



390698

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/12/2019	.	
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The Committee on Innovation, Industry, and Technology (Gruters) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 34.01, Florida  
Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(a) In all misdemeanor cases not cognizable by the circuit  
courts;



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11 (b) Of all violations of municipal and county ordinances;

12 (c) Of all actions at law in which the matter in  
13 controversy does not exceed the sum of \$15,000, exclusive of  
14 interest, costs, and attorney's fees, except those within the  
15 exclusive jurisdiction of the circuit courts; and

16 (d) Of disputes occurring in condominium associations as  
17 described in s. 718.1255, cooperative associations as described  
18 in s. 719.1255, and ~~the~~ homeowners' associations as described in  
19 s. 720.311(3)(a) ~~s. 720.311(2)(a)~~, which is ~~shall be~~ concurrent  
20 with jurisdiction of the circuit courts.

21 Section 2. Paragraph (a) of subsection (2) of section  
22 514.0115, Florida Statutes, is amended to read:

23 514.0115 Exemptions from supervision or regulation;  
24 variances.—

25 (2) (a) Pools serving condominium, cooperative, and  
26 homeowners' associations, as well as other property  
27 associations, which have no more than 32 ~~condominium or~~  
28 ~~cooperative~~ units or parcels and which are not operated as a  
29 public lodging establishments are ~~establishment shall be~~ exempt  
30 from supervision under this chapter, except for water quality.

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

33 627.714 Residential condominium unit owner coverage; loss  
34 assessment coverage required.—

35 (4) Every individual unit owner's residential property  
36 policy must contain a provision stating that the coverage  
37 afforded by such policy is excess coverage over the amount  
38 recoverable under any other policy covering the same property.  
39 An insurance policy issued to an individual unit owner may not



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40 provide rights of subrogation against the condominium  
41 association operating the condominium in which such individual's  
42 unit is located.

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

45 718.111 The association.—

46 (12) OFFICIAL RECORDS.—

47 (a) From the inception of the association, the association  
48 shall maintain each of the following items, if applicable, which  
49 constitutes the official records of the association:

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

52 2. A photocopy of the recorded declaration of condominium  
53 of each condominium operated by the association and each  
54 amendment to each declaration.

55 3. A photocopy of the recorded bylaws of the association  
56 and each amendment to the bylaws.

57 4. A certified copy of the articles of incorporation of the  
58 association, or other documents creating the association, and  
59 each amendment thereto.

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

61 6. A book or books that contain the minutes of all meetings  
62 of the association, the board of administration, and the unit  
63 owners.

64 7. A current roster of all unit owners and their mailing  
65 addresses, unit identifications, voting certifications, and, if  
66 known, telephone numbers. The association shall also maintain  
67 the e-mail addresses and facsimile numbers of unit owners  
68 consenting to receive notice by electronic transmission. The e-



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69 mail addresses and facsimile numbers are not accessible to unit  
70 owners if consent to receive notice by electronic transmission  
71 is not provided in accordance with sub-subparagraph (c)3.e.  
72 However, the association is not liable for an inadvertent  
73 disclosure of the e-mail address or facsimile number for  
74 receiving electronic transmission of notices.

75 8. All current insurance policies of the association and  
76 condominiums operated by the association.

77 9. A current copy of any management agreement, lease, or  
78 other contract to which the association is a party or under  
79 which the association or the unit owners have an obligation or  
80 responsibility.

81 10. Bills of sale or transfer for all property owned by the  
82 association.

83 11. Accounting records for the association and separate  
84 accounting records for each condominium that the association  
85 operates. Any person who knowingly or intentionally defaces or  
86 destroys such records, or who knowingly or intentionally fails  
87 to create or maintain such records, with the intent of causing  
88 harm to the association or one or more of its members, is  
89 personally subject to a civil penalty pursuant to s.

90 718.501(1)(d). The accounting records must include, but are not  
91 limited to:

92 a. Accurate, itemized, and detailed records of all receipts  
93 and expenditures.

94 b. A current account and a monthly, bimonthly, or quarterly  
95 statement of the account for each unit designating the name of  
96 the unit owner, the due date and amount of each assessment, the  
97 amount paid on the account, and the balance due.



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

100 d. All contracts for work to be performed. Bids for work to  
101 be performed are also considered official records and must be  
102 maintained by the association for at least 1 year after receipt  
103 of the bid.

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

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

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

113 ~~15. All other written records of the association not~~  
114 ~~specifically included in the foregoing which are related to the~~  
115 ~~operation of the association.~~

116 ~~16.~~ A copy of the inspection report as described in s.  
117 718.301(4)(p).

118 ~~16.~~~~17.~~ Bids for materials, equipment, or services.

119 17. All other records of the association not specifically  
120 included in subparagraphs 1.-16. which are related to the  
121 operation of the association.

122 (b) The official records specified in subparagraphs (a)1.-  
123 6. must be permanently maintained from the inception of the  
124 association. Bids for work to be performed or for materials,  
125 equipment, or services must be maintained for 1 year after  
126 receipt of the bid. All other official records must be



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127 maintained within the state for at least 7 years, unless  
128 otherwise provided by general law. The records of the  
129 association shall be made available to a unit owner within 45  
130 miles of the condominium property or within the county in which  
131 the condominium property is located within 10 working days after  
132 receipt of a written request by the board or its designee.  
133 However, such distance requirement does not apply to an  
134 association governing a timeshare condominium. This paragraph  
135 may be complied with by having a copy of the official records of  
136 the association available for inspection or copying on the  
137 condominium property or association property, or the association  
138 may offer the option of making the records available to a unit  
139 owner electronically via the Internet or by allowing the records  
140 to be viewed in electronic format on a computer screen and  
141 printed upon request. The association is not responsible for the  
142 use or misuse of the information provided to an association  
143 member or his or her authorized representative in pursuant to  
144 ~~the compliance with requirements of~~ this chapter unless the  
145 association has an affirmative duty not to disclose such  
146 information under ~~pursuant to~~ this chapter.

147 (c)1. The official records of the association are open to  
148 inspection by any association member or the authorized  
149 representative of such member at all reasonable times. The right  
150 to inspect the records includes the right to make or obtain  
151 copies, at the reasonable expense, if any, of the member or  
152 authorized representative of such member. A renter of a unit has  
153 a right to inspect and copy the association's bylaws and rules.  
154 The association may adopt reasonable rules regarding the  
155 frequency, time, location, notice, and manner of record



156 inspections and copying, but may not require a member to  
157 demonstrate any purpose or state any reason for the inspection.

158 The failure of an association to provide the records within 10  
159 working days after receipt of a written request creates a  
160 rebuttable presumption that the association willfully failed to  
161 comply with this paragraph. A unit owner who is denied access to  
162 official records is entitled to the actual damages or minimum  
163 damages for the association's willful failure to comply. Minimum  
164 damages are \$50 per calendar day for up to 10 days, beginning on  
165 the 11th working day after receipt of the written request. The  
166 failure to permit inspection entitles any person prevailing in  
167 an enforcement action to recover reasonable attorney fees from  
168 the person in control of the records who, directly or  
169 indirectly, knowingly denied access to the records.

170 2. Any person who knowingly or intentionally defaces or  
171 destroys accounting records that are required by this chapter to  
172 be maintained during the period for which such records are  
173 required to be maintained, or who knowingly or intentionally  
174 fails to create or maintain accounting records that are required  
175 to be created or maintained, with the intent of causing harm to  
176 the association or one or more of its members, is personally  
177 subject to a civil penalty pursuant to s. 718.501(1)(d).

178 3. The association shall maintain an adequate number of  
179 copies of the declaration, articles of incorporation, bylaws,  
180 and rules, and all amendments to each of the foregoing, as well  
181 as the question and answer sheet as described in s. 718.504 and  
182 year-end financial information required under this section, on  
183 the condominium property to ensure their availability to unit  
184 owners and prospective purchasers, and may charge its actual



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185 costs for preparing and furnishing these documents to those  
186 requesting the documents. An association shall allow a member or  
187 his or her authorized representative to use a portable device,  
188 including a smartphone, tablet, portable scanner, or any other  
189 technology capable of scanning or taking photographs, to make an  
190 electronic copy of the official records in lieu of the  
191 association's providing the member or his or her authorized  
192 representative with a copy of such records. The association may  
193 not charge a member or his or her authorized representative for  
194 the use of a portable device. Notwithstanding this paragraph,  
195 the following records are not accessible to unit owners:

196       a. Any record protected by the lawyer-client privilege as  
197 described in s. 90.502 and any record protected by the work-  
198 product privilege, including a record prepared by an association  
199 attorney or prepared at the attorney's express direction, which  
200 reflects a mental impression, conclusion, litigation strategy,  
201 or legal theory of the attorney or the association, and which  
202 was prepared exclusively for civil or criminal litigation or for  
203 adversarial administrative proceedings, or which was prepared in  
204 anticipation of such litigation or proceedings until the  
205 conclusion of the litigation or proceedings.

206       b. Information obtained by an association in connection  
207 with the approval of the lease, sale, or other transfer of a  
208 unit.

209       c. Personnel records of association or management company  
210 employees, including, but not limited to, disciplinary, payroll,  
211 health, and insurance records. For purposes of this sub-  
212 subparagraph, the term "personnel records" does not include  
213 written employment agreements with an association employee or





214 management company, or budgetary or financial records that  
215 indicate the compensation paid to an association employee.

216 d. Medical records of unit owners.

217 e. Social security numbers, driver license numbers, credit  
218 card numbers, e-mail addresses, telephone numbers, facsimile  
219 numbers, emergency contact information, addresses of a unit  
220 owner other than as provided to fulfill the association's notice  
221 requirements, and other personal identifying information of any  
222 person, excluding the person's name, unit designation, mailing  
223 address, property address, and any address, e-mail address, or  
224 facsimile number provided to the association to fulfill the  
225 association's notice requirements. Notwithstanding the  
226 restrictions in this sub-subparagraph, an association may print  
227 and distribute to unit ~~parcel~~ owners a directory containing the  
228 name, unit ~~parcel~~ address, and all telephone numbers of each  
229 unit ~~parcel~~ owner. However, an owner may exclude his or her  
230 telephone numbers from the directory by so requesting in writing  
231 to the association. An owner may consent in writing to the  
232 disclosure of other contact information described in this sub-  
233 subparagraph. The association is not liable for the inadvertent  
234 disclosure of information that is protected under this sub-  
235 subparagraph if the information is included in an official  
236 record of the association and is voluntarily provided by an  
237 owner and not requested by the association.

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

240 g. The software and operating system used by the  
241 association which allow the manipulation of data, even if the  
242 owner owns a copy of the same software used by the association.



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243 The data is part of the official records of the association.

244 (g)1. By January 1, 2019, an association managing a  
245 condominium with 150 or more units which does not contain  
246 timeshare units shall post digital copies of the documents  
247 specified in subparagraph 2. on its website or make such  
248 documents available through an application that can be  
249 downloaded on a mobile device.

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

251 (I) An independent website, application, or web portal  
252 wholly owned and operated by the association; or

253 (II) A website, application, or web portal operated by a  
254 third-party provider with whom the association owns, leases,  
255 rents, or otherwise obtains the right to operate a web page,  
256 subpage, web portal, ~~or~~ collection of subpages or web portals, or  
257 application which is dedicated to the association's  
258 activities and on which required notices, records, and documents  
259 may be posted or made available by the association.

260 b. The association's website or application must be  
261 accessible through the Internet and must contain a subpage, web  
262 portal, or other protected electronic location that is  
263 inaccessible to the general public and accessible only to unit  
264 owners and employees of the association.

265 c. Upon a unit owner's written request, the association  
266 must provide the unit owner with a username and password and  
267 access to the protected sections of the association's website or  
268 application that contain any notices, records, or documents that  
269 must be electronically provided.

270 2. A current copy of the following documents must be posted  
271 in digital format on the association's website or made available



272 through an application that can be downloaded on a mobile  
273 device:

274 a. The recorded declaration of condominium of each  
275 condominium operated by the association and each amendment to  
276 each declaration.

277 b. The recorded bylaws of the association and each  
278 amendment to the bylaws.

279 c. The articles of incorporation of the association, or  
280 other documents creating the association, and each amendment to  
281 the articles of incorporation or other documents thereto. The  
282 copy posted pursuant to this sub-subparagraph must be a copy of  
283 the articles of incorporation filed with the Department of  
284 State.

285 d. The rules of the association.

286 e. A list of all executory contracts or documents to which  
287 the association is a party or under which the association or the  
288 unit owners have an obligation or responsibility and, after  
289 bidding for the related materials, equipment, or services has  
290 closed, a list of bids received by the association within the  
291 past year. Summaries of bids for materials, equipment, or  
292 services which exceed \$500 must be maintained on the website or  
293 application for 1 year. In lieu of summaries, complete copies of  
294 the bids may be posted.

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

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

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



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301 718.112(2)(d)4.b.

302 i. All contracts or transactions between the association  
303 and any director, officer, corporation, firm, or association  
304 that is not an affiliated condominium association or any other  
305 entity in which an association director is also a director or  
306 officer and financially interested.

307 j. Any contract or document regarding a conflict of  
308 interest or possible conflict of interest as provided in ss.  
309 468.436(2)(b)6. and 718.3027(3).

310 k. The notice of any unit owner meeting and the agenda for  
311 the meeting, as required by s. 718.112(2)(d)3., no later than 14  
312 days before the meeting. The notice must be posted in plain view  
313 on the front page of the website or application, or on a  
314 separate subpage of the website or application labeled "Notices"  
315 which is conspicuously visible and linked from the front page.  
316 The association must also post on its website or application any  
317 document to be considered and voted on by the owners during the  
318 meeting or any document listed on the agenda at least 7 days  
319 before the meeting at which the document or the information  
320 within the document will be considered.

321 1. Notice of any board meeting, the agenda, and any other  
322 document required for the meeting as required by s.  
323 718.112(2)(c), which must be posted no later than the date  
324 required for notice pursuant to s. 718.112(2)(c).

325 3. The association shall ensure that the information and  
326 records described in paragraph (c), which are not allowed to be  
327 accessible to unit owners, are not posted on the association's  
328 website or the association's application that can be downloaded  
329 on a mobile device. If protected information or information



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330 restricted from being accessible to unit owners is included in  
331 documents that are required to be posted on the association's  
332 website or application, the association shall ensure the  
333 information is redacted before posting the documents ~~online~~.  
334 Notwithstanding the foregoing, the association or its agent is  
335 not liable for disclosing information that is protected or  
336 restricted pursuant to this paragraph unless such disclosure was  
337 made with a knowing or intentional disregard of the protected or  
338 restricted nature of such information.

339 4. The failure of the association to post information  
340 required under subparagraph 2. is not in and of itself  
341 sufficient to invalidate any action or decision of the  
342 association's board or its committees.

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

346 718.112 Bylaws.—

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

350 (d) *Unit owner meetings*.—

351 1. An annual meeting of the unit owners must be held at the  
352 location provided in the association bylaws and, if the bylaws  
353 are silent as to the location, the meeting must be held within  
354 45 miles of the condominium property. However, such distance  
355 requirement does not apply to an association governing a  
356 timeshare condominium.

357 2. Unless the bylaws provide otherwise, a vacancy on the  
358 board caused by the expiration of a director's term must be



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359 filled by electing a new board member, and the election must be  
360 by secret ballot. An election is not required if the number of  
361 vacancies equals or exceeds the number of candidates. For  
362 purposes of this paragraph, the term "candidate" means an  
363 eligible person who has timely submitted the written notice, as  
364 described in sub-subparagraph 4.a., of his or her intention to  
365 become a candidate. Except in a timeshare or nonresidential  
366 condominium, or if the staggered term of a board member does not  
367 expire until a later annual meeting, or if all members' terms  
368 would otherwise expire but there are no candidates, the terms of  
369 all board members expire at the annual meeting, and such members  
370 may stand for reelection unless prohibited by the bylaws. Board  
371 members may serve terms longer than 1 year if permitted by the  
372 bylaws or articles of incorporation. A board member may not  
373 serve more than 8 consecutive years unless approved by an  
374 affirmative vote of unit owners representing two-thirds of all  
375 votes cast in the election or unless there are not enough  
376 eligible candidates to fill the vacancies on the board at the  
377 time of the vacancy. Only board service that occurs on or after  
378 July 1, 2018, may be used when calculating a board member's term  
379 limit. If the number of board members whose terms expire at the  
380 annual meeting equals or exceeds the number of candidates, the  
381 candidates become members of the board effective upon the  
382 adjournment of the annual meeting. Unless the bylaws provide  
383 otherwise, any remaining vacancies shall be filled by the  
384 affirmative vote of the majority of the directors making up the  
385 newly constituted board even if the directors constitute less  
386 than a quorum or there is only one director. In a residential  
387 condominium association of more than 10 units or in a



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388 residential condominium association that does not include  
389 timeshare units or timeshare interests, coowners of a unit may  
390 not serve as members of the board of directors at the same time  
391 unless they own more than one unit or unless there are not  
392 enough eligible candidates to fill the vacancies on the board at  
393 the time of the vacancy. A unit owner in a residential  
394 condominium desiring to be a candidate for board membership must  
395 comply with sub-subparagraph 4.a. and must be eligible to be a  
396 candidate to serve on the board of directors at the time of the  
397 deadline for submitting a notice of intent to run in order to  
398 have his or her name listed as a proper candidate on the ballot  
399 or to serve on the board. A person who has been suspended or  
400 removed by the division under this chapter, or who is delinquent  
401 in the payment of any monetary obligation due to the  
402 association, is not eligible to be a candidate for board  
403 membership and may not be listed on the ballot. A person who has  
404 been convicted of any felony in this state or in a United States  
405 District or Territorial Court, or who has been convicted of any  
406 offense in another jurisdiction which would be considered a  
407 felony if committed in this state, is not eligible for board  
408 membership unless such felon's civil rights have been restored  
409 for at least 5 years as of the date such person seeks election  
410 to the board. The validity of an action by the board is not  
411 affected if it is later determined that a board member is  
412 ineligible for board membership due to having been convicted of  
413 a felony. This subparagraph does not limit the term of a member  
414 of the board of a nonresidential or timeshare condominium.

