice to the  
270 mobile home owner. The division shall provide a copy of each  
271 eviction notice to the Executive Director of the Florida Mobile  
272 Home Relocation Corporation.

273 a. The notice of eviction due to a change in use of the  
274 land must include in a font no smaller than the body of the  
275 notice the following statement:  
276 YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME  
277 RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME  
278 RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS  
279 AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND  
280 PROFESSIONAL REGULATION.

281 b. The park owner may not give a notice of increase in lot  
282 rental amount within 90 days before giving notice of a change in  
283 use.

284 (4) Except for the notice to the officers of the  
285 homeowners' association under subparagraph (1)(d)1., any notice  
286 required by this section must be in writing, and must be posted  
287 on the premises and sent to the mobile home owner and tenant or  
288 occupant, as appropriate, by United States ~~certified or~~  
289 ~~registered~~ mail, ~~return receipt requested~~, addressed to the  
290 mobile home owner and tenant or occupant, as appropriate, at her

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291 or his last known address. Delivery of the mailed notice shall  
292 be deemed given 5 days after the date of postmark.

293 Section 5. Subsection (1) of section 723.076, Florida  
294 Statutes, is amended to read:

295 723.076 Incorporation; notification of park owner.—

296 (1) Upon receipt of its certificate of incorporation, the  
297 homeowners' association shall notify the park owner in writing  
298 of such incorporation and shall advise the park owner of the  
299 names and addresses of the officers of the homeowners'  
300 association by personal delivery upon the park owner's  
301 representative as designated in the prospectus or by certified  
302 mail, return receipt requested. Thereafter, the homeowners'  
303 association shall notify the park owner in writing by certified  
304 mail, return receipt requested, of any change of names and  
305 addresses of its president or registered agent. Upon election or  
306 appointment of new officers or members, the homeowners'  
307 association shall notify the park owner in writing by certified  
308 mail, return receipt requested, of the names and addresses of  
309 the new officers or members.

310 Section 6. Paragraphs (b) through (e) of subsection (2) of  
311 section 723.078, Florida Statutes, are amended to read:

312 723.078 Bylaws of homeowners' associations.—

313 (2) The bylaws shall provide and, if they do not, shall be  
314 deemed to include, the following provisions:

315 (b) *Quorum; voting requirements; proxies.*—

316 1. Unless otherwise provided in the bylaws, 30 percent of  
317 the total membership is required to constitute a quorum.  
318 Decisions shall be made by a majority of members represented at  
319 a meeting at which a quorum is present.

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320           2.a. A member may not vote by general proxy but may vote by  
321 limited proxies substantially conforming to a limited proxy form  
322 adopted by the division. Limited proxies and general proxies may  
323 be used to establish a quorum. Limited proxies may be used for  
324 votes taken to amend the articles of incorporation or bylaws  
325 pursuant to this section, and any other matters for which this  
326 chapter requires or permits a vote of members. ~~A, except that no~~  
327 proxy, limited or general, may not be used in the election of  
328 board members in general elections or elections to fill  
329 vacancies caused by recall, resignation, or otherwise. The board  
330 members shall be elected by written ballot or by voting in  
331 person. If a mobile home or subdivision lot is owned jointly,  
332 the owners of the mobile home or subdivision lot must be counted  
333 as one for the purpose of determining the number of votes  
334 required for a majority. Only one vote per mobile home or  
335 subdivision lot shall be counted. Any number greater than 50  
336 percent of the total number of votes constitutes a majority.  
337 Notwithstanding this section, members may vote in person at  
338 member meetings or by secret ballot, including absentee ballots,  
339 as defined by the division.

340           b. At least 20 percent of the eligible voters must cast a  
341 ballot in order for the election to be valid. Elections shall be  
342 decided by a plurality of the ballots cast without a quorum  
343 requirement. A member may not allow any other person to vote his  
344 or her ballot, and any ballots improperly cast are invalid. An  
345 election is not required unless there are more candidates  
346 nominated than vacancies exist on the board.

347           c. The ballot shall indicate, in alphabetical order by  
348 surname, each member or other eligible person who desires to be

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349 a candidate for the board of directors. A ballot may not  
350 indicate if any of the candidates are incumbent on the board.  
351 All ballots shall be uniform in appearance. Write-in candidates  
352 and more than one vote per candidate, per ballot are not  
353 permitted. A ballot may not provide a space for the signature  
354 of, or any other means of identifying, a voter. If a ballot  
355 contains more votes than vacancies or fewer votes than  
356 vacancies, the ballot is invalid, unless otherwise stated in the  
357 bylaws.

358 d. An impartial committee shall be responsible for  
359 overseeing the election process and complying with all ballot  
360 requirements. For purposes of this section, the term "impartial"  
361 means a committee whose members do not include any of the  
362 following people or their spouses:

363 (I) Current board members.

364 (II) Current association officers.

365 (III) Candidates for the association or board.

366 e. The association bylaws shall provide a method for  
367 determining the winner of an election where two or more  
368 candidates for the same position receive the same number of  
369 votes.

370 f. A person who has been convicted of a felony in this  
371 state or in a United States District or Territorial Court, or  
372 who has been convicted of any offense in another jurisdiction  
373 which would be considered a felony if committed in this state,  
374 may not seek election to the board and is not eligible for board  
375 membership unless the person's civil rights have been restored  
376 for at least 5 years before the date on which the person seeks  
377 election to the board. The validity of an action taken by the

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378 board is not affected if it is later determined that a member of  
379 the board is ineligible for board membership.

380 g. The division shall adopt procedural rules to govern  
381 elections, including rules for providing notice by electronic  
382 transmission and rules for maintaining the secrecy of ballots.

383 3. A proxy is effective only for the specific meeting for  
384 which originally given and any lawfully adjourned meetings  
385 thereof. In no event shall any proxy be valid for a period  
386 longer than 90 days after the date of the first meeting for  
387 which it was given. Every proxy shall be revocable at any time  
388 at the pleasure of the member executing it.

389 4. A member of the board of directors or a committee may  
390 submit in writing his or her agreement or disagreement with any  
391 action taken at a meeting that the member did not attend. This  
392 agreement or disagreement may not be used as a vote for or  
393 against the action taken and may not be used for the purposes of  
394 creating a quorum.

395 (c) *Board of directors' and committee meetings.*—

396 1. Meetings of the board of directors and meetings of its  
397 committees at which a quorum is present shall be open to all  
398 members. Notwithstanding any other provision of law, the  
399 requirement that board meetings and committee meetings be open  
400 to the members does not apply to meetings between the park owner  
401 and the board of directors, or any of the board's committees, or  
402 to board or committee meetings held for the purpose of  
403 discussing personnel matters or meetings between the board or a  
404 committee and the association's attorney, with respect to  
405 potential or pending litigation, ~~when~~ where the meeting is held  
406 for the purpose of seeking or rendering legal advice, and when

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407 ~~where~~ the contents of the discussion would otherwise be governed  
408 by the attorney-client privilege. Notice of all meetings open to  
409 the members shall be posted in a conspicuous place upon the park  
410 property at least 48 hours in advance, except in an emergency.  
411 Notice of any meeting in which dues ~~assessments against members~~  
412 are to be considered for any reason shall specifically contain a  
413 statement that dues ~~assessments~~ will be considered and the  
414 nature of such dues ~~assessments~~.

415 2. A board or committee member's participation in a meeting  
416 via telephone, real-time videoconferencing, or similar real-time  
417 telephonic, electronic, or video communication counts toward a  
418 quorum, and such member may vote as if physically present. A  
419 speaker shall be used so that the conversation of those board or  
420 committee members attending by telephone may be heard by the  
421 board or committee members attending in person, as well as by  
422 members present at a meeting.

423 3. Members of the board of directors may use e-mail as a  
424 means of communication but may not cast a vote on an association  
425 matter via e-mail.

426 4. The right to attend meetings of the board of directors  
427 and its committees includes the right to speak at such meetings  
428 with reference to all designated agenda items. The association  
429 may adopt reasonable written rules governing the frequency,  
430 duration, and manner of members' statements. Any item not  
431 included on the notice may be taken up on an emergency basis by  
432 at least a majority plus one of the members of the board. Such  
433 emergency action shall be noticed and ratified at the next  
434 regular meeting of the board. Any member may tape record or  
435 videotape meetings of the board of directors and its committees,

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436 except meetings between the board of directors or its appointed  
437 homeowners' committee and the park owner. The division shall  
438 adopt reasonable rules governing the tape recording and  
439 videotaping of the meeting.

440 5. Except as provided in paragraph (i), a vacancy occurring  
441 on the board of directors may be filled by the affirmative vote  
442 of the majority of the remaining directors, even though the  
443 remaining directors constitute less than a quorum; by the sole  
444 remaining director; if the vacancy is not so filled or if no  
445 director remains, by the members; or, on the application of any  
446 person, by the circuit court of the county in which the  
447 registered office of the corporation is located.