415 3. The bylaws must provide the method of calling meetings  
416 of unit owners, including annual meetings. Written notice must



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417 include an agenda, must be mailed, hand delivered, or  
418 electronically transmitted to each unit owner at least 14 days  
419 before the ~~annual~~ meeting, and must be posted in a conspicuous  
420 place on the condominium property at least 14 continuous days  
421 before the ~~annual~~ meeting. Upon notice to the unit owners, the  
422 board shall, by duly adopted rule, designate a specific location  
423 on the condominium property where all notices of unit owner  
424 meetings must be posted. This requirement does not apply if  
425 there is no condominium property for posting notices. In lieu  
426 of, or in addition to, the physical posting of meeting notices,  
427 the association may, by reasonable rule, adopt a procedure for  
428 conspicuously posting and repeatedly broadcasting the notice and  
429 the agenda on a closed-circuit cable television system serving  
430 the condominium association. However, if broadcast notice is  
431 used in lieu of a notice posted physically on the condominium  
432 property, the notice and agenda must be broadcast at least four  
433 times every broadcast hour of each day that a posted notice is  
434 otherwise required under this section. If broadcast notice is  
435 provided, the notice and agenda must be broadcast in a manner  
436 and for a sufficient continuous length of time so as to allow an  
437 average reader to observe the notice and read and comprehend the  
438 entire content of the notice and the agenda. In addition to any  
439 of the authorized means of providing notice of a meeting of the  
440 board, the association may, by rule, adopt a procedure for  
441 conspicuously posting the meeting notice and the agenda on a  
442 website serving the condominium association for at least the  
443 minimum period of time for which a notice of a meeting is also  
444 required to be physically posted on the condominium property.  
445 Any rule adopted shall, in addition to other matters, include a





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446 requirement that the association send an electronic notice in  
447 the same manner as a notice for a meeting of the members, which  
448 must include a hyperlink to the website where the notice is  
449 posted, to unit owners whose e-mail addresses are included in  
450 the association's official records. Unless a unit owner waives  
451 in writing the right to receive notice of the annual meeting,  
452 such notice must be hand delivered, mailed, or electronically  
453 transmitted to each unit owner. Notice for meetings and notice  
454 for all other purposes must be mailed to each unit owner at the  
455 address last furnished to the association by the unit owner, or  
456 hand delivered to each unit owner. However, if a unit is owned  
457 by more than one person, the association must provide notice to  
458 the address that the developer identifies for that purpose and  
459 thereafter as one or more of the owners of the unit advise the  
460 association in writing, or if no address is given or the owners  
461 of the unit do not agree, to the address provided on the deed of  
462 record. An officer of the association, or the manager or other  
463 person providing notice of the association meeting, must provide  
464 an affidavit or United States Postal Service certificate of  
465 mailing, to be included in the official records of the  
466 association affirming that the notice was mailed or hand  
467 delivered in accordance with this provision.

468         4. The members of the board of a residential condominium  
469 shall be elected by written ballot or voting machine. Proxies  
470 may not be used in electing the board in general elections or  
471 elections to fill vacancies caused by recall, resignation, or  
472 otherwise, unless otherwise provided in this chapter. This  
473 subparagraph does not apply to an association governing a  
474 timeshare condominium.



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475           a. At least 60 days before a scheduled election, the  
476 association shall mail, deliver, or electronically transmit, by  
477 separate association mailing or included in another association  
478 mailing, delivery, or transmission, including regularly  
479 published newsletters, to each unit owner entitled to a vote, a  
480 first notice of the date of the election. A unit owner or other  
481 eligible person desiring to be a candidate for the board must  
482 give written notice of his or her intent to be a candidate to  
483 the association at least 40 days before a scheduled election.  
484 Together with the written notice and agenda as set forth in  
485 subparagraph 3., the association shall mail, deliver, or  
486 electronically transmit a second notice of the election to all  
487 unit owners entitled to vote, together with a ballot that lists  
488 all candidates not less than 14 days or more than 34 days before  
489 the date of the election. Upon request of a candidate, an  
490 information sheet, no larger than 8 1/2 inches by 11 inches,  
491 which must be furnished by the candidate at least 35 days before  
492 the election, must be included with the mailing, delivery, or  
493 transmission of the ballot, with the costs of mailing, delivery,  
494 or electronic transmission and copying to be borne by the  
495 association. The association is not liable for the contents of  
496 the information sheets prepared by the candidates. In order to  
497 reduce costs, the association may print or duplicate the  
498 information sheets on both sides of the paper. The division  
499 shall by rule establish voting procedures consistent with this  
500 sub-subparagraph, including rules establishing procedures for  
501 giving notice by electronic transmission and rules providing for  
502 the secrecy of ballots. Elections shall be decided by a  
503 plurality of ballots cast. There is no quorum requirement;



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504 however, at least 20 percent of the eligible voters must cast a  
505 ballot in order to have a valid election. A unit owner may not  
506 authorize any other person to vote his or her ballot, and any  
507 ballots improperly cast are invalid. A unit owner who violates  
508 this provision may be fined by the association in accordance  
509 with s. 718.303. A unit owner who needs assistance in casting  
510 the ballot for the reasons stated in s. 101.051 may obtain such  
511 assistance. The regular election must occur on the date of the  
512 annual meeting. Notwithstanding this sub-subparagraph, an  
513 election is not required unless more candidates file notices of  
514 intent to run or are nominated than board vacancies exist.

515       b. Within 90 days after being elected or appointed to the  
516 board of an association of a residential condominium, each newly  
517 elected or appointed director shall certify in writing to the  
518 secretary of the association that he or she has read the  
519 association's declaration of condominium, articles of  
520 incorporation, bylaws, and current written policies; that he or  
521 she will work to uphold such documents and policies to the best  
522 of his or her ability; and that he or she will faithfully  
523 discharge his or her fiduciary responsibility to the  
524 association's members. In lieu of this written certification,  
525 within 90 days after being elected or appointed to the board,  
526 the newly elected or appointed director may submit a certificate  
527 of having satisfactorily completed the educational curriculum  
528 administered by a division-approved condominium education  
529 provider within 1 year before or 90 days after the date of  
530 election or appointment. The written certification or  
531 educational certificate is valid and does not have to be  
532 resubmitted as long as the director serves on the board without



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533 interruption. A director of an association of a residential  
534 condominium who fails to timely file the written certification  
535 or educational certificate is suspended from service on the  
536 board until he or she complies with this sub-subparagraph. The  
537 board may temporarily fill the vacancy during the period of  
538 suspension. The secretary shall cause the association to retain  
539 a director's written certification or educational certificate  
540 for inspection by the members for 5 years after a director's  
541 election or the duration of the director's uninterrupted tenure,  
542 whichever is longer. Failure to have such written certification  
543 or educational certificate on file does not affect the validity  
544 of any board action.

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

547 5. Any approval by unit owners called for by this chapter  
548 or the applicable declaration or bylaws, including, but not  
549 limited to, the approval requirement in s. 718.111(8), must be  
550 made at a duly noticed meeting of unit owners and is subject to  
551 all requirements of this chapter or the applicable condominium  
552 documents relating to unit owner decisionmaking, except that  
553 unit owners may take action by written agreement, without  
554 meetings, on matters for which action by written agreement  
555 without meetings is expressly allowed by the applicable bylaws  
556 or declaration or any law that provides for such action.

557 6. Unit owners may waive notice of specific meetings if  
558 allowed by the applicable bylaws or declaration or any law.  
559 Notice of meetings of the board of administration, unit owner  
560 meetings, except unit owner meetings called to recall board  
561 members under paragraph (j), and committee meetings may be given



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562 by electronic transmission to unit owners who consent to receive  
563 notice by electronic transmission. A unit owner who consents to  
564 receiving notices by electronic transmission is solely  
565 responsible for removing or bypassing filters that block receipt  
566 of mass e-mails ~~emails~~ sent to members on behalf of the  
567 association in the course of giving electronic notices.

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

572 8. A unit owner may tape record or videotape a meeting of  
573 the unit owners subject to reasonable rules adopted by the  
574 division.

575 9. Unless otherwise provided in the bylaws, any vacancy  
576 occurring on the board before the expiration of a term may be  
577 filled by the affirmative vote of the majority of the remaining  
578 directors, even if the remaining directors constitute less than  
579 a quorum, or by the sole remaining director. In the alternative,  
580 a board may hold an election to fill the vacancy, in which case  
581 the election procedures must conform to sub-subparagraph 4.a.  
582 unless the association governs 10 units or fewer and has opted  
583 out of the statutory election process, in which case the bylaws  
584 of the association control. Unless otherwise provided in the  
585 bylaws, a board member appointed or elected under this section  
586 shall fill the vacancy for the unexpired term of the seat being  
587 filled. Filling vacancies created by recall is governed by  
588 paragraph (j) and rules adopted by the division.

589 10. This chapter does not limit the use of general or  
590 limited proxies, require the use of general or limited proxies,



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591 or require the use of a written ballot or voting machine for any  
592 agenda item or election at any meeting of a timeshare  
593 condominium association or nonresidential condominium  
594 association.

595

596 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
597 association of 10 or fewer units may, by affirmative vote of a  
598 majority of the total voting interests, provide for different  
599 voting and election procedures in its bylaws, which may be by a  
600 proxy specifically delineating the different voting and election  
601 procedures. The different voting and election procedures may  
602 provide for elections to be conducted by limited or general  
603 proxy.

604 (i) *Transfer fees.*—An association may not ~~no~~ charge an  
605 applicant any fees, except the actual costs of any background  
606 check or screening performed shall be made by the association,  
607 or any body thereof in connection with the sale, mortgage,  
608 lease, sublease, or other transfer of a unit unless the  
609 association is required to approve such transfer and a fee for  
610 such approval is provided for in the declaration, articles, or  
611 bylaws. Except for the actual costs of any background check or  
612 screening performed by the association, any such fee may be  
613 preset, but may not ~~in no event may such fee~~ exceed \$100 per  
614 applicant other than a husband and wife or parent and dependent  
615 child ~~husband/wife or parent/dependent child~~, which are  
616 considered one applicant. However, if the lease or sublease is a  
617 renewal of a lease or sublease with the same lessee or  
618 sublessee, a charge may not ~~no charge shall~~ be made. The  
619 foregoing notwithstanding, an association may, if the authority



620 to do so appears in the declaration, articles, or bylaws,  
621 require that a prospective lessee place a security deposit, in  
622 an amount not to exceed the equivalent of 1 month's rent, into  
623 an escrow account maintained by the association. The security  
624 deposit shall protect against damages to the common elements or  
625 association property. Payment of interest, claims against the  
626 deposit, refunds, and disputes under this paragraph shall be  
627 handled in the same fashion as provided in part II of chapter  
628 83.

629 (j) *Recall of board members.*—Subject to s. 718.301, any  
630 member of the board of administration may be recalled and  
631 removed from office with or without cause by the vote or  
632 agreement in writing by a majority of all the voting interests.  
633 A special meeting of the unit owners to recall a member or  
634 members of the board of administration may be called by 10  
635 percent of the voting interests giving notice of the meeting as  
636 required for a meeting of unit owners, and the notice shall  
637 state the purpose of the meeting. Electronic transmission may  
638 not be used as a method of giving notice of a meeting called in  
639 whole or in part for this purpose.

640 1. If the recall is approved by a majority of all voting  
641 interests by a vote at a meeting, the recall will be effective  
642 as provided in this paragraph. The board shall duly notice and  
643 hold a board meeting within 5 full business days after the  
644 adjournment of the unit owner meeting to recall one or more  
645 board members. Such member or members shall be recalled  
646 effective immediately upon conclusion of the board meeting,  
647 provided that the recall is facially valid. A recalled member  
648 must turn over to the board, within 10 full business days after



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649 the vote, any and all records and property of the association in  
650 his or her ~~their~~ possession.

651         2. If the proposed recall is by an agreement in writing by  
652 a majority of all voting interests, the agreement in writing or  
653 a copy thereof shall be served on the association by certified  
654 mail or by personal service in the manner authorized by chapter  
655 48 and the Florida Rules of Civil Procedure. The board of  
656 administration shall duly notice and hold a meeting of the board  
657 within 5 full business days after receipt of the agreement in  
658 writing. Such member or members shall be recalled effective  
659 immediately upon the conclusion of the board meeting, provided  
660 that the recall is facially valid. A recalled member must turn  
661 over to the board, within 10 full business days, any and all  
662 records and property of the association in his or her ~~their~~  
663 possession.

664         3. If the board fails to duly notice and hold a board  
665 meeting within 5 full business days after service of an  
666 agreement in writing or within 5 full business days after the  
667 adjournment of the unit owner recall meeting, the recall is  
668 ~~shall be deemed~~ effective and the board members so recalled  
669 shall turn over to the board within 10 full business days after  
670 the vote any and all records and property of the association.

671         4. If the board fails to duly notice and hold the required  
672 meeting or at the conclusion of the meeting determines that the  
673 recall is not facially valid, the unit owner representative may  
674 file an action ~~a petition~~ pursuant to s. 718.1255 challenging  
675 the board's failure to act or challenging the board's  
676 determination on facial validity. The action ~~petition~~ must be  
677 filed within 60 days after the expiration of the applicable 5-





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678 full-business-day period. The review of an action ~~a petition~~  
679 under this subparagraph is limited to the sufficiency of service  
680 on the board and the facial validity of the written agreement or  
681 ballots filed.

682 5. If a vacancy occurs on the board as a result of a recall  
683 or removal and less than a majority of the board members are  
684 removed, the vacancy may be filled by the affirmative vote of a  
685 majority of the remaining directors, notwithstanding any  
686 provision to the contrary contained in this subsection. If  
687 vacancies occur on the board as a result of a recall and a  
688 majority or more of the board members are removed, the vacancies  
689 shall be filled in accordance with the bylaws ~~procedural rules~~  
690 ~~to be adopted by the division, which rules need not be~~  
691 ~~consistent with this subsection. The rules must provide~~  
692 ~~procedures governing the conduct of the recall election as well~~  
693 ~~as the operation of the association during the period after a~~  
694 ~~recall but before the recall election.~~

695 6. A board member who has been recalled may file an action  
696 ~~a petition~~ pursuant to s. 718.1255 challenging the validity of  
697 the recall. The action ~~petition~~ must be filed within 60 days  
698 after the recall. The association and the unit owner  
699 representative shall be named as the defendants ~~respondents~~. The  
700 action ~~petition~~ may challenge the facial validity of the written  
701 agreement or ballots filed or the substantial compliance with  
702 the procedural requirements for the recall. If the court  
703 ~~arbitrator~~ determines the recall was invalid, the plaintiff  
704 ~~petitioning board member~~ shall immediately be reinstated and the  
705 recall is null and void. A board member who is successful in  
706 challenging a recall is entitled to recover reasonable attorney



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707 fees and costs from the defendants ~~respondents~~. The court shall  
708 ~~arbitrator may~~ award reasonable attorney fees and costs to the  
709 defendants ~~respondents~~ if they prevail, if the court ~~arbitrator~~  
710 makes a finding that the plaintiff's ~~petitioner's~~ claim is  
711 frivolous.

712 7. An action may not be filed regarding ~~The division may~~  
713 ~~not accept for filing~~ a recall ~~petition~~, whether filed pursuant  
714 to subparagraph 1., subparagraph 2., subparagraph 4., or  
715 subparagraph 6., when there are 60 or fewer days until the  
716 scheduled reelection of the board member sought to be recalled  
717 or when 60 or fewer days have elapsed since the election of the  
718 board member sought to be recalled.

719 (k) Mediation ~~Arbitration~~.—There shall be a provision for  
720 mandatory mediation ~~nonbinding arbitration~~ as provided for in s.  
721 718.1255 for any residential condominium.

722 ~~(p) Service providers; conflicts of interest. An~~  
723 ~~association, which is not a timeshare condominium association,~~  
724 ~~may not employ or contract with any service provider that is~~  
725 ~~owned or operated by a board member or with any person who has a~~  
726 ~~financial relationship with a board member or officer, or a~~  
727 ~~relative within the third degree of consanguinity by blood or~~  
728 ~~marriage of a board member or officer. This paragraph does not~~  
729 ~~apply to a service provider in which a board member or officer,~~  
730 ~~or a relative within the third degree of consanguinity by blood~~  
731 ~~or marriage of a board member or officer, owns less than 1~~  
732 ~~percent of the equity shares.~~

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

735 718.113 Maintenance; limitation upon improvement; display



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736 of flag; hurricane shutters and protection; display of religious  
737 decorations.—

738 (8) The Legislature finds that the use of electric vehicles  
739 conserves and protects the state's environmental resources,  
740 provides significant economic savings to drivers, and serves an  
741 important public interest. The participation of condominium  
742 associations is essential to the state's efforts to conserve and  
743 protect the state's environmental resources and provide economic  
744 savings to drivers. Therefore, the installation of an electric  
745 vehicle charging station shall be governed as follows:

746 (a) A declaration of condominium or restrictive covenant  
747 may not prohibit or be enforced so as to prohibit any unit owner  
748 from installing an electric vehicle charging station within the  
749 boundaries of the unit owner's limited common element or  
750 exclusively designated parking area. The board of administration  
751 of a condominium association may not prohibit a unit owner from  
752 installing an electric vehicle charging station for an electric  
753 vehicle, as defined in s. 320.01, within the boundaries of his  
754 or her limited common element or exclusively designated parking  
755 area. The installation of such charging stations are subject to  
756 the provisions of this subsection.

757 (c) The electricity for the electric vehicle charging  
758 station must be separately metered or must use an embedded meter  
759 and be payable by the unit owner installing such charging  
760 station.

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

763 718.117 Termination of condominium.—

764 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a



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765 plan of termination by initiating a summary procedure pursuant  
766 to s. 51.011 ~~petition for mandatory nonbinding arbitration~~  
767 ~~pursuant to s. 718.1255~~ within 90 days after the date the plan  
768 is recorded. A unit owner or lienor may only contest the  
769 fairness and reasonableness of the apportionment of the proceeds  
770 from the sale among the unit owners, that the liens of the first  
771 mortgages of unit owners other than the bulk owner have not or  
772 will not be satisfied to the extent required by subsection (3),  
773 or that the required vote to approve the plan was not obtained.  
774 A unit owner or lienor who does not contest the plan within the  
775 90-day period is barred from asserting or prosecuting a claim  
776 against the association, the termination trustee, any unit  
777 owner, or any successor in interest to the condominium property.  
778 In an action contesting a plan of termination, the person  
779 contesting the plan has the burden of pleading and proving that  
780 the apportionment of the proceeds from the sale among the unit  
781 owners was not fair and reasonable or that the required vote was  
782 not obtained. The apportionment of sale proceeds is presumed  
783 fair and reasonable if it was determined pursuant to the methods  
784 prescribed in subsection (12). The court ~~arbitrator~~ shall  
785 determine the rights and interests of the parties in the  
786 apportionment of the sale proceeds. If the court ~~arbitrator~~  
787 determines that the apportionment of sales proceeds is not fair  
788 and reasonable, the court ~~arbitrator~~ may void the plan or may  
789 modify the plan to apportion the proceeds in a fair and  
790 reasonable manner pursuant to this section based upon the  
791 proceedings and order the modified plan of termination to be  
792 implemented. If the court ~~arbitrator~~ determines that the plan  
793 was not properly approved, or that the procedures to adopt the



794 plan were not properly followed, the court ~~arbitrator~~ may void  
795 the plan or grant other relief it deems just and proper. The  
796 bulk owner is liable for any damages, as determined by the  
797 court, ~~The arbitrator shall automatically void the plan upon a~~  
798 finding that any of the disclosures required in subparagraph  
799 (3)(c)5. are omitted, misleading, incomplete, or inaccurate. Any  
800 challenge to a plan, other than a challenge that the required  
801 vote was not obtained, does not affect title to the condominium  
802 property or the vesting of the condominium property in the  
803 trustee, but shall only be a claim against the proceeds of the  
804 plan. In any such action, the prevailing party shall recover  
805 reasonable attorney fees and costs.

806 Section 8. Section 718.1255, Florida Statutes, is amended  
807 to read:

808 718.1255 Alternative dispute resolution; mandatory  
809 ~~voluntary~~ mediation; ~~mandatory nonbinding arbitration;~~  
810 legislative findings.-

811 (1) DEFINITIONS.-As used in this section, the term  
812 "dispute" means any disagreement between two or more parties  
813 that involves:

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

816 1. Require any owner to take any action, or not to take any  
817 action, involving that owner's unit or the appurtenances  
818 thereto.

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

820 (b) The failure of a governing body, when required by this  
821 chapter or an association document, to:

822 1. Maintain common elements, association property, or



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823 portions of the unit for which the association is responsible  
824 ~~Properly conduct elections.~~

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

826 3. Properly conduct meetings of the board and committees  
827 appointed by the board and membership meetings. This  
828 subparagraph does not apply to elections held at a meeting.

829 4. Allow inspection of books and records.

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

831  
832 "Dispute" does not include any disagreement that primarily  
833 involves: title to any unit or common element; the  
834 interpretation or enforcement of any warranty; the levy of a fee  
835 or assessment, or the collection of an assessment levied against  
836 a party; the eviction or other removal of a tenant from a unit;  
837 alleged breaches of fiduciary duty by one or more directors; or  
838 claims for damages to a unit based upon the alleged failure of  
839 the association to maintain the common elements or condominium  
840 property.

841 ~~(2) VOLUNTARY MEDIATION. Voluntary mediation through~~  
842 ~~Citizen Dispute Settlement Centers as provided for in s. 44.201~~  
843 ~~is encouraged.~~

844 (2)(3) LEGISLATIVE FINDINGS.-

845 ~~(a)~~ The Legislature finds that alternative dispute  
846 resolution reduces court dockets and trials and offers a more  
847 efficient, cost-effective option to litigation. However, the  
848 Legislature also finds that alternative dispute resolution  
849 should not be used as a mechanism to encourage the filing of  
850 frivolous or nuisance actions. Upon serving a demand for presuit  
851 mediation as provided for in this section, the applicable



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852 statute of limitations is tolled until 30 days after mediation  
853 is completed and no agreement has been made, 10 days after the  
854 date by which a party must accept presuit mediation, or until  
855 the conclusion of the period of time during which a mediation  
856 must be conducted under this section ~~unit owners are frequently~~  
857 ~~at a disadvantage when litigating against an association.~~  
858 ~~Specifically, a condominium association, with its statutory~~  
859 ~~assessment authority, is often more able to bear the costs and~~  
860 ~~expenses of litigation than the unit owner who must rely on his~~  
861 ~~or her own financial resources to satisfy the costs of~~  
862 ~~litigation against the association.~~

863 ~~(b) The Legislature finds that alternative dispute~~  
864 ~~resolution has been making progress in reducing court dockets~~  
865 ~~and trials and in offering a more efficient, cost-effective~~  
866 ~~option to court litigation. However, the Legislature also finds~~  
867 ~~that alternative dispute resolution should not be used as a~~  
868 ~~mechanism to encourage the filing of frivolous or nuisance~~  
869 ~~suits.~~

870 ~~(c) There exists a need to develop a flexible means of~~  
871 ~~alternative dispute resolution that directs disputes to the most~~  
872 ~~efficient means of resolution.~~

873 ~~(d) The high cost and significant delay of circuit court~~  
874 ~~litigation faced by unit owners in the state can be alleviated~~  
875 ~~by requiring nonbinding arbitration and mediation in appropriate~~  
876 ~~eases, thereby reducing delay and attorney's fees while~~  
877 ~~preserving the right of either party to have its case heard by a~~  
878 ~~jury, if applicable, in a court of law.~~

879 ~~(3)(4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF~~  
880 ~~DISPUTES.-~~



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881 (a)1. Before an action may be filed in court, all disputes,  
882 except for disputes relating to the collection of any  
883 assessment, fine, or other financial obligation, including  
884 attorney fees and costs, between an association and a unit owner  
885 must be mediated pursuant to this subsection. An association or  
886 unit owner may file an action in court without presuit mediation  
887 to enforce a prior mediation settlement agreement between the  
888 parties or request injunctive relief. However, the court hearing  
889 the action for injunctive relief must refer the parties to a  
890 mediation program administered by the courts or mediation under  
891 this subsection after the injunctive relief issues are  
892 determined. Presuit mediation proceedings must be conducted in  
893 accordance with the applicable rules of the Florida Rules of  
894 Civil Procedure and chapter 44. The proceedings under this  
895 subsection are privileged and confidential to the same extent as  
896 court-ordered mediation. Except for each party's counsel, a  
897 corporate representative designated by the association, and a  
898 representative from the association's insurance carrier, if  
899 applicable, a person who is not a party to the dispute may not  
900 attend the presuit mediation without the consent of all the  
901 parties. If the presuit mediation is attended by a quorum of the  
902 board, the mediation is not considered a board meeting for  
903 purposes of notice and participation as required in s. 718.112.  
904 An aggrieved party shall serve a written demand to participate  
905 in presuit mediation on the responding party in substantially  
906 the following form:

907  
908 STATUTORY OFFER TO PARTICIPATE  
909 IN PRESUIT MEDIATION





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

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

Under section 718.1255, Florida Statutes, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. The parties are required to engage in presuit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the presuit mediation process, an action may be brought against you without further warning.

Presuit mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in presuit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no



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939 authority to make any decisions in this matter or to  
940 determine who is right or wrong; he or she merely acts  
941 as a facilitator to ensure that each party understands  
942 the position of the other party and that all options  
943 for reasonable settlement are fully explored.

944  
945 If an agreement is reached, it must be reduced to  
946 writing and signed, at which time the agreement  
947 becomes a binding and enforceable contract between the  
948 parties. A resolution of one or more disputes in this  
949 fashion avoids the need to litigate those issues in  
950 court. The failure of a party to participate in the  
951 process or the failure of the parties to reach an  
952 agreement during the mediation process results in the  
953 aggrieved party being able to proceed to court on all  
954 outstanding and unsettled disputes. If you fail or  
955 refuse to participate in the presuit mediation  
956 process, you will not be entitled to recover your  
957 attorney fees, even if you prevail during the court  
958 process.

959  
960 The aggrieved party has selected and hereby lists five  
961 circuit court civil mediators certified by the Florida  
962 Supreme Court who the aggrieved party believes to be  
963 neutral and qualified to mediate the dispute. You have  
964 the right to select any one of these mediators. The  
965 fact that one party may be familiar with one or more  
966 of the listed mediators does not mean that the  
967 mediator cannot act as a neutral and impartial



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facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept the engagement. The mediators that we suggest, and their current hourly rates, are as follows:

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

By mutual agreement, and before accepting presuit mediation, we can also select mediators other than the Supreme Court-certified circuit court civil mediators named above as alternates to the above-named mediators. The alternate mediators are not required to be Supreme Court-certified circuit court civil mediators. The alternate mediators that we suggest, and their hourly rates, are as follows:

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

You may contact the offices of these mediators to confirm that the listed mediators will be neutral and



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997 will not show any favoritism toward either party. The  
998 Florida Supreme Court can provide you a list of  
999 mediators who are certified in the area of circuit  
1000 civil law.

1001  
1002 Unless otherwise agreed to by the parties, section  
1003 718.1255(3)(d), Florida Statutes, requires that the  
1004 parties share equally the costs of presuit mediation,  
1005 including the fee charged by the mediator. A typical  
1006 presuit mediation may require 3 to 4 hours of the  
1007 mediator's time, including preparation time. Parties  
1008 who choose to hire an attorney will pay their own  
1009 attorney fees without a guarantee that the court will  
1010 issue an award for reimbursement of the fees. However,  
1011 the use of an attorney is not required. The mediator  
1012 may require an advance payment for some or all of the  
1013 anticipated fees. The aggrieved party hereby agrees to  
1014 pay, or prepay if requested by the mediator, one-half  
1015 of the mediator's estimated fees and to forward this  
1016 amount or such other reasonable advance deposits as  
1017 the mediator requires. Any funds you deposit will be  
1018 returned to you if the deposited funds are in excess  
1019 of your share of the fees incurred.

1020  
1021 To begin your participation in presuit mediation to  
1022 try to resolve the dispute and avoid further legal  
1023 action, please sign below and clearly indicate which  
1024 mediator is acceptable to you. We will then ask the  
1025 mediator to schedule a mutually convenient time and



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1026 place for the presuit mediation conference to be held.  
1027 The presuit mediation conference must be held within  
1028 90 days after the date of acceptance of presuit  
1029 mediation, unless extended by mutual written  
1030 agreement. In the event that you fail to respond  
1031 within 30 days after the date of this letter, or if  
1032 you fail to agree to at least one of the mediators  
1033 that we have suggested or fail to pay or prepay to the  
1034 mediator one-half of the fees involved, the aggrieved  
1035 party is authorized to proceed with the filing of a  
1036 lawsuit against you without further notice and may  
1037 then seek an award of attorney fees or costs incurred  
1038 in attempting to mediate this dispute.

1040 Therefore, please give this matter your immediate  
1041 attention. By law, your response must be mailed by  
1042 certified mail, return receipt requested, and by  
1043 first-class mail to the address shown on this demand.

1046 .....  
1047 .....

1049 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR  
1050 AGREEMENT TO THAT CHOICE.

1052 AGREEMENT TO MEDIATE

1054 The undersigned agrees to participate in presuit



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1055 mediation and agrees to attend a mediation conducted  
1056 by the following mediator or mediators who are listed  
1057 above as individuals who would be acceptable to  
1058 mediate this dispute:

1059  
1060 (List acceptable mediator or mediators.)

1061  
1062 I/we further agree to pay or prepay one-half of the  
1063 mediator's fees and to forward such advance deposits  
1064 as the mediator may require for this purpose.

1065  
1066 .....  
1067 Signature of responding party #1

1068  
1069 .....  
1070 Telephone number

1071  
1072 .....  
1073 Signature and telephone number of responding party #2,  
1074 if applicable. (If property is owned by more than one  
1075 person, all owners must sign.)

1076  
1077 2. The statutory demand must also contain the following  
1078 statement in capitalized, bold letters in a font size larger  
1079 than any other used in the statutory demand: A PERSON WHO FAILS  
1080 OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION  
1081 PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN  
1082 SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

1083 (b) Service of the statutory demand to participate in



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1084 presuit mediation shall be effected by sending a letter in  
1085 substantially the above form by certified mail, return receipt  
1086 requested, with an additional copy being sent by first-class  
1087 mail, to the address of the responding party as it last appears  
1088 on the books and records of the association. The responding  
1089 party shall serve a written response to the aggrieved party  
1090 within 30 days after the date of the mailing of the statutory  
1091 demand. The response must be sent by certified mail, return  
1092 receipt requested, with an additional copy being sent by first-  
1093 class mail, to the address shown on the statutory demand.

1094 (c) Once the parties have selected a mediator, the mediator  
1095 shall schedule the presuit mediation for a date and time  
1096 mutually convenient to the parties. Each proposed mediator must  
1097 be available to hold the presuit mediation in the county in  
1098 which the condominium is located or within 40 miles of the  
1099 condominium without charging extra for travel-related costs. If  
1100 a presuit mediation session cannot be scheduled and concluded  
1101 within 90 days after the date of acceptance of presuit mediation  
1102 and there is no agreement between the parties to extend the 90-  
1103 day deadline, the aggrieved party may file an action in court.

1104 (d) The parties shall share equally the costs of presuit  
1105 mediation, including any fee charged by the mediator, unless the  
1106 parties agree otherwise. The mediator may require advance  
1107 payment of his or her reasonable fees and costs, which must also  
1108 be shared equally. The failure of any party to respond to a  
1109 demand or response, to agree upon a mediator, to pay fees and  
1110 costs within the time established by the mediator, or to fail to  
1111 appear for a scheduled presuit mediation session without the  
1112 approval of the mediator constitutes the failure or refusal to



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1113 participate in the presuit mediation process, entitling the  
1114 other party to proceed in court and to seek an award of the  
1115 costs and fees associated with the presuit mediation.

1116 Additionally, and notwithstanding any other law, document, or  
1117 contractual provision, any person who fails or refuses to  
1118 participate in the entire presuit mediation process may not  
1119 recover attorney fees and costs in subsequent litigation  
1120 relating to the dispute.