448 6. The term of a director elected or appointed to fill a  
449 vacancy expires at the next annual meeting at which directors  
450 are elected. A directorship to be filled by reason of an  
451 increase in the number of directors may be filled by the board  
452 of directors, but only for the term of office continuing until  
453 the next election of directors by the members.

454 7. A vacancy that will occur at a specific later date, by  
455 reason of a resignation effective at a later date, may be filled  
456 before the vacancy occurs. However, the new director may not  
457 take office until the vacancy occurs.

458 8.a. The officers and directors of the association have a  
459 fiduciary relationship to the members.

460 b. A director and committee member shall discharge his or  
461 her duties in good faith, with the care an ordinarily prudent  
462 person in a like position would exercise under similar  
463 circumstances, and in a manner he or she reasonably believes to  
464 be in the best interests of the corporation.



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465 9. In discharging his or her duties, a director may rely on  
466 information, opinions, reports, or statements, including  
467 financial statements and other financial data, if prepared or  
468 presented by:

469 a. One or more officers or employees of the corporation who  
470 the director reasonably believes to be reliable and competent in  
471 the matters presented;

472 b. Legal counsel, public accountants, or other persons as  
473 to matters the director reasonably believes are within the  
474 persons' professional or expert competence; or

475 c. A committee of the board of directors of which he or she  
476 is not a member if the director reasonably believes the  
477 committee merits confidence.

478 10. A director is not acting in good faith if he or she has  
479 knowledge concerning the matter in question that makes reliance  
480 otherwise permitted by subparagraph 9. unwarranted.

481 11. A director is not liable for any action taken as a  
482 director, or any failure to take any action, if he or she  
483 performed the duties of his or her office in compliance with  
484 this section.

485 (d) *Member meetings.*—Members shall meet at least once each  
486 calendar year, and the meeting shall be the annual meeting. All  
487 members of the board of directors shall be elected at the annual  
488 meeting unless the bylaws provide for staggered election terms  
489 or for their election at another meeting. The bylaws shall not  
490 restrict any member desiring to be a candidate for board  
491 membership from being nominated from the floor. All nominations  
492 from the floor must be made at a duly noticed meeting of the  
493 members held at least 27 ~~30~~ days before the annual meeting. The

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494 bylaws shall provide the method for calling the meetings of the  
495 members, including annual meetings. The method shall provide at  
496 least 14 days' written notice to each member in advance of the  
497 meeting and require the posting in a conspicuous place on the  
498 park property of a notice of the meeting at least 14 days before  
499 ~~prior to~~ the meeting. The right to receive written notice of  
500 membership meetings may be waived in writing by a member. Unless  
501 waived, the notice of the annual meeting shall be mailed, hand  
502 delivered, or electronically transmitted to each member, and  
503 shall constitute notice. Unless otherwise stated in the bylaws,  
504 an officer of the association shall provide an affidavit  
505 affirming that the notices were mailed, ~~or~~ hand delivered, or  
506 provided by electronic transmission in accordance with ~~the~~  
507 ~~provisions of~~ this section to each member at the address last  
508 furnished to the corporation. These meeting requirements do not  
509 prevent members from waiving notice of meetings or from acting  
510 by written agreement without meetings, if allowed by the bylaws.

511 (e) *Minutes of meetings.*—

512 1. Notwithstanding any other provision of law, the minutes  
513 of board or committee meetings that are closed to members are  
514 privileged and confidential and shall not be available for  
515 inspection or photocopying.

516 2. Minutes of all meetings of members of an association and  
517 meetings open for members of~~7~~ the board of directors~~7~~ and a  
518 committee must be maintained in written form and approved by the  
519 members, board, or committee, as applicable. A vote or  
520 abstention from voting on each matter voted upon for each  
521 director present at a board meeting must be recorded in the  
522 minutes.

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523       ~~3.2~~ All approved minutes of meetings of members,  
524 committees, and the board of directors shall be kept in a  
525 businesslike manner and shall be available for inspection by  
526 members, or their authorized representatives, and board members  
527 at reasonable times. The association shall retain these minutes  
528 within the state for a period of at least 5 7 years.

529       Section 7. Subsections (4) and (5) of section 723.079,  
530 Florida Statutes, are amended to read:

531       723.079 Powers and duties of homeowners' association.—

532       (4) The association shall maintain the following items,  
533 when applicable, which constitute the official records of the  
534 association:

535       (a) A copy of the association's articles of incorporation  
536 and each amendment to the articles of incorporation.

537       (b) A copy of the bylaws of the association and each  
538 amendment to the bylaws.

539       (c) A copy of the written rules or policies of the  
540 association and each amendment to the written rules or policies.

541       (d) The approved minutes of all meetings of the members of  
542 an association and meetings open for members of~~7~~ the board of  
543 directors~~7~~, and committees of the board, which minutes must be  
544 retained within the state for at least 5 7 years.

545       (e) A current roster of all members and their mailing  
546 addresses and lot identifications. The association shall also  
547 maintain the e-mail addresses and the numbers designated by  
548 members for receiving notice sent by electronic transmission of  
549 those members consenting to receive notice by electronic  
550 transmission. The e-mail addresses and numbers provided by  
551 members to receive notice by electronic transmission shall be

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552 removed from association records when consent to receive notice  
553 by electronic transmission is revoked. However, the association  
554 is not liable for an erroneous disclosure of the e-mail address  
555 or the number for receiving electronic transmission of notices.

556 (f) All of the association's insurance policies or copies  
557 thereof, which must be retained within the state for at least 5  
558 7 years after the expiration date.

559 (g) A copy of all contracts or agreements to which the  
560 association is a party, including, without limitation, any  
561 written agreements with the park owner, lease, or other  
562 agreements or contracts under which the association or its  
563 members has any obligation or responsibility, which must be  
564 retained within the state for at least 5 7 years after the  
565 expiration date.

566 (h) The financial and accounting records of the  
567 association, kept according to good accounting practices. All  
568 financial and accounting records must be maintained within the  
569 state for ~~a period of~~ at least 5 7 years. The financial and  
570 accounting records must include:

571 1. Accurate, itemized, and detailed records of all receipts  
572 and expenditures.

573 2. A current account and a periodic statement of the  
574 account for each member, designating the name and current  
575 address of each member who is obligated to pay dues or  
576 assessments, the due date and amount of each assessment or other  
577 charge against the member, the date and amount of each payment  
578 on the account, and the balance due.

579 3. All tax returns, financial statements, and financial  
580 reports of the association.

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581 4. Any other records that identify, measure, record, or  
582 communicate financial information.

583 (i) All other written records of the association not  
584 specifically included in the foregoing which are related to the  
585 operation of the association must be retained within the state  
586 for at least 5 years after the expiration date, if applicable.

587 (5) The official records shall be ~~maintained within the~~  
588 ~~state for at least 7 years and shall be made available to a~~  
589 member for inspection or photocopying within 20 ~~10~~ business days  
590 after receipt by the board or its designee of a written request  
591 submitted by certified mail, return receipt requested. The  
592 requirements of this subsection are satisfied by having a copy  
593 of the official records available for inspection or copying in  
594 the park or, at the option of the association, by making the  
595 records available to a member electronically via the Internet or  
596 by allowing the records to be viewed in electronic format on a  
597 computer screen and printed upon request. If the association has  
598 a photocopy machine available where the records are maintained,  
599 it must provide a member with copies on request during the  
600 inspection if the entire request is no more than 25 pages. An  
601 association shall allow a member or his or her authorized  
602 representative to use a portable device, including a smartphone,  
603 tablet, portable scanner, or any other technology capable of  
604 scanning or taking photographs, to make an electronic copy of  
605 the official records in lieu of the association's providing the  
606 member or his or her authorized representative with a copy of  
607 such records. The association may not charge a fee to a member  
608 or his or her authorized representative for the use of a  
609 portable device.

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610 (a) The failure of an association to provide access to the  
611 records within 20 ~~10~~ business days after receipt of a written  
612 request submitted by certified mail, return receipt requested,  
613 creates a rebuttable presumption that the association willfully  
614 failed to comply with this subsection.

615 (b) A member who is denied access to official records is  
616 entitled to statutory ~~the actual damages or minimum~~ damages for  
617 the association's willful failure to comply with this  
618 subsection. The statutory ~~minimum~~ damages are ~~to be~~ \$10 per  
619 calendar day up to 10 days, for a total amount not to exceed  
620 \$100. The calculation for damages begins ~~to begin~~ on the 21st  
621 ~~11th~~ business day after receipt of the written request,  
622 submitted by certified mail, return receipt requested.