1121 (e) If presuit mediation as described in paragraph (a) is  
1122 not successful in resolving all issues between the parties, any  
1123 party may file suit regarding the unresolved dispute in a court  
1124 of competent jurisdiction. As to any issue or dispute that is  
1125 not resolved at presuit mediation, and as to any issue or  
1126 dispute that is settled at presuit mediation but is later  
1127 subject to an action seeking enforcement of the mediation  
1128 settlement, the prevailing party in any subsequent litigation or  
1129 proceeding is entitled to an award of all costs and attorney  
1130 fees incurred in the presuit mediation process.

1131 (f) The parties may agree to a mediator who is not  
1132 certified by the Florida Supreme Court. Unless such mediator is  
1133 agreed upon, a mediator may not conduct presuit mediation under  
1134 this section unless he or she has been certified as a circuit  
1135 court civil mediator pursuant to the requirements established by  
1136 the Florida Supreme Court. Settlement agreements resulting from  
1137 presuit mediation do not have precedential value in proceedings  
1138 involving parties other than those participating in the presuit  
1139 mediation to support a claim or defense in other disputes.

1140 (4) DISPUTES INVOLVING ELECTIONS FOR THE BOARD OF  
1141 ADMINISTRATION OR RECALL OF BOARD MEMBERS.-Any dispute





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1142 challenging the legality of the election of any director of the  
1143 board of administration or the recall of any member of the board  
1144 of administration must be filed as a summary procedure under s.  
1145 51.011, and in any such action the prevailing party is entitled  
1146 to recover reasonable attorney fees and costs. Any action filed  
1147 pursuant to this subsection must be tried without a jury. The  
1148 Division of Florida Condominiums, Timeshares, and Mobile Homes  
1149 of the Department of Business and Professional Regulation may  
1150 employ full-time attorneys to act as arbitrators to conduct the  
1151 arbitration hearings provided by this chapter. The division may  
1152 also certify attorneys who are not employed by the division to  
1153 act as arbitrators to conduct the arbitration hearings provided  
1154 by this chapter. No person may be employed by the department as  
1155 a full-time arbitrator unless he or she is a member in good  
1156 standing of The Florida Bar. A person may only be certified by  
1157 the division to act as an arbitrator if he or she has been a  
1158 member in good standing of The Florida Bar for at least 5 years  
1159 and has mediated or arbitrated at least 10 disputes involving  
1160 condominiums in this state during the 3 years immediately  
1161 preceding the date of application, mediated or arbitrated at  
1162 least 30 disputes in any subject area in this state during the 3  
1163 years immediately preceding the date of application, or attained  
1164 board certification in real estate law or condominium and  
1165 planned development law from The Florida Bar. Arbitrator  
1166 certification is valid for 1 year. An arbitrator who does not  
1167 maintain the minimum qualifications for initial certification  
1168 may not have his or her certification renewed. The department  
1169 may not enter into a legal services contract for an arbitration  
1170 hearing under this chapter with an attorney who is not a



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1171 ~~certified arbitrator unless a certified arbitrator is not~~  
1172 ~~available within 50 miles of the dispute. The department shall~~  
1173 ~~adopt rules of procedure to govern such arbitration hearings~~  
1174 ~~including mediation incident thereto. The decision of an~~  
1175 ~~arbitrator shall be final; however, a decision shall not be~~  
1176 ~~deemed final agency action. Nothing in this provision shall be~~  
1177 ~~construed to foreclose parties from proceeding in a trial de~~  
1178 ~~novo unless the parties have agreed that the arbitration is~~  
1179 ~~binding. If judicial proceedings are initiated, the final~~  
1180 ~~decision of the arbitrator shall be admissible in evidence in~~  
1181 ~~the trial de novo.~~

1182 ~~(a) Prior to the institution of court litigation, a party~~  
1183 ~~to a dispute shall petition the division for nonbinding~~  
1184 ~~arbitration. The petition must be accompanied by a filing fee in~~  
1185 ~~the amount of \$50. Filing fees collected under this section must~~  
1186 ~~be used to defray the expenses of the alternative dispute~~  
1187 ~~resolution program.~~

1188 ~~(b) The petition must recite, and have attached thereto,~~  
1189 ~~supporting proof that the petitioner gave the respondents:~~

1190 ~~1. Advance written notice of the specific nature of the~~  
1191 ~~dispute;~~

1192 ~~2. A demand for relief, and a reasonable opportunity to~~  
1193 ~~comply or to provide the relief; and~~

1194 ~~3. Notice of the intention to file an arbitration petition~~  
1195 ~~or other legal action in the absence of a resolution of the~~  
1196 ~~dispute.~~

1197  
1198 ~~Failure to include the allegations or proof of compliance with~~  
1199 ~~these prerequisites requires dismissal of the petition without~~



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1200 ~~prejudice.~~

1201 ~~(c) Upon receipt, the petition shall be promptly reviewed~~  
1202 ~~by the division to determine the existence of a dispute and~~  
1203 ~~compliance with the requirements of paragraphs (a) and (b). If~~  
1204 ~~emergency relief is required and is not available through~~  
1205 ~~arbitration, a motion to stay the arbitration may be filed. The~~  
1206 ~~motion must be accompanied by a verified petition alleging facts~~  
1207 ~~that, if proven, would support entry of a temporary injunction,~~  
1208 ~~and if an appropriate motion and supporting papers are filed,~~  
1209 ~~the division may abate the arbitration pending a court hearing~~  
1210 ~~and disposition of a motion for temporary injunction.~~

1211 ~~(d) Upon determination by the division that a dispute~~  
1212 ~~exists and that the petition substantially meets the~~  
1213 ~~requirements of paragraphs (a) and (b) and any other applicable~~  
1214 ~~rules, the division shall assign or enter into a contract with~~  
1215 ~~an arbitrator and serve a copy of the petition upon all~~  
1216 ~~respondents. The arbitrator shall conduct a hearing within 30~~  
1217 ~~days after being assigned or entering into a contract unless the~~  
1218 ~~petition is withdrawn or a continuance is granted for good cause~~  
1219 ~~shown.~~

1220 ~~(e) Before or after the filing of the respondents' answer~~  
1221 ~~to the petition, any party may request that the arbitrator refer~~  
1222 ~~the case to mediation under this section and any rules adopted~~  
1223 ~~by the division. Upon receipt of a request for mediation, the~~  
1224 ~~division shall promptly contact the parties to determine if~~  
1225 ~~there is agreement that mediation would be appropriate. If all~~  
1226 ~~parties agree, the dispute must be referred to mediation.~~  
1227 ~~Notwithstanding a lack of an agreement by all parties, the~~  
1228 ~~arbitrator may refer a dispute to mediation at any time.~~



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1229           ~~(f) Upon referral of a case to mediation, the parties must~~  
1230 ~~select a mutually acceptable mediator. To assist in the~~  
1231 ~~selection, the arbitrator shall provide the parties with a list~~  
1232 ~~of both volunteer and paid mediators that have been certified by~~  
1233 ~~the division under s. 718.501. If the parties are unable to~~  
1234 ~~agree on a mediator within the time allowed by the arbitrator,~~  
1235 ~~the arbitrator shall appoint a mediator from the list of~~  
1236 ~~certified mediators. If a case is referred to mediation, the~~  
1237 ~~parties shall attend a mediation conference, as scheduled by the~~  
1238 ~~parties and the mediator. If any party fails to attend a duly~~  
1239 ~~noticed mediation conference, without the permission or approval~~  
1240 ~~of the arbitrator or mediator, the arbitrator must impose~~  
1241 ~~sanctions against the party, including the striking of any~~  
1242 ~~pleadings filed, the entry of an order of dismissal or default~~  
1243 ~~if appropriate, and the award of costs and attorney fees~~  
1244 ~~incurred by the other parties. Unless otherwise agreed to by the~~  
1245 ~~parties or as provided by order of the arbitrator, a party is~~  
1246 ~~deemed to have appeared at a mediation conference by the~~  
1247 ~~physical presence of the party or its representative having full~~  
1248 ~~authority to settle without further consultation, provided that~~  
1249 ~~an association may comply by having one or more representatives~~  
1250 ~~present with full authority to negotiate a settlement and~~  
1251 ~~recommend that the board of administration ratify and approve~~  
1252 ~~such a settlement within 5 days from the date of the mediation~~  
1253 ~~conference. The parties shall share equally the expense of~~  
1254 ~~mediation, unless they agree otherwise.~~

1255           ~~(g) The purpose of mediation as provided for by this~~  
1256 ~~section is to present the parties with an opportunity to resolve~~  
1257 ~~the underlying dispute in good faith, and with a minimum~~



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1258 ~~expenditure of time and resources.~~

1259 ~~(h) Mediation proceedings must generally be conducted in~~  
1260 ~~accordance with the Florida Rules of Civil Procedure, and these~~  
1261 ~~proceedings are privileged and confidential to the same extent~~  
1262 ~~as court-ordered mediation. Persons who are not parties to the~~  
1263 ~~dispute are not allowed to attend the mediation conference~~  
1264 ~~without the consent of all parties, with the exception of~~  
1265 ~~counsel for the parties and corporate representatives designated~~  
1266 ~~to appear for a party. If the mediator declares an impasse after~~  
1267 ~~a mediation conference has been held, the arbitration proceeding~~  
1268 ~~terminates, unless all parties agree in writing to continue the~~  
1269 ~~arbitration proceeding, in which case the arbitrator's decision~~  
1270 ~~shall be binding or nonbinding, as agreed upon by the parties;~~  
1271 ~~in the arbitration proceeding, the arbitrator shall not consider~~  
1272 ~~any evidence relating to the unsuccessful mediation except in a~~  
1273 ~~proceeding to impose sanctions for failure to appear at the~~  
1274 ~~mediation conference. If the parties do not agree to continue~~  
1275 ~~arbitration, the arbitrator shall enter an order of dismissal,~~  
1276 ~~and either party may institute a suit in a court of competent~~  
1277 ~~jurisdiction. The parties may seek to recover any costs and~~  
1278 ~~attorney fees incurred in connection with arbitration and~~  
1279 ~~mediation proceedings under this section as part of the costs~~  
1280 ~~and fees that may be recovered by the prevailing party in any~~  
1281 ~~subsequent litigation.~~

1282 ~~(i) Arbitration shall be conducted according to rules~~  
1283 ~~adopted by the division. The filing of a petition for~~  
1284 ~~arbitration shall toll the applicable statute of limitations.~~

1285 ~~(j) At the request of any party to the arbitration, the~~  
1286 ~~arbitrator shall issue subpoenas for the attendance of witnesses~~



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1287 ~~and the production of books, records, documents, and other~~  
1288 ~~evidence and any party on whose behalf a subpoena is issued may~~  
1289 ~~apply to the court for orders compelling such attendance and~~  
1290 ~~production. Subpoenas shall be served and shall be enforceable~~  
1291 ~~in the manner provided by the Florida Rules of Civil Procedure.~~  
1292 ~~Discovery may, in the discretion of the arbitrator, be permitted~~  
1293 ~~in the manner provided by the Florida Rules of Civil Procedure.~~  
1294 ~~Rules adopted by the division may authorize any reasonable~~  
1295 ~~sanctions except contempt for a violation of the arbitration~~  
1296 ~~procedural rules of the division or for the failure of a party~~  
1297 ~~to comply with a reasonable nonfinal order issued by an~~  
1298 ~~arbitrator which is not under judicial review.~~

1299 ~~(k) The arbitration decision shall be rendered within 30~~  
1300 ~~days after the hearing and presented to the parties in writing.~~  
1301 ~~An arbitration decision is final in those disputes in which the~~  
1302 ~~parties have agreed to be bound. An arbitration decision is also~~  
1303 ~~final if a complaint for a trial de novo is not filed in a court~~  
1304 ~~of competent jurisdiction in which the condominium is located~~  
1305 ~~within 30 days. The right to file for a trial de novo entitles~~  
1306 ~~the parties to file a complaint in the appropriate trial court~~  
1307 ~~for a judicial resolution of the dispute. The prevailing party~~  
1308 ~~in an arbitration proceeding shall be awarded the costs of the~~  
1309 ~~arbitration and reasonable attorney fees in an amount determined~~  
1310 ~~by the arbitrator. Such an award shall include the costs and~~  
1311 ~~reasonable attorney fees incurred in the arbitration proceeding~~  
1312 ~~as well as the costs and reasonable attorney fees incurred in~~  
1313 ~~preparing for and attending any scheduled mediation. An~~  
1314 ~~arbitrator's failure to render a written decision within 30 days~~  
1315 ~~after the hearing may result in the cancellation of his or her~~



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1316 ~~arbitration certification.~~

1317 ~~(1) The party who files a complaint for a trial de novo~~  
1318 ~~shall be assessed the other party's arbitration costs, court~~  
1319 ~~costs, and other reasonable costs, including attorney fees,~~  
1320 ~~investigation expenses, and expenses for expert or other~~  
1321 ~~testimony or evidence incurred after the arbitration hearing if~~  
1322 ~~the judgment upon the trial de novo is not more favorable than~~  
1323 ~~the arbitration decision. If the judgment is more favorable, the~~  
1324 ~~party who filed a complaint for trial de novo shall be awarded~~  
1325 ~~reasonable court costs and attorney fees.~~

1326 ~~(m) Any party to an arbitration proceeding may enforce an~~  
1327 ~~arbitration award by filing a petition in a court of competent~~  
1328 ~~jurisdiction in which the condominium is located. A petition may~~  
1329 ~~not be granted unless the time for appeal by the filing of a~~  
1330 ~~complaint for trial de novo has expired. If a complaint for a~~  
1331 ~~trial de novo has been filed, a petition may not be granted with~~  
1332 ~~respect to an arbitration award that has been stayed. If the~~  
1333 ~~petition for enforcement is granted, the petitioner shall~~  
1334 ~~recover reasonable attorney fees and costs incurred in enforcing~~  
1335 ~~the arbitration award. A mediation settlement may also be~~  
1336 ~~enforced through the county or circuit court, as applicable, and~~  
1337 ~~any costs and fees incurred in the enforcement of a settlement~~  
1338 ~~agreement reached at mediation must be awarded to the prevailing~~  
1339 ~~party in any enforcement action.~~

1340 ~~(5) DISPUTES INVOLVING ELECTION IRREGULARITIES. Every~~  
1341 ~~arbitration petition received by the division and required to be~~  
1342 ~~filed under this section challenging the legality of the~~  
1343 ~~election of any director of the board of administration must be~~  
1344 ~~handled on an expedited basis in the manner provided by the~~



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1345 ~~division's rules for recall arbitration disputes.~~

1346       (5) ~~(6)~~ APPLICABILITY.—This section does not apply to a  
1347 nonresidential condominium unless otherwise specifically  
1348 provided for in the declaration of the nonresidential  
1349 condominium.

1350       Section 9. Subsection (1) and paragraph (b) of subsection  
1351 (3) of section 718.303, Florida Statutes, are amended to read:

1352       718.303 Obligations of owners and occupants; remedies.—

1353       (1) Each unit owner, ~~each~~ tenant and other invitee, and  
1354 ~~each~~ association is governed by, and must comply with the  
1355 provisions of, this chapter, the declaration, the documents  
1356 creating the association, and the association bylaws which are  
1357 ~~shall be deemed~~ expressly incorporated into any lease of a unit.  
1358 Actions at law or in equity ~~for damages or for injunctive~~  
1359 ~~relief~~, or both, for failure to comply with these provisions may  
1360 be brought by the association or by a unit owner against:

1361       (a) The association.

1362       (b) A unit owner.

1363       (c) Directors designated by the developer, for actions  
1364 taken by them before control of the association is assumed by  
1365 unit owners other than the developer.

1366       (d) Any director who willfully and knowingly fails to  
1367 comply with these provisions.

1368       (e) Any tenant leasing a unit, and any other invitee  
1369 occupying a unit.

1370

1371 The prevailing party in any such action or in any action in  
1372 which the purchaser claims a right of voidability based upon  
1373 contractual provisions as required in s. 718.503(1)(a) is





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1374 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit  
1375 owner prevailing in an action between the association and the  
1376 unit owner under this subsection ~~section~~, in addition to  
1377 recovering his or her reasonable attorney ~~attorney's~~ fees, may  
1378 recover additional amounts as determined by the court to be  
1379 necessary to reimburse the unit owner for his or her share of  
1380 assessments levied by the association to fund its expenses of  
1381 the litigation. This relief does not exclude other remedies  
1382 provided by law. Actions arising under this subsection are not  
1383 considered ~~may not be deemed to be~~ actions for specific  
1384 performance.

1385 (3) The association may levy reasonable fines for the  
1386 failure of the owner of the unit or its occupant, licensee, or  
1387 invitee to comply with any provision of the declaration, the  
1388 association bylaws, or reasonable rules of the association. A  
1389 fine may not become a lien against a unit. A fine may be levied  
1390 by the board on the basis of each day of a continuing violation,  
1391 with a single notice and opportunity for hearing before a  
1392 committee as provided in paragraph (b). However, the fine may  
1393 not exceed \$100 per violation, or \$1,000 in the aggregate.