623 (c) Any inspection or photocopying dispute between a member  
624 and an association must be submitted to mandatory binding  
625 arbitration with the division. Such proceeding shall be  
626 conducted in the manner provided in s. 723.1255 and according to  
627 the procedural rules adopted by the division.

628 (d) ~~(e)~~ The association may adopt reasonable written rules  
629 governing the frequency, time, location, notice, records to be  
630 inspected, and manner of inspections, but may not require a  
631 member to demonstrate a proper purpose for the inspection, state  
632 a reason for the inspection, or limit a member's right to  
633 inspect records to less than 1 business day per month. The  
634 association may impose fees to cover the costs of providing  
635 copies of the official records, including the costs of copying  
636 and for personnel to retrieve and copy the records if the time  
637 spent retrieving and copying the records exceeds 30 minutes and  
638 if the personnel costs do not exceed \$20 per hour. Personnel

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639 costs may not be charged for records requests that result in the  
640 copying of 25 or fewer pages. The association may charge up to  
641 25 cents per page for copies made on the association's  
642 photocopier. If the association does not have a photocopy  
643 machine available where the records are kept, or if the records  
644 requested to be copied exceed 25 pages in length, the  
645 association may have copies made by an outside duplicating  
646 service and may charge the actual cost of copying, as supported  
647 by the vendor invoice. The association shall maintain an  
648 adequate number of copies of the recorded governing documents,  
649 to ensure their availability to members and prospective members.  
650 Notwithstanding this paragraph, the following records are not  
651 accessible to members or home owners:

652 1. A record protected by the lawyer-client privilege as  
653 described in s. 90.502 and a record protected by the work-  
654 product privilege, including, but not limited to, a record  
655 prepared by an association attorney or prepared at the  
656 attorney's express direction which reflects a mental impression,  
657 conclusion, litigation strategy, or legal theory of the attorney  
658 or the association and which was prepared exclusively for civil  
659 or criminal litigation, for adversarial administrative  
660 proceedings, or in anticipation of such litigation or  
661 proceedings until the conclusion of the litigation or  
662 proceedings.

663 2. E-mail addresses, telephone numbers, facsimile numbers,  
664 emergency contact information, any addresses for a home owner  
665 other than as provided for association notice requirements, and  
666 other personal identifying information of any person, excluding  
667 the person's name, lot designation, mailing address, and

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668 property address. Notwithstanding the restrictions in this  
669 subparagraph, an association may print and distribute to home  
670 owners a directory containing the name, park address, and  
671 telephone number of each home owner. However, a home owner may  
672 exclude his or her telephone number from the directory by so  
673 requesting in writing to the association. The association is not  
674 liable for the disclosure of information that is protected under  
675 this subparagraph if the information is included in an official  
676 record of the association and is voluntarily provided by a home  
677 owner and not requested by the association.

678 3. An electronic security measure that is used by the  
679 association to safeguard data, including passwords.

680 4. The software and operating system used by the  
681 association which allows the manipulation of data, even if the  
682 home owner owns a copy of the same software used by the  
683 association. The data is part of the official records of the  
684 association.

685 Section 8. Section 723.1255, Florida Statutes, is amended  
686 to read:

687 723.1255 Alternative resolution of recall, election, and  
688 inspection and photocopying of official records disputes. ~~The~~  
689 ~~Division of Florida Condominiums, Timeshares, and Mobile Homes~~  
690 ~~of the Department of Business and Professional Regulation shall~~  
691 ~~adopt rules of procedure to govern binding recall arbitration~~  
692 ~~proceedings.~~

693 (1) A dispute between a mobile home owner and a homeowners'  
694 association regarding s. 723.078(2), involving the election and  
695 recall of officers or directors, or s. 723.079(5), involving the  
696 inspection and photocopying of official records, must be



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697 submitted to mandatory binding arbitration with the division.  
698 Such proceeding shall be conducted in accordance with this  
699 section and the procedural rules adopted by the division.

700 (2) The prevailing party in a mandatory binding arbitration  
701 proceeding shall be awarded reasonable attorney fees and costs,  
702 which the arbitrator shall calculate in accordance with the  
703 statewide uniform guidelines for taxation of costs in civil  
704 actions. The arbitrator shall follow the applicable Florida  
705 Rules of Civil Procedure in determining the timeframe for filing  
706 a motion for attorney fees and costs.

707 (3) The division shall adopt procedural rules to govern  
708 mandatory binding arbitration proceedings.

709 Section 9. This act shall take effect July 1, 2019.