1394 (b) A fine or suspension levied by the board of  
1395 administration may not be imposed unless the board first  
1396 provides at least 14 days' written notice to the unit owner and,  
1397 if applicable, any occupant, licensee, or invitee of the unit  
1398 owner sought to be fined or suspended, and an opportunity for a  
1399 hearing before a committee of at least three members appointed  
1400 by the board who are not officers, directors, or employees of  
1401 the association, or the spouse, parent, child, brother, or  
1402 sister of an officer, director, or employee. The role of the



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1403 committee is limited to determining whether to confirm or reject  
1404 the fine or suspension levied by the board. If the committee  
1405 does not approve the proposed fine or suspension by majority  
1406 vote, the fine or suspension may not be imposed. If the proposed  
1407 fine or suspension is approved by the committee, the fine  
1408 payment is due 5 days after notice of the approved fine is  
1409 provided to the unit owner and, if applicable, to any tenant,  
1410 licensee, or invitee of the unit owner ~~the date of the committee~~  
1411 ~~meeting at which the fine is approved.~~ The association must  
1412 provide written notice of such fine or suspension by mail or  
1413 hand delivery to the unit owner and, if applicable, to any  
1414 tenant, licensee, or invitee of the unit owner.

1415 Section 10. Paragraphs (m) through (s) of subsection (1) of  
1416 section 718.501, Florida Statutes, are redesignated as  
1417 paragraphs (l) through (r), respectively, and paragraphs (d) and  
1418 (l) and present paragraph (s) of that subsection are amended to  
1419 read:

1420 718.501 Authority, responsibility, and duties of Division  
1421 of Florida Condominiums, Timeshares, and Mobile Homes.—

1422 (1) The division may enforce and ensure compliance with the  
1423 provisions of this chapter and rules relating to the  
1424 development, construction, sale, lease, ownership, operation,  
1425 and management of residential condominium units. In performing  
1426 its duties, the division has complete jurisdiction to  
1427 investigate complaints and enforce compliance with respect to  
1428 associations that are still under developer control or the  
1429 control of a bulk assignee or bulk buyer pursuant to part VII of  
1430 this chapter and complaints against developers, bulk assignees,  
1431 or bulk buyers involving improper turnover or failure to



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1432 turnover, pursuant to s. 718.301. However, after turnover has  
1433 occurred, the division has jurisdiction to investigate  
1434 complaints related only to financial issues, elections, and unit  
1435 owner access to association records pursuant to s. 718.111(12).

1436 (d) Notwithstanding any remedies available to unit owners  
1437 and associations, if the division has reasonable cause to  
1438 believe that a violation of any provision of this chapter or  
1439 related rule has occurred, the division may institute  
1440 enforcement proceedings in its own name against any developer,  
1441 bulk assignee, bulk buyer, association, officer, or member of  
1442 the board of administration, or its assignees or agents, as  
1443 follows:

1444 1. The division may permit a person whose conduct or  
1445 actions may be under investigation to waive formal proceedings  
1446 and enter into a consent proceeding whereby orders, rules, or  
1447 letters of censure or warning, whether formal or informal, may  
1448 be entered against the person.

1449 2. The division may issue an order requiring the developer,  
1450 bulk assignee, bulk buyer, association, developer-designated  
1451 officer, or developer-designated member of the board of  
1452 administration, developer-designated assignees or agents, bulk  
1453 assignee-designated assignees or agents, bulk buyer-designated  
1454 assignees or agents, community association manager, or community  
1455 association management firm to cease and desist from the  
1456 unlawful practice and take such affirmative action as in the  
1457 judgment of the division carry out the purposes of this chapter.  
1458 If the division finds that a developer, bulk assignee, bulk  
1459 buyer, association, officer, or member of the board of  
1460 administration, or its assignees or agents, is violating or is



1461 about to violate any provision of this chapter, any rule adopted  
1462 or order issued by the division, or any written agreement  
1463 entered into with the division, and presents an immediate danger  
1464 to the public requiring an immediate final order, it may issue  
1465 an emergency cease and desist order reciting with particularity  
1466 the facts underlying such findings. The emergency cease and  
1467 desist order is effective for 90 days. If the division begins  
1468 nonemergency cease and desist proceedings, the emergency cease  
1469 and desist order remains effective until the conclusion of the  
1470 proceedings under ss. 120.569 and 120.57.

1471         3. If a developer, bulk assignee, or bulk buyer, fails to  
1472 pay any restitution determined by the division to be owed, plus  
1473 any accrued interest at the highest rate permitted by law,  
1474 within 30 days after expiration of any appellate time period of  
1475 a final order requiring payment of restitution or the conclusion  
1476 of any appeal thereof, whichever is later, the division must  
1477 bring an action in circuit or county court on behalf of any  
1478 association, class of unit owners, lessees, or purchasers for  
1479 restitution, declaratory relief, injunctive relief, or any other  
1480 available remedy. The division may also temporarily revoke its  
1481 acceptance of the filing for the developer to which the  
1482 restitution relates until payment of restitution is made.

1483         4. The division may petition the court for appointment of a  
1484 receiver or conservator. If appointed, the receiver or  
1485 conservator may take action to implement the court order to  
1486 ensure the performance of the order and to remedy any breach  
1487 thereof. In addition to all other means provided by law for the  
1488 enforcement of an injunction or temporary restraining order, the  
1489 circuit court may impound or sequester the property of a party



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1490 defendant, including books, papers, documents, and related  
1491 records, and allow the examination and use of the property by  
1492 the division and a court-appointed receiver or conservator.

1493         5. The division may apply to the circuit court for an order  
1494 of restitution whereby the defendant in an action brought  
1495 pursuant to subparagraph 4. is ordered to make restitution of  
1496 those sums shown by the division to have been obtained by the  
1497 defendant in violation of this chapter. At the option of the  
1498 court, such restitution is payable to the conservator or  
1499 receiver appointed pursuant to subparagraph 4. or directly to  
1500 the persons whose funds or assets were obtained in violation of  
1501 this chapter.

1502         6. The division may impose a civil penalty against a  
1503 developer, bulk assignee, or bulk buyer, or association, or its  
1504 assignee or agent, for any violation of this chapter or related  
1505 rule. The division may impose a civil penalty individually  
1506 against an officer or board member who willfully and knowingly  
1507 violates a provision of this chapter, adopted rule, or a final  
1508 order of the division; may order the removal of such individual  
1509 as an officer or from the board of administration or as an  
1510 officer of the association; and may prohibit such individual  
1511 from serving as an officer or on the board of a community  
1512 association for a period of time. The term "willfully and  
1513 knowingly" means that the division informed the officer or board  
1514 member that his or her action or intended action violates this  
1515 chapter, a rule adopted under this chapter, or a final order of  
1516 the division and that the officer or board member refused to  
1517 comply with the requirements of this chapter, a rule adopted  
1518 under this chapter, or a final order of the division. The



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1519 division, before initiating formal agency action under chapter  
1520 120, must afford the officer or board member an opportunity to  
1521 voluntarily comply, and an officer or board member who complies  
1522 within 10 days is not subject to a civil penalty. A penalty may  
1523 be imposed on the basis of each day of continuing violation, but  
1524 the penalty for any offense may not exceed \$5,000. By January 1,  
1525 1998, the division shall adopt, by rule, penalty guidelines  
1526 applicable to possible violations or to categories of violations  
1527 of this chapter or rules adopted by the division. The guidelines  
1528 must specify a meaningful range of civil penalties for each such  
1529 violation of the statute and rules and must be based upon the  
1530 harm caused by the violation, the repetition of the violation,  
1531 and upon such other factors deemed relevant by the division. For  
1532 example, the division may consider whether the violations were  
1533 committed by a developer, bulk assignee, or bulk buyer, or  
1534 owner-controlled association, the size of the association, and  
1535 other factors. The guidelines must designate the possible  
1536 mitigating or aggravating circumstances that justify a departure  
1537 from the range of penalties provided by the rules. It is the  
1538 legislative intent that minor violations be distinguished from  
1539 those which endanger the health, safety, or welfare of the  
1540 condominium residents or other persons and that such guidelines  
1541 provide reasonable and meaningful notice to the public of likely  
1542 penalties that may be imposed for proscribed conduct. This  
1543 subsection does not limit the ability of the division to  
1544 informally dispose of administrative actions or complaints by  
1545 stipulation, agreed settlement, or consent order. All amounts  
1546 collected shall be deposited with the Chief Financial Officer to  
1547 the credit of the Division of Florida Condominiums, Timeshares,



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1548 and Mobile Homes Trust Fund. If a developer, bulk assignee, or  
1549 bulk buyer fails to pay the civil penalty and the amount deemed  
1550 to be owed to the association, the division shall issue an order  
1551 directing that such developer, bulk assignee, or bulk buyer  
1552 cease and desist from further operation until such time as the  
1553 civil penalty is paid or may pursue enforcement of the penalty  
1554 in a court of competent jurisdiction. If an association fails to  
1555 pay the civil penalty, the division shall pursue enforcement in  
1556 a court of competent jurisdiction, and the order imposing the  
1557 civil penalty or the cease and desist order is not effective  
1558 until 20 days after the date of such order. Any action commenced  
1559 by the division shall be brought in the county in which the  
1560 division has its executive offices or in the county where the  
1561 violation occurred.

1562 7. If a unit owner presents the division with proof that  
1563 the unit owner has requested access to official records in  
1564 writing by certified mail, and that after 10 days the unit owner  
1565 again made the same request for access to official records in  
1566 writing by certified mail, and that more than 10 days has  
1567 elapsed since the second request and the association has still  
1568 failed or refused to provide access to official records as  
1569 required by this chapter, the division shall issue a subpoena  
1570 requiring production of the requested records where the records  
1571 are kept pursuant to s. 718.112.

1572 8. In addition to subparagraph 6., the division may seek  
1573 the imposition of a civil penalty through the circuit court for  
1574 any violation for which the division may issue a notice to show  
1575 cause under paragraph (q) ~~paragraph (r)~~. The civil penalty shall  
1576 be at least \$500 but no more than \$5,000 for each violation. The



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1577 court may also award to the prevailing party court costs and  
1578 reasonable attorney ~~attorney's~~ fees and, if the division  
1579 prevails, may also award reasonable costs of investigation.

1580 ~~(l) The division shall develop a program to certify both~~  
1581 ~~volunteer and paid mediators to provide mediation of condominium~~  
1582 ~~disputes. The division shall provide, upon request, a list of~~  
1583 ~~such mediators to any association, unit owner, or other~~  
1584 ~~participant in arbitration proceedings under s. 718.1255~~  
1585 ~~requesting a copy of the list. The division shall include on the~~  
1586 ~~list of volunteer mediators only the names of persons who have~~  
1587 ~~received at least 20 hours of training in mediation techniques~~  
1588 ~~or who have mediated at least 20 disputes. In order to become~~  
1589 ~~initially certified by the division, paid mediators must be~~  
1590 ~~certified by the Supreme Court to mediate court cases in county~~  
1591 ~~or circuit courts. However, the division may adopt, by rule,~~  
1592 ~~additional factors for the certification of paid mediators,~~  
1593 ~~which must be related to experience, education, or background.~~  
1594 ~~Any person initially certified as a paid mediator by the~~  
1595 ~~division must, in order to continue to be certified, comply with~~  
1596 ~~the factors or requirements adopted by rule.~~

1597 ~~(r)(s)~~ The division shall submit to the Governor, the  
1598 President of the Senate, the Speaker of the House of  
1599 Representatives, and the chairs of the legislative  
1600 appropriations committees an annual report that includes, but  
1601 need not be limited to, the number of training programs provided  
1602 for condominium association board members and unit owners, the  
1603 number of complaints received by type, the number and percent of  
1604 complaints acknowledged in writing within 30 days and the number  
1605 and percent of investigations acted upon within 90 days in





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1606 accordance with paragraph (l) ~~paragraph (m)~~, and the number of  
1607 investigations exceeding the 90-day requirement. The annual  
1608 report must also include an evaluation of the division's core  
1609 business processes and make recommendations for improvements,  
1610 including statutory changes. The report shall be submitted by  
1611 September 30 following the end of the fiscal year.

1612 Section 11. Section 718.5014, Florida Statutes, is amended  
1613 to read:

1614 718.5014 Ombudsman location.—The ombudsman shall maintain  
1615 his or her principal office in any ~~Leon County on the premises~~  
1616 ~~of the division or, if suitable space cannot be provided there,~~  
1617 ~~at another~~ place convenient to the offices of the division which  
1618 will enable the ombudsman to expeditiously carry out the duties  
1619 and functions of his or her office. The ombudsman may establish  
1620 branch offices elsewhere in the state upon the concurrence of  
1621 the Governor.

1622 Section 12. Subsection (25) of section 719.103, Florida  
1623 Statutes, is amended to read:

1624 719.103 Definitions.—As used in this chapter:

1625 (25) "Unit" means a part of the cooperative property which  
1626 is subject to exclusive use and possession. A unit may be  
1627 improvements, land, or land and improvements together, as  
1628 specified in the cooperative documents. An interest in a unit is  
1629 an interest in real property.

1630 Section 13. Paragraph (c) of subsection (2) of section  
1631 719.104, Florida Statutes, is amended to read:

1632 719.104 Cooperatives; access to units; records; financial  
1633 reports; assessments; purchase of leases.—

1634 (2) OFFICIAL RECORDS.—



1635 (c) The official records of the association are open to  
1636 inspection by any association member or the authorized  
1637 representative of such member at all reasonable times. The right  
1638 to inspect the records includes the right to make or obtain  
1639 copies, at the reasonable expense, if any, of the association  
1640 member. The association may adopt reasonable rules regarding the  
1641 frequency, time, location, notice, and manner of record  
1642 inspections and copying, but may not require a member to  
1643 demonstrate any purpose or state any reason for the inspection.  
1644 The failure of an association to provide the records within 10  
1645 working days after receipt of a written request creates a  
1646 rebuttable presumption that the association willfully failed to  
1647 comply with this paragraph. A member ~~unit-owner~~ who is denied  
1648 access to official records is entitled to the actual damages or  
1649 minimum damages for the association's willful failure to comply.  
1650 The minimum damages are \$50 per calendar day for up to 10 days,  
1651 beginning on the 11th working day after receipt of the written  
1652 request. The failure to permit inspection entitles any person  
1653 prevailing in an enforcement action to recover reasonable  
1654 attorney fees from the person in control of the records who,  
1655 directly or indirectly, knowingly denied access to the records.  
1656 Any person who knowingly or intentionally defaces or destroys  
1657 accounting records that are required by this chapter to be  
1658 maintained during the period for which such records are required  
1659 to be maintained, or who knowingly or intentionally fails to  
1660 create or maintain accounting records that are required to be  
1661 created or maintained, with the intent of causing harm to the  
1662 association or one or more of its members, is personally subject  
1663 to a civil penalty pursuant to s. 719.501(1)(d). The association



1664 shall maintain an adequate number of copies of the declaration,  
1665 articles of incorporation, bylaws, and rules, and all amendments  
1666 to each of the foregoing, as well as the question and answer  
1667 sheet as described in s. 719.504 and year-end financial  
1668 information required by the department, on the cooperative  
1669 property to ensure their availability to members ~~unit-owners~~ and  
1670 prospective purchasers, and may charge its actual costs for  
1671 preparing and furnishing these documents to those requesting the  
1672 same. An association shall allow a member or his or her  
1673 authorized representative to use a portable device, including a  
1674 smartphone, tablet, portable scanner, or any other technology  
1675 capable of scanning or taking photographs, to make an electronic  
1676 copy of the official records in lieu of the association  
1677 providing the member or his or her authorized representative  
1678 with a copy of such records. The association may not charge a  
1679 member or his or her authorized representative for the use of a  
1680 portable device. Notwithstanding this paragraph, the following  
1681 records shall not be accessible to members ~~unit-owners~~:

1682       1. Any record protected by the lawyer-client privilege as  
1683 described in s. 90.502 and any record protected by the work-  
1684 product privilege, including any record prepared by an  
1685 association attorney or prepared at the attorney's express  
1686 direction which reflects a mental impression, conclusion,  
1687 litigation strategy, or legal theory of the attorney or the  
1688 association, and which was prepared exclusively for civil or  
1689 criminal litigation or for adversarial administrative  
1690 proceedings, or which was prepared in anticipation of such  
1691 litigation or proceedings until the conclusion of the litigation  
1692 or proceedings.



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1693           2. Information obtained by an association in connection  
1694 with the approval of the lease, sale, or other transfer of a  
1695 unit.

1696           3. Personnel records of association or management company  
1697 employees, including, but not limited to, disciplinary, payroll,  
1698 health, and insurance records. For purposes of this  
1699 subparagraph, the term "personnel records" does not include  
1700 written employment agreements with an association employee or  
1701 management company, or budgetary or financial records that  
1702 indicate the compensation paid to an association employee.

1703           4. Medical records of unit owners.

1704           5. Social security numbers, driver license numbers, credit  
1705 card numbers, e-mail addresses, telephone numbers, facsimile  
1706 numbers, emergency contact information, addresses of a unit  
1707 owner other than as provided to fulfill the association's notice  
1708 requirements, and other personal identifying information of any  
1709 person, excluding the person's name, unit designation, mailing  
1710 address, property address, and any address, e-mail address, or  
1711 facsimile number provided to the association to fulfill the  
1712 association's notice requirements. Notwithstanding the  
1713 restrictions in this subparagraph, an association may print and  
1714 distribute to unit ~~parcel~~ owners a directory containing the  
1715 name, unit ~~parcel~~ address, and all telephone numbers of each  
1716 unit ~~parcel~~ owner. However, an owner may exclude his or her  
1717 telephone numbers from the directory by so requesting in writing  
1718 to the association. An owner may consent in writing to the  
1719 disclosure of other contact information described in this  
1720 subparagraph. The association is not liable for the inadvertent  
1721 disclosure of information that is protected under this



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1722 subparagraph if the information is included in an official  
1723 record of the association and is voluntarily provided by an  
1724 owner and not requested by the association.

1725 6. Electronic security measures that are used by the  
1726 association to safeguard data, including passwords.

1727 7. The software and operating system used by the  
1728 association which allow the manipulation of data, even if the  
1729 owner owns a copy of the same software used by the association.  
1730 The data is part of the official records of the association.

1731 Section 14. Paragraphs (b), (f), and (l) of subsection (1)  
1732 of section 719.106, Florida Statutes, are amended to read:

1733 719.106 Bylaws; cooperative ownership.—

1734 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1735 documents shall provide for the following, and if they do not,  
1736 they shall be deemed to include the following:

1737 (b) *Quorum; voting requirements; proxies.*—

1738 1. Unless otherwise provided in the bylaws, the percentage  
1739 of voting interests required to constitute a quorum at a meeting  
1740 of the members shall be a majority of voting interests, and  
1741 decisions shall be made by owners of a majority of the voting  
1742 interests. Unless otherwise provided in this chapter, or in the  
1743 articles of incorporation, bylaws, or other cooperative  
1744 documents, and except as provided in subparagraph (d)1.,  
1745 decisions shall be made by owners of a majority of the voting  
1746 interests represented at a meeting at which a quorum is present.

1747 2. Except as specifically otherwise provided herein, after  
1748 January 1, 1992, unit owners may not vote by general proxy, but  
1749 may vote by limited proxies substantially conforming to a  
1750 limited proxy form adopted by the division. Limited proxies and



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1751 general proxies may be used to establish a quorum. Limited  
1752 proxies shall be used for votes taken to waive or reduce  
1753 reserves in accordance with subparagraph (j)2., for votes taken  
1754 to waive the financial reporting requirements of s.  
1755 719.104(4)(b), for votes taken to amend the articles of  
1756 incorporation or bylaws pursuant to this section, and for any  
1757 other matter for which this chapter requires or permits a vote  
1758 of the unit owners. Except as provided in paragraph (d), after  
1759 January 1, 1992, no proxy, limited or general, shall be used in  
1760 the election of board members. General proxies may be used for  
1761 other matters for which limited proxies are not required, and  
1762 may also be used in voting for nonsubstantive changes to items  
1763 for which a limited proxy is required and given. Notwithstanding  
1764 the provisions of this section, unit owners may vote in person  
1765 at unit owner meetings. Nothing contained herein shall limit the  
1766 use of general proxies or require the use of limited proxies or  
1767 require the use of limited proxies for any agenda item or  
1768 election at any meeting of a timeshare cooperative.

1769         3. Any proxy given shall be effective only for the specific  
1770 meeting for which originally given and any lawfully adjourned  
1771 meetings thereof. In no event shall any proxy be valid for a  
1772 period longer than 90 days after the date of the first meeting  
1773 for which it was given. Every proxy shall be revocable at any  
1774 time at the pleasure of the unit owner executing it.

1775         4. A member of the board of administration or a committee  
1776 may submit in writing his or her agreement or disagreement with  
1777 any action taken at a meeting that the member did not attend.  
1778 This agreement or disagreement may not be used as a vote for or  
1779 against the action taken and may not be used for the purposes of



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1780 creating a quorum.

1781 5. A board or committee member's participation in a meeting  
1782 via telephone, real-time video conferencing, or similar real-  
1783 time electronic or video communication counts toward a quorum,  
1784 and such member may vote as if physically present ~~When some or~~  
1785 ~~all of the board or committee members meet by telephone~~  
1786 ~~conference, those board or committee members attending by~~  
1787 ~~telephone conference may be counted toward obtaining a quorum~~  
1788 ~~and may vote by telephone. A telephone speaker must shall be~~  
1789 used ~~utilized~~ so that the conversation of such ~~those board or~~  
1790 ~~committee members attending by telephone~~ may be heard by the  
1791 board or committee members attending in person, as well as by  
1792 any unit owners present at a meeting.

1793 (f) *Recall of board members.*—Subject to s. 719.301, any  
1794 member of the board of administration may be recalled and  
1795 removed from office with or without cause by the vote or  
1796 agreement in writing by a majority of all the voting interests.  
1797 A special meeting of the voting interests to recall any member  
1798 of the board of administration may be called by 10 percent of  
1799 the unit owners giving notice of the meeting as required for a  
1800 meeting of unit owners, and the notice shall state the purpose  
1801 of the meeting. Electronic transmission may not be used as a  
1802 method of giving notice of a meeting called in whole or in part  
1803 for this purpose.

1804 1. If the recall is approved by a majority of all voting  
1805 interests by a vote at a meeting, the recall shall be effective  
1806 as provided in this paragraph. The board shall duly notice and  
1807 hold a board meeting within 5 full business days after the  
1808 adjournment of the unit owner meeting to recall one or more



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1809 board members. At the meeting, the board shall either certify  
1810 the recall, in which case such member or members shall be  
1811 recalled effective immediately and shall turn over to the board  
1812 within 5 full business days any and all records and property of  
1813 the association in their possession, or shall proceed as set  
1814 forth in subparagraph 4. ~~subparagraph 3.~~

1815         2. If the proposed recall is by an agreement in writing by  
1816 a majority of all voting interests, the agreement in writing or  
1817 a copy thereof shall be served on the association by certified  
1818 mail or by personal service in the manner authorized by chapter  
1819 48 and the Florida Rules of Civil Procedure. The board of  
1820 administration shall duly notice and hold a meeting of the board  
1821 within 5 full business days after receipt of the agreement in  
1822 writing. Such member or members shall be recalled effective  
1823 immediately upon the conclusion of the board meeting, provided  
1824 that the recall is facially valid. A recalled member shall turn  
1825 over to the board within 10 full business days after the date of  
1826 the recall any and all records and property of the association  
1827 in his or her possession ~~At the meeting, the board shall either~~  
1828 ~~certify the written agreement to recall members of the board, in~~  
1829 ~~which case such members shall be recalled effective immediately~~  
1830 ~~and shall turn over to the board, within 5 full business days,~~  
1831 ~~any and all records and property of the association in their~~  
1832 ~~possession, or proceed as described in subparagraph 3.~~

1833         ~~3. If the board determines not to certify the written~~  
1834 ~~agreement to recall members of the board, or does not certify~~  
1835 ~~the recall by a vote at a meeting, the board shall, within 5~~  
1836 ~~full business days after the board meeting, file with the~~  
1837 ~~division a petition for binding arbitration pursuant to the~~





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1838 ~~procedures of s. 719.1255. For purposes of this paragraph, the~~  
1839 ~~unit owners who voted at the meeting or who executed the~~  
1840 ~~agreement in writing shall constitute one party under the~~  
1841 ~~petition for arbitration. If the arbitrator certifies the recall~~  
1842 ~~as to any member of the board, the recall shall be effective~~  
1843 ~~upon mailing of the final order of arbitration to the~~  
1844 ~~association. If the association fails to comply with the order~~  
1845 ~~of the arbitrator, the division may take action pursuant to s.~~  
1846 ~~719.501. Any member so recalled shall deliver to the board any~~  
1847 ~~and all records and property of the association in the member's~~  
1848 ~~possession within 5 full business days after the effective date~~  
1849 ~~of the recall.~~

1850 3.4. If the board fails to duly notice and hold a board  
1851 meeting within 5 full business days after service of an  
1852 agreement in writing or within 5 full business days after the  
1853 adjournment of the unit owner recall meeting, the recall is  
1854 ~~shall be deemed~~ effective and the board members so recalled  
1855 shall immediately turn over to the board any and all records and  
1856 property of the association.

1857 4.5. If the board fails to duly notice and hold the  
1858 required meeting or at the conclusion of the meeting determines  
1859 that the recall is not facially valid, the unit owner  
1860 representative may file an action under s. 719.1255 challenging  
1861 the board's failure to act or challenging the board's  
1862 determination on facial validity. The action must be filed  
1863 within 60 days after the expiration of the applicable 5-full-  
1864 business-day period. The review of an action under this  
1865 subparagraph is limited to the sufficiency of service on the  
1866 board and the facial validity of the written agreement or



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1867 ~~ballots filed fails to file the required petition, the unit~~  
1868 ~~owner representative may file a petition pursuant to s. 719.1255~~  
1869 ~~challenging the board's failure to act. The petition must be~~  
1870 ~~filed within 60 days after the expiration of the applicable 5-~~  
1871 ~~full-business-day period. The review of a petition under this~~  
1872 ~~subparagraph is limited to the sufficiency of service on the~~  
1873 ~~board and the facial validity of the written agreement or~~  
1874 ~~ballots filed.~~

1875 ~~5.6.~~ If a vacancy occurs on the board as a result of a  
1876 recall and less than a majority of the board members are  
1877 removed, the vacancy may be filled by the affirmative vote of a  
1878 majority of the remaining directors, notwithstanding any  
1879 provision to the contrary contained in this subsection ~~chapter~~.  
1880 If vacancies occur on the board as a result of a recall and a  
1881 majority or more of the board members are removed, the vacancies  
1882 must ~~shall~~ be filled in accordance with the bylaws ~~procedural~~  
1883 ~~rules to be adopted by the division, which rules need not be~~  
1884 ~~consistent with this chapter. The rules must provide procedures~~  
1885 ~~governing the conduct of the recall election as well as the~~  
1886 ~~operation of the association during the period after a recall~~  
1887 ~~but before the recall election.~~

1888 ~~6.7.~~ A board member who has been recalled may file an  
1889 action under ~~a petition pursuant to s. 719.1255~~ challenging the  
1890 validity of the recall. The action ~~petition~~ must be filed within  
1891 60 days after the recall is deemed certified. The association  
1892 and the unit owner representative shall be named as the  
1893 defendants ~~respondents~~.

1894 ~~7.8.~~ An action may not be filed to challenge the validity  
1895 of the division may not accept for filing a recall petition,



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1896 whether filed pursuant to subparagraph 1., subparagraph 2.,  
1897 subparagraph 4., or subparagraph 6. ~~subparagraph 5., or~~  
1898 ~~subparagraph 7.~~ and regardless of whether the recall was  
1899 certified, when there are 60 or fewer days until the scheduled  
1900 reelection of the board member sought to be recalled or when 60  
1901 or fewer days have not elapsed since the election of the board  
1902 member sought to be recalled.

1903 (1) Mediation ~~Arbitration~~.—There shall be a provision for  
1904 mandatory mediation ~~nonbinding arbitration~~ of internal disputes  
1905 arising from the operation of the cooperative in accordance with  
1906 s. 719.1255.

1907 Section 15. Section 719.1255, Florida Statutes, is amended  
1908 to read:

1909 719.1255 Alternative resolution of disputes. ~~The Division~~  
1910 ~~of Florida Condominiums, Timeshares, and Mobile Homes of the~~  
1911 ~~Department of Business and Professional Regulation shall provide~~  
1912 ~~for~~ Alternative dispute resolution shall be conducted in  
1913 accordance with s. 718.1255.

1914 Section 16. Paragraph (n) of subsection (1) of section  
1915 719.501, Florida Statutes, is amended to read:

1916 719.501 Powers and duties of Division of Florida  
1917 Condominiums, Timeshares, and Mobile Homes.—

1918 (1) The Division of Florida Condominiums, Timeshares, and  
1919 Mobile Homes of the Department of Business and Professional  
1920 Regulation, referred to as the “division” in this part, in  
1921 addition to other powers and duties prescribed by chapter 718,  
1922 has the power to enforce and ensure compliance with this chapter  
1923 and adopted rules relating to the development, construction,  
1924 sale, lease, ownership, operation, and management of residential



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1925 cooperative units. In performing its duties, the division shall  
1926 have the following powers and duties:

1927 ~~(n) The division shall develop a program to certify both~~  
1928 ~~volunteer and paid mediators to provide mediation of cooperative~~  
1929 ~~disputes. The division shall provide, upon request, a list of~~  
1930 ~~such mediators to any association, unit owner, or other~~  
1931 ~~participant in arbitration proceedings under s. 718.1255~~  
1932 ~~requesting a copy of the list. The division shall include on the~~  
1933 ~~list of voluntary mediators only persons who have received at~~  
1934 ~~least 20 hours of training in mediation techniques or have~~  
1935 ~~mediated at least 20 disputes. In order to become initially~~  
1936 ~~certified by the division, paid mediators must be certified by~~  
1937 ~~the Supreme Court to mediate court cases in county or circuit~~  
1938 ~~courts. However, the division may adopt, by rule, additional~~  
1939 ~~factors for the certification of paid mediators, which factors~~  
1940 ~~must be related to experience, education, or background. Any~~  
1941 ~~person initially certified as a paid mediator by the division~~  
1942 ~~must, in order to continue to be certified, comply with the~~  
1943 ~~factors or requirements imposed by rules adopted by the~~  
1944 ~~division.~~

1945 Section 17. Paragraph (c) of subsection (2), paragraph (1)  
1946 of subsection (4), and paragraphs (d), (g), (h), (k), and (l) of  
1947 subsection (10) of section 720.303, Florida Statutes, are  
1948 amended, and paragraph (m) is added to subsection (4) of that  
1949 section, to read:

1950 720.303 Association powers and duties; meetings of board;  
1951 official records; budgets; financial reporting; association  
1952 funds; recalls.—

1953 (2) BOARD MEETINGS.—



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1954 (c) The bylaws shall provide the following for giving  
1955 notice to parcel owners and members of all board meetings and,  
1956 if they do not do so, shall be deemed to include the following:  
1957 1. Notices of all board meetings must be posted in a  
1958 conspicuous place in the community at least 48 hours in advance  
1959 of a meeting, except in an emergency. In the alternative, if  
1960 notice is not posted in a conspicuous place in the community,  
1961 notice of each board meeting must be mailed or delivered to each  
1962 member at least 7 days before the meeting, except in an  
1963 emergency. Notwithstanding this general notice requirement, for  
1964 communities with more than 100 members, the association bylaws  
1965 may provide for a reasonable alternative to posting or mailing  
1966 of notice for each board meeting, including publication of  
1967 notice, provision of a schedule of board meetings, or the  
1968 conspicuous posting and repeated broadcasting of the notice on a  
1969 closed-circuit cable television system serving the homeowners'  
1970 association. However, if broadcast notice is used in lieu of a  
1971 notice posted physically in the community, the notice must be  
1972 broadcast at least four times every broadcast hour of each day  
1973 that a posted notice is otherwise required. When broadcast  
1974 notice is provided, the notice and agenda must be broadcast in a  
1975 manner and for a sufficient continuous length of time so as to  
1976 allow an average reader to observe the notice and read and  
1977 comprehend the entire content of the notice and the agenda. In  
1978 addition to any of the authorized means of providing notice of a  
1979 meeting of the board, the association may, by rule, adopt a  
1980 procedure for conspicuously posting the meeting notice and the  
1981 agenda on a website serving the association for at least the  
1982 minimum period of time for which a notice of a meeting is also



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1983 required to be physically posted on the association property.  
1984 Any rule adopted shall, in addition to other matters, include a  
1985 requirement that the association send an electronic notice in  
1986 the same manner as is required for a notice for a meeting of the  
1987 members, which must include a hyperlink to the website where the  
1988 notice is posted, to members whose e-mail addresses are included  
1989 in the association's official records. The association may  
1990 provide notice by electronic transmission in a manner authorized  
1991 by law for meetings of the board of directors, committee  
1992 meetings requiring notice under this section, and annual and  
1993 special meetings of the members to any member who has provided a  
1994 facsimile number or e-mail address to the association to be used  
1995 for such purposes; however, a member must consent in writing to  
1996 receiving notice by electronic transmission.

1997         2. An assessment may not be levied at a board meeting  
1998 unless the notice of the meeting includes a statement that  
1999 assessments will be considered and the nature of the  
2000 assessments. Written notice of any meeting at which special  
2001 assessments will be considered or at which amendments to rules  
2002 regarding parcel use will be considered must be mailed,  
2003 delivered, or electronically transmitted to the members and  
2004 parcel owners and posted conspicuously on the property or  
2005 broadcast on closed-circuit cable television not less than 14  
2006 days before the meeting.

2007         3. Directors may not vote by proxy or by secret ballot at  
2008 board meetings, except that secret ballots may be used in the  
2009 election of officers. This subsection also applies to the  
2010 meetings of any committee or other similar body, when a final  
2011 decision will be made regarding the expenditure of association



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2012 funds, and to any body vested with the power to approve or  
2013 disapprove architectural decisions with respect to a specific  
2014 parcel of residential property owned by a member of the  
2015 community.

2016 (4) OFFICIAL RECORDS.—The association shall maintain each  
2017 of the following items, when applicable, which constitute the  
2018 official records of the association:

2019 (1) Ballots, sign-in sheets, voting proxies, and all other  
2020 papers and electronic records relating to voting by parcel  
2021 owners, which shall be maintained for at least 1 year after the  
2022 date of the election, vote, or meeting to which the document  
2023 relates.

2024 (m) All other ~~written~~ records of the association not  
2025 specifically included in paragraphs (a) through (l) the  
2026 ~~foregoing~~ which are related to the operation of the association.

2027 (10) RECALL OF DIRECTORS.—

2028 (d) If the board determines not to certify the written  
2029 agreement or written ballots to recall a director or directors  
2030 of the board or does not certify the recall by a vote at a  
2031 meeting, the board shall, within 5 full business days after the  
2032 meeting, file an action under ~~with the department a petition for~~  
2033 ~~binding arbitration pursuant to the applicable procedures in ss.~~  
2034 ~~718.112(2)(j) and 718.1255 and the rules adopted thereunder.~~ For  
2035 the purposes of this section, the members who voted at the  
2036 meeting or who executed the agreement in writing shall  
2037 constitute one party under the action ~~petition for arbitration.~~  
2038 If the court ~~arbitrator~~ certifies the recall as to any director  
2039 or directors of the board, the recall is ~~will be~~ effective upon  
2040 entry ~~mailing~~ of the final order ~~of arbitration to the~~



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2041 ~~association~~. The director or directors so recalled shall deliver  
2042 to the board any and all records of the association in their  
2043 possession within 5 full business days after the effective date  
2044 of the recall.

2045 (g) If the board fails to duly notice and hold the required  
2046 meeting or fails to file the required action ~~petition~~, the  
2047 parcel unit owner representative may file an action under a  
2048 ~~petition pursuant to~~ s. 718.1255 challenging the board's failure  
2049 to act. The action ~~petition~~ must be filed within 60 days after  
2050 the expiration of the applicable 5-full-business-day period. The  
2051 review of an action ~~a petition~~ under this paragraph is limited  
2052 to the sufficiency of service on the board and the facial  
2053 validity of the written agreement or ballots filed.

2054 (h) If a director who is removed fails to relinquish his or  
2055 her office or turn over records as required under this section,  
2056 the county ~~circuit~~ court in the county where the association  
2057 maintains its principal office may, upon the petition of the  
2058 association, summarily order the director to relinquish his or  
2059 her office and turn over all association records upon  
2060 application of the association.

2061 (k) A board member who has been recalled may file an action  
2062 under a ~~petition pursuant to~~ ss. 718.112(2)(j) and 718.1255 ~~and~~  
2063 ~~the rules adopted~~ challenging the validity of the recall. The  
2064 action ~~petition~~ must be filed within 60 days after the recall is  
2065 ~~deemed~~ certified. The association and the parcel unit owner  
2066 representative shall be named as defendants ~~respondents~~.

2067 (l) An action may not be filed challenging the validity of  
2068 ~~the division may not accept for filing a recall petition,~~  
2069 whether filed pursuant to paragraph (b), paragraph (c),





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2070 paragraph (g), or paragraph (k) and regardless of whether the  
2071 recall was certified, when there are 60 or fewer days until the  
2072 scheduled reelection of the board member sought to be recalled  
2073 or when 60 or fewer days have not elapsed since the election of  
2074 the board member sought to be recalled.

2075 Section 18. Subsections (1) and (2) of section 720.305,  
2076 Florida Statutes, are amended to read:

2077 720.305 Obligations of members; remedies at law or in  
2078 equity; levy of fines and suspension of use rights.—

2079 (1) Each member and the member's tenants, guests, and  
2080 invitees, and each association, are governed by, and must comply  
2081 with, this chapter and, the governing documents of the  
2082 community, ~~and the rules of the association~~. Actions at law or  
2083 in equity, or both, to redress alleged failure or refusal to  
2084 comply with these provisions may be brought by the association  
2085 or by any member against:

2086 (a) The association;

2087 (b) A member;

2088 (c) Any director or officer of an association who willfully  
2089 and knowingly fails to comply with these provisions; and

2090 (d) Any tenants, guests, or invitees occupying a parcel or  
2091 using the common areas.

2092  
2093 The prevailing party in any such litigation is entitled to  
2094 recover reasonable attorney fees and costs. A member prevailing  
2095 in an action between the association and the member under this  
2096 section, in addition to recovering his or her reasonable  
2097 attorney fees, may recover additional amounts as determined by  
2098 the court to be necessary to reimburse the member for his or her



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2099 share of assessments levied by the association to fund its  
2100 expenses of the litigation. This relief does not exclude other  
2101 remedies provided by law. This section does not deprive any  
2102 person of any other available right or remedy.

2103 (2) An ~~The~~ association may levy reasonable fines. A fine  
2104 may not exceed \$100 per violation against any member or any  
2105 member's tenant, guest, or invitee for the failure of the owner  
2106 of the parcel or its occupant, licensee, or invitee to comply  
2107 with any provision of the governing documents ~~declaration, the~~  
2108 ~~association bylaws, or reasonable rules of the association~~  
2109 unless otherwise provided in the governing documents. A fine may  
2110 be levied by the board for each day of a continuing violation,  
2111 with a single notice and opportunity for hearing, except that  
2112 the fine may not exceed \$1,000 in the aggregate unless otherwise  
2113 provided in the governing documents. A fine of less than \$1,000  
2114 may not become a lien against a parcel. In any action to recover  
2115 a fine, the prevailing party is entitled to reasonable attorney  
2116 fees and costs from the nonprevailing party as determined by the  
2117 court.

2118 (a) An association may suspend, for a reasonable period of  
2119 time, the right of a member, or a member's tenant, guest, or  
2120 invitee, to use common areas and facilities for the failure of  
2121 the owner of the parcel or its occupant, licensee, or invitee to  
2122 comply with any provision of the declaration, the association  
2123 bylaws, or reasonable rules of the association. This paragraph  
2124 does not apply to that portion of common areas used to provide  
2125 access or utility services to the parcel. A suspension may not  
2126 prohibit an owner or tenant of a parcel from having vehicular  
2127 and pedestrian ingress to and egress from the parcel, including,



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2128 but not limited to, the right to park.

2129 (b) A fine or suspension levied by the board of  
2130 administration may not be imposed unless the board first  
2131 provides at least 14 days' notice to the parcel owner and, if  
2132 applicable, any occupant, licensee, or invitee of the parcel  
2133 owner, sought to be fined or suspended and an opportunity for a  
2134 hearing before a committee of at least three members appointed  
2135 by the board who are not officers, directors, or employees of  
2136 the association, or the spouse, parent, child, brother, or  
2137 sister of an officer, director, or employee. If the committee,  
2138 by majority vote, does not approve a proposed fine or  
2139 suspension, the proposed fine or suspension may not be imposed.  
2140 The role of the committee is limited to determining whether to  
2141 confirm or reject the fine or suspension levied by the board. If  
2142 the proposed fine or suspension levied by the board is approved  
2143 by the committee, the fine payment is due 5 days after notice of  
2144 the approved fine is provided to the parcel owner and, if  
2145 applicable, to any occupant, licensee, or invitee of the parcel  
2146 owner the date of the committee meeting at which the fine is  
2147 approved. The association must provide written notice of such  
2148 fine or suspension by mail or hand delivery to the parcel owner  
2149 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee  
2150 of the parcel owner.

2151 Section 19. Paragraph (g) of subsection (1) and paragraph  
2152 (c) of subsection (9) of section 720.306, Florida Statutes, are  
2153 amended to read:

2154 720.306 Meetings of members; voting and election  
2155 procedures; amendments.—

2156 (1) QUORUM; AMENDMENTS.—



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2157 (g) A notice required under this section must be mailed or  
2158 delivered to the address identified as the parcel owner's  
2159 mailing address in the official records of the association as  
2160 required under s. 720.303(4) ~~on the property appraiser's website~~  
2161 ~~for the county in which the parcel is located,~~ or electronically  
2162 transmitted in a manner authorized by the association if the  
2163 parcel owner has consented, in writing, to receive notice by  
2164 electronic transmission.

2165 (9) ELECTIONS AND BOARD VACANCIES.—

2166 (c) Any election dispute between a member and an  
2167 association must be filed with the county court in the county  
2168 where the association maintains its principal office ~~submitted~~  
2169 ~~to mandatory binding arbitration with the division.~~ Such  
2170 proceedings must be conducted in the manner provided by s.  
2171 718.1255 ~~and the procedural rules adopted by the division.~~  
2172 Unless otherwise provided in the bylaws, any vacancy occurring  
2173 on the board before the expiration of a term may be filled by an  
2174 affirmative vote of the majority of the remaining directors,  
2175 even if the remaining directors constitute less than a quorum,  
2176 or by the sole remaining director. In the alternative, a board  
2177 may hold an election to fill the vacancy, in which case the  
2178 election procedures must conform to the requirements of the  
2179 governing documents. Unless otherwise provided in the bylaws, a  
2180 board member appointed or elected under this section is  
2181 appointed for the unexpired term of the seat being filled.  
2182 Filling vacancies created by recall is governed by s.  
2183 720.303(10) ~~and rules adopted by the division.~~

2184 Section 20. Section 720.311, Florida Statutes, is amended  
2185 to read:



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2186           720.311 Dispute resolution.-  
2187           (1) (a) As used in this section, the term "dispute" means  
2188 any disagreement between two or more parties which involves:  
2189           1. The authority of the board of directors, under this  
2190 chapter or an association document, to:  
2191           a. Require any owner to take any action, or not to take any  
2192 action, involving that owner's parcel.  
2193           b. Alter or add to a common area.  
2194           2. The failure of a governing body, when required by this  
2195 chapter or an association document, to:  
2196           a. Properly enforce the governing documents.  
2197           b. Provide adequate notice of meetings or other actions.  
2198           c. Properly conduct meetings of the board and committees  
2199 appointed by the board and membership meetings. This sub-  
2200 subparagraph does not apply to elections held at a meeting.  
2201           d. To maintain a common area.  
2202           (b) The term "dispute" does not include any disagreement  
2203 that primarily involves:  
2204           1. Title to any parcel or common area;  
2205           2. The interpretation or enforcement of any warranty;  
2206           3. The levy of a fee or assessment or the collection of an  
2207 assessment levied against a party;  
2208           4. The eviction or removal of an occupant, licensee, or  
2209 invitee from a parcel;  
2210           5. An alleged breach of fiduciary duty by one or more  
2211 directors; or  
2212           6. Claims for damages to a parcel based upon the alleged  
2213 failure of the association to maintain the common areas or  
2214 association property.



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2215           (2) The Legislature finds that alternative dispute  
2216 resolution reduces ~~has made progress in reducing~~ court dockets  
2217 and trials and offers ~~in offering~~ a more efficient, cost-  
2218 effective option to litigation. The ~~filing of any petition for~~  
2219 ~~arbitration or the serving of a demand for presuit mediation as~~  
2220 provided for in this section tolls ~~shall toll~~ the applicable  
2221 statute of limitations until 30 days after mediation is  
2222 completed and no agreement has been made, 10 days after the date  
2223 by which a party must accept presuit mediation, or until the  
2224 conclusion of the period of time during which a mediation must  
2225 be conducted under this section. Any recall action must be in  
2226 accordance with ss. 718.112(2)(j) and 718.1255. Election  
2227 disputes and recall disputes are not eligible for presuit  
2228 mediation ~~dispute filed with the department pursuant to s.~~  
2229 ~~720.303(10) shall be conducted by the department in accordance~~  
2230 ~~with the provisions of ss. 718.112(2)(j) and 718.1255 and the~~  
2231 ~~rules adopted by the division. In addition, the department shall~~  
2232 ~~conduct mandatory binding arbitration of election disputes~~  
2233 ~~between a member and an association pursuant to s. 718.1255 and~~  
2234 ~~rules adopted by the division. Neither election disputes nor~~  
2235 ~~recall disputes are eligible for presuit mediation; these~~  
2236 ~~disputes shall be arbitrated by the department. At the~~  
2237 ~~conclusion of the proceeding, the department shall charge the~~  
2238 ~~parties a fee in an amount adequate to cover all costs and~~  
2239 ~~expenses incurred by the department in conducting the~~  
2240 ~~proceeding. Initially, the petitioner shall remit a filing fee~~  
2241 ~~of at least \$200 to the department. The fees paid to the~~  
2242 ~~department shall become a recoverable cost in the arbitration~~  
2243 ~~proceeding, and the prevailing party in an arbitration~~



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2244 ~~proceeding shall recover its reasonable costs and attorney's~~  
2245 ~~fees in an amount found reasonable by the arbitrator. The~~  
2246 ~~department shall adopt rules to effectuate the purposes of this~~  
2247 ~~section.~~

2248       (3) (a) 1.~~(2) (a)~~ Disputes between an association and a parcel  
2249 owner regarding use of or changes to the parcel or the common  
2250 areas and other covenant enforcement disputes, disputes  
2251 regarding amendments to the association documents, disputes  
2252 regarding meetings of the board and committees appointed by the  
2253 board, membership meetings not including election meetings, and  
2254 access to the official records of the association shall be the  
2255 subject of a demand for presuit mediation served by an aggrieved  
2256 party before the dispute is filed in court. Presuit mediation  
2257 proceedings must be conducted in accordance with the applicable  
2258 rules of the Florida Rules of Civil Procedure and chapter 44,  
2259 and these proceedings are privileged and confidential to the  
2260 same extent as court-ordered mediation. Disputes subject to  
2261 presuit mediation under this section may ~~shall~~ not include the  
2262 collection of any assessment, fine, or other financial  
2263 obligation, including attorney ~~attorney's~~ fees and costs,  
2264 claimed to be due or any action to enforce a prior mediation  
2265 settlement agreement between the parties. ~~Also,~~ In any dispute  
2266 subject to presuit mediation under this section where  
2267 preliminary injunctive ~~emergency~~ relief is required, a motion  
2268 for temporary injunctive relief may be filed with the court  
2269 without first complying with the presuit mediation requirements  
2270 of this section. After any issues regarding preliminary  
2271 injunctive ~~emergency or temporary~~ relief are resolved, the court  
2272 may ~~either~~ refer the parties to a mediation program administered



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2273 by the courts or require mediation under this section. A ~~An~~  
2274 ~~arbitrator or~~ judge may not consider any information or evidence  
2275 arising from the presuit mediation proceeding except in a  
2276 proceeding to impose sanctions for failure to attend a presuit  
2277 mediation session or to enforce a mediated settlement agreement.  
2278 Persons who are not parties to the dispute may not attend the  
2279 presuit mediation conference without the consent of all parties,  
2280 except for counsel for the parties, and a corporate  
2281 representative designated by the association, and a  
2282 representative from the association's insurance carrier, if  
2283 applicable. When mediation is attended by a quorum of the board,  
2284 such mediation is not a board meeting for purposes of notice and  
2285 participation set forth in s. 720.303. An aggrieved party shall  
2286 serve on the responding party a written demand to participate in  
2287 presuit mediation in substantially the following form:

2288  
2289                   STATUTORY OFFER TO PARTICIPATE  
2290                   IN PRESUIT MEDIATION

2291  
2292       The alleged aggrieved party, ....., hereby  
2293       demands that ....., as the responding  
2294       party, engage in mandatory presuit mediation in  
2295       connection with the following disputes, which by  
2296       statute are of a type that are subject to presuit  
2297       mediation:

2298  
2299       (List specific nature of the dispute or disputes to be  
2300       mediated and the authority supporting a finding of a  
2301       violation as to each dispute.)





2302  
2303  
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2328  
2329  
2330

Pursuant to section 720.311, Florida Statutes, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in presuit mediation with a neutral third-party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.

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

If an agreement is reached, it must ~~shall~~ be reduced to writing and signed, at which time the agreement becomes a binding and enforceable contract between



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2331 ~~commitment~~ of the parties. A resolution of one or more  
2332 disputes in this fashion avoids the need to litigate  
2333 those ~~these~~ issues in court. The failure ~~to reach an~~  
2334 ~~agreement, or the failure~~ of a party to participate in  
2335 the process or the failure of the parties to reach an  
2336 agreement during the mediation process, results in the  
2337 aggrieved party being able to mediator declaring an  
2338 ~~impasse in the mediation, after which the aggrieved~~  
2339 ~~party may~~ proceed to court on all outstanding and,  
2340 unsettled disputes. If you fail or refuse ~~have failed~~  
2341 ~~or refused~~ to participate in the entire mediation  
2342 process, you will not be entitled to recover attorney  
2343 ~~attorney's~~ fees, even if you prevail.

2344  
2345 The aggrieved party has selected and hereby lists five  
2346 circuit court civil certified mediators certified by  
2347 the Florida Supreme Court who the aggrieved party  
2348 believes ~~we believe~~ to be neutral and qualified to  
2349 mediate the dispute. You have the right to select any  
2350 one of these mediators. The fact that one party may be  
2351 familiar with one or more of the listed mediators does  
2352 not mean that the mediator cannot act as a neutral and  
2353 impartial facilitator. Any mediator who cannot act in  
2354 this capacity is required ethically to decline to  
2355 accept engagement. The mediators that we suggest, and  
2356 their current hourly rates, are as follows:

2357  
2358 (List the names, physical addresses, e-mail addresses,  
2359 telephone numbers, and hourly rates of the mediators.



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2360 Other pertinent information about the backgrounds  
2361 ~~background~~ of the mediators may be included as an  
2362 attachment, including whether the mediator is board  
2363 certified by The Florida Bar in any practice area.)

2364  
2365 By mutual agreement, and before accepting presuit  
2366 mediation, we can also select mediators other than the  
2367 Supreme Court-certified circuit court civil mediators  
2368 named above as alternates to the above-named  
2369 mediators. The alternate mediators are not required to  
2370 be Supreme Court-certified circuit court civil  
2371 mediators. The alternate mediators that we suggest,  
2372 and their hourly rates, are as follows:  
2373 (List the names, physical addresses, e-mail addresses,  
2374 telephone numbers, and hourly rates of the alternate  
2375 mediators. Other pertinent information about the  
2376 backgrounds of the alternate mediators may be included  
2377 as an attachment.)

2378  
2379 You may contact the offices of these mediators to  
2380 confirm that the listed mediators will be neutral and  
2381 will not show any favoritism toward either party. The  
2382 Florida Supreme Court can provide you a list of  
2383 ~~certified~~ mediators who are certified in the area of  
2384 circuit civil law.

2385  
2386 Unless otherwise agreed by the parties, section  
2387 720.311(2) (b), Florida Statutes, requires that the  
2388 parties share equally the costs of presuit mediation



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2389 ~~equally~~, including the fee charged by the mediator. A  
2390 typical ~~An average~~ mediation may require three to four  
2391 hours of the mediator's time, including some  
2392 preparation time, and the parties would need to share  
2393 equally the mediator's fees as well as pay their own  
2394 attorney ~~attorney's~~ fees if they choose to employ an  
2395 attorney in connection with the mediation. However,  
2396 use of an attorney is not required and is at the  
2397 option of each party. The mediators may require the  
2398 advance payment of some or all of the anticipated  
2399 fees. The aggrieved party hereby agrees to pay or  
2400 prepay one-half of the mediator's estimated fees and  
2401 to forward this amount or such other reasonable  
2402 advance deposits as the mediator requires for this  
2403 purpose. Any funds deposited will be returned to you  
2404 if these are in excess of your share of the fees  
2405 incurred.

2406  
2407 To begin your participation in presuit mediation to  
2408 try to resolve the dispute and avoid further legal  
2409 action, please sign below and clearly indicate which  
2410 mediator is acceptable to you. We will then ask the  
2411 mediator to schedule a mutually convenient time and  
2412 place for the mediation conference to be held. The  
2413 mediation conference must be held within 90 ~~ninety~~  
2414 ~~(90)~~ days after the date of acceptance of presuit  
2415 mediation ~~of this date~~, unless extended by mutual  
2416 written agreement. In the event that you fail to  
2417 respond within 30 days after ~~20 days from~~ the date of



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2418 this letter, or if you fail to agree to at least one  
2419 of the mediators that we have suggested or to pay or  
2420 prepay to the mediator one-half of the costs involved,  
2421 the aggrieved party will be authorized to proceed with  
2422 the filing of a lawsuit against you without further  
2423 notice and may seek an award of attorney ~~attorney's~~  
2424 fees or costs incurred in attempting to obtain  
2425 mediation.

2426  
2427 Therefore, please give this matter your immediate  
2428 attention. By law, your response must be mailed by  
2429 certified mail, return receipt requested, and by  
2430 first-class mail to the address shown on this demand.

2431  
2432 .....  
2433 .....

2434  
2435 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR  
2436 AGREEMENT TO THAT CHOICE.

2437  
2438 AGREEMENT TO MEDIATE  
2439 The undersigned hereby agrees to participate in  
2440 presuit mediation and agrees to attend a mediation  
2441 conducted by the following mediator or mediators who  
2442 are listed above as individuals ~~someone~~ who would be  
2443 acceptable to mediate this dispute:

2444  
2445 (List acceptable mediator or mediators.)  
2446



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2447 I/we further agree to pay or prepay one-half of the  
2448 mediator's fees and to forward such advance deposits  
2449 as the mediator may require for this purpose.

2450  
2451 .....  
2452 Signature of responding party #1

2453  
2454 .....  
2455 Telephone contact information

2456  
2457 .....  
2458 Signature and telephone contact information of  
2459 responding party #2 (if applicable) (if property is  
2460 owned by more than one person, all owners must sign)

2461  
2462 2. The statutory demand must also contain the following  
2463 statement in capitalized, bold letters in a font size larger  
2464 than any other used in the statutory demand: A PERSON WHO FAILS  
2465 OR REFUSES TO PARTICIPATE IN THE ENTIRE PRESUIT MEDIATION  
2466 PROCESS IS PROHIBITED FROM RECOVERING ATTORNEY FEES AND COSTS IN  
2467 SUBSEQUENT LITIGATION RELATING TO THE DISPUTE.

2468 (b) Service of the statutory demand to participate in  
2469 presuit mediation shall be effected by sending a letter in  
2470 substantial conformity with the above form by certified mail,  
2471 return receipt requested, with an additional copy being sent by  
2472 regular first-class mail, to the address of the responding party  
2473 as it last appears on the books and records of the association.  
2474 The responding party has 30 ~~20~~ days after ~~from~~ the date of the  
2475 mailing of the statutory demand to serve a response to the



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2476 aggrieved party in writing. The response must be sent ~~shall be~~  
2477 ~~serve~~d by certified mail, return receipt requested, with an  
2478 additional copy being sent by ~~regular~~ first-class mail, to the  
2479 address shown on the statutory demand. Notwithstanding the  
2480 foregoing, once the parties have agreed on a mediator, the  
2481 mediator may schedule ~~reschedule~~ the mediation for a date and  
2482 time mutually convenient to the parties. Each proposed mediator  
2483 must be available to hold the mediation in the county in which  
2484 the parcel is located or within 40 miles of the parcel without  
2485 charging extra for travel-related costs. If a presuit mediation  
2486 session cannot be scheduled and concluded within 90 days after  
2487 the date of acceptance of presuit mediation and there is no  
2488 agreement between the parties to extend the 90-day deadline, the  
2489 aggrieved party may file an action in court. The parties shall  
2490 share equally the costs of presuit mediation ~~equally~~, including  
2491 the fee charged by the mediator, if any, unless the parties  
2492 agree otherwise, and the mediator may require advance payment of  
2493 its reasonable fees and costs. The failure of any party to  
2494 respond to a demand or response, to agree upon a mediator, to  
2495 make payment of fees and costs within the time established by  
2496 the mediator, or to appear for a scheduled mediation session  
2497 without the approval of the mediator, constitutes ~~shall~~  
2498 ~~constitute~~ the failure or refusal to participate in the  
2499 mediation process and operates ~~shall operate~~ as an impasse in  
2500 the presuit mediation by such party, entitling the other party  
2501 to proceed in court and to seek an award of the costs and fees  
2502 associated with the mediation. Additionally, notwithstanding ~~the~~  
2503 ~~provisions of~~ any other law or document, persons who fail or  
2504 refuse to participate in the entire mediation process may not



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2505 recover attorney ~~attorney's~~ fees and costs in subsequent  
2506 litigation relating to the dispute. ~~If any presuit mediation~~  
2507 ~~session cannot be scheduled and conducted within 90 days after~~  
2508 ~~the offer to participate in mediation was filed, an impasse~~  
2509 ~~shall be deemed to have occurred unless both parties agree to~~  
2510 ~~extend this deadline.~~

2511 (c) If presuit mediation as described in paragraph (a) is  
2512 not successful in resolving all issues between the parties, any  
2513 party ~~the parties~~ may file an action regarding the unresolved  
2514 dispute in a court of competent jurisdiction ~~or elect to enter~~  
2515 ~~into binding or nonbinding arbitration pursuant to the~~  
2516 ~~procedures set forth in s. 718.1255 and rules adopted by the~~  
2517 ~~division, with the arbitration proceeding to be conducted by a~~  
2518 ~~department arbitrator or by a private arbitrator certified by~~  
2519 ~~the department. If all parties do not agree to arbitration~~  
2520 ~~proceedings following an unsuccessful presuit mediation, any~~  
2521 ~~party may file the dispute in court. A final order resulting~~  
2522 ~~from nonbinding arbitration is final and enforceable in the~~  
2523 ~~courts if a complaint for trial de novo is not filed in a court~~  
2524 ~~of competent jurisdiction within 30 days after entry of the~~  
2525 ~~order.~~ As to any issue or dispute that is not resolved at  
2526 presuit mediation, and as to any issue that is settled at  
2527 presuit mediation but is thereafter subject to an action seeking  
2528 enforcement of the mediation settlement, the prevailing party in  
2529 any subsequent arbitration or litigation proceeding shall be  
2530 entitled to seek recovery of all costs and attorney ~~attorney's~~  
2531 fees incurred in the presuit mediation process.

2532 (d) The parties may agree to a mediator who is not  
2533 certified by the Florida Supreme Court. Unless such mediator is





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2534 agreed upon, a mediator may not ~~or arbitrator shall be~~  
2535 ~~authorized to~~ conduct mediation or arbitration under this  
2536 section unless ~~only if~~ he or she has been certified as a circuit  
2537 court civil mediator ~~or arbitrator, respectively,~~ pursuant to  
2538 the requirements established by the Florida Supreme Court.  
2539 Settlement agreements resulting from mediation may ~~shall~~ not  
2540 have precedential value in proceedings involving parties other  
2541 than those participating in the mediation to support either a  
2542 claim or defense in other disputes.

2543 (e) The presuit mediation procedures provided by this  
2544 subsection may be used by a Florida corporation responsible for  
2545 the operation of a community in which the voting members are  
2546 parcel owners or their representatives, in which membership in  
2547 the corporation is not a mandatory condition of parcel  
2548 ownership, or which is not authorized to impose an assessment  
2549 that may become a lien on the parcel.

2550 (4) Any dispute challenging the legality of the election or  
2551 the recall of any member of the board of directors must be filed  
2552 as a summary procedure under s. 51.011, and in any such action  
2553 the prevailing party is entitled to recover reasonable attorney  
2554 fees and costs. Any action filed pursuant to this subsection  
2555 must be tried without a jury.

2556 Section 21. This act shall take effect July 1, 2019.

2557  
2558 ===== T I T L E A M E N D M E N T =====

2559 And the title is amended as follows:

2560 Delete everything before the enacting clause  
2561 and insert:

2562 A bill to be entitled



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2563 An act relating to community associations; amending s.  
2564 34.01, F.S.; expanding the jurisdiction of the county  
2565 court to include certain disputes occurring in  
2566 condominium and cooperative associations; amending  
2567 514.0115, F.S.; providing that certain property  
2568 association pools are exempt from Department of Health  
2569 regulations; amending s. 627.714, F.S.; prohibiting  
2570 subrogation rights against a condominium association  
2571 under certain circumstances; amending s. 718.111,  
2572 F.S.; requiring certain records to be maintained for a  
2573 specified time; prohibiting an association from  
2574 requiring certain actions related to the inspection of  
2575 records; revising requirements relating to certain  
2576 associations posting digital copies of certain  
2577 documents; amending s. 718.112, F.S.; specifying that  
2578 only board service that occurs on or after a specified  
2579 date may be used for calculating a board member's term  
2580 limit; providing requirements for certain notices;  
2581 prohibiting an association from charging certain fees;  
2582 providing an exception; revising requirements relating  
2583 to the recall of board members; deleting a prohibition  
2584 against employing or contracting with certain service  
2585 providers; amending s. 718.113, F.S.; revising  
2586 installation requirements for electric vehicle  
2587 charging stations; amending s. 718.117, F.S.; revising  
2588 requirements for contesting a plan of termination for  
2589 a condominium; providing liability for certain owners;  
2590 amending s. 718.1255, F.S.; revising the definition of  
2591 the term "dispute"; deleting a provision encouraging



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2592 certain voluntary mediation; revising legislative  
2593 findings; requiring mediation rather than nonbinding  
2594 arbitration for disputes between a condominium  
2595 association and a unit owner; providing requirements  
2596 for the mediation; providing a form for the written  
2597 demand an aggrieved party is required to serve on a  
2598 responding party; providing requirements for the  
2599 service of a statutory demand to participate in  
2600 presuit mediation and the response to such service;  
2601 providing requirements for mediators selected by the  
2602 parties; requiring the parties to equally share the  
2603 costs of presuit mediation; authorizing a mediator to  
2604 require advance payment of fees and costs; specifying  
2605 what constitutes a failure or refusal to participate  
2606 in the mediation process; prohibiting a person who  
2607 fails or refuses to participate in the entire  
2608 mediation process from recovering fees and costs in  
2609 subsequent litigation; authorizing parties to file  
2610 suit regarding unresolved disputes under certain  
2611 circumstances; specifying that a prevailing party in  
2612 certain subsequent litigation is entitled to an award  
2613 of all costs and attorney fees incurred in the presuit  
2614 mediation process; authorizing the parties to select a  
2615 mediator who has not been certified by the Florida  
2616 Supreme Court; prohibiting a mediator from conducting  
2617 mediation under certain circumstances unless he or she  
2618 has been certified as a circuit court civil mediator;  
2619 providing requirements for certain disputes involving  
2620 the legality of an election or the recall of a board



2621 member; amending s. 718.303, F.S.; revising  
2622 requirements for certain actions for failure to comply  
2623 with specified provisions; revising requirements for  
2624 certain fines; amending s. 718.501, F.S.; deleting  
2625 provisions relating to the Division of Florida  
2626 Condominiums, Timeshares, and Mobile Homes'  
2627 certification of mediators; amending s. 718.5014,  
2628 F.S.; revising the location of the principal office of  
2629 the Office of the Condominium Ombudsman; amending s.  
2630 719.103, F.S.; revising the definition of the term  
2631 "unit" to specify that an interest in a cooperative  
2632 unit is an interest in real property; amending s.  
2633 719.104, F.S.; prohibiting an association from  
2634 requiring certain actions related to the inspection of  
2635 records; amending s. 719.106, F.S.; revising  
2636 provisions relating to a quorum and voting rights for  
2637 members remotely participating in meetings; revising  
2638 requirements relating to the recall of board members  
2639 and challenges to such recalls; requiring mediation  
2640 rather than nonbinding arbitration for certain  
2641 disputes; amending s. 719.1255, F.S.; revising  
2642 requirements for alternative resolution of disputes;  
2643 amending s. 719.501, F.S.; deleting provisions  
2644 relating to the division's certification of mediators;  
2645 amending s. 720.303, F.S.; authorizing an association  
2646 to adopt procedures for electronic meeting notices;  
2647 revising the documents that constitute the official  
2648 records of an association; revising requirements  
2649 relating to the recall of board members and challenges



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2650 to such recalls; amending s. 720.305, F.S.; providing  
2651 requirements for certain fines; amending s. 720.306,  
2652 F.S.; revising requirements for providing certain  
2653 notices and for challenging certain elections;  
2654 amending s. 720.311, F.S.; revising requirements for  
2655 dispute resolution; defining the term "dispute";  
2656 revising legislative findings; revising the  
2657 standardized form for the offer to participate in  
2658 presuit mediation; providing requirements for the  
2659 service of a statutory demand to participate in  
2660 presuit mediation; providing requirements for  
2661 mediators selected by the parties; authorizing the  
2662 parties to select a mediator who has not been  
2663 certified by the Florida Supreme Court; requiring that  
2664 certain disputes be filed as a summary procedure;  
2665 providing an effective date.