

By Senator Gruters

23-01144-19

20191362__

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 627.714, F.S.; prohibiting subrogation rights against
4 a condominium association under certain circumstances;
5 amending s. 712.05, F.S.; providing for the
6 preservation and protection of a governing document;
7 revising requirements for the preservation and
8 protection of certain association documents; amending
9 s. 718.110, F.S.; providing that certain condominium
10 documents may be amended if certain conditions are
11 met; amending s. 718.111, F.S.; specifying that
12 certain improvements are considered approved
13 improvements under certain circumstances; requiring
14 certain records to be maintained for a specified time;
15 providing that certain records are not official
16 association records; prohibiting certain rules related
17 to inspection of records; amending s. 718.112, F.S.;
18 authorizing an association to charge certain costs;
19 deleting a prohibition against employing or
20 contracting with certain service providers; amending
21 s. 718.116, F.S.; providing requirements for enforcing
22 a lien under certain circumstances; amending s.
23 718.128, F.S.; revising requirements relating to the
24 authorization of online voting; amending s. 718.303,
25 F.S.; revising requirements for collecting certain
26 fines; requiring notice of approved fines to certain
27 persons; amending s. 719.104, F.S.; providing that
28 certain records are not official association records;
29 prohibiting certain rules related to inspection of

23-01144-19

20191362__

30 records; amending s. 719.129, F.S.; revising
31 requirements relating to the authorization of online
32 voting; amending s. 720.303, F.S.; authorizing an
33 association to adopt procedures for providing
34 electronic meeting notices; requiring certain records
35 to be maintained for a specified time; providing that
36 certain records are not official association records;
37 amending s. 720.3033, F.S.; revising requirements for
38 the approval of certain contracts and transactions;
39 amending s. 720.305, F.S.; deleting the requirement
40 that certain persons comply with association rules;
41 authorizing an association to levy, and collect
42 assessments for, certain fines; requiring certain
43 notice to be provided to specified persons; amending
44 s. 720.306, F.S.; revising requirements relating to
45 the amendment of governing documents, declarations,
46 articles of incorporation, or bylaws of an
47 association; requiring certain notices to be mailed to
48 specified addresses; amending s. 720.3085, F.S.;
49 providing requirements for enforcing a lien under
50 certain circumstances; amending s. 720.317, F.S.;
51 revising requirements relating to the authorization of
52 online voting; amending s. 720.404, F.S.; revising the
53 requirements for parcel owners to revive a declaration
54 of covenants; amending s. 720.405, F.S.; specifying
55 requirements for providing certain documents to parcel
56 owners; revising the requirements for approving a
57 revived declaration of covenants; amending s. 720.406,
58 F.S.; requiring a copy of certain documents to be

23-01144-19

20191362__

59 provided to the Department of Economic Opportunity in
60 a certain manner; providing an effective date.

61

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

63

64 Section 1. Subsection (4) of section 627.714, Florida
65 Statutes, is amended to read:

66 627.714 Residential condominium unit owner coverage; loss
67 assessment coverage required.—

68 (4) Every individual unit owner's residential property
69 policy must contain a provision stating that the coverage
70 afforded by such policy is excess coverage over the amount
71 recoverable under any other policy covering the same property.
72 An insurance policy issued to an individual unit owner may not
73 provide rights of subrogation against the condominium
74 association operating the condominium in which such individual's
75 unit is located.

76 Section 2. Subsections (2) and (3) of section 712.05,
77 Florida Statutes, are amended to read:

78 712.05 Effect of filing notice.—

79 (2) A property owners' association may preserve and protect
80 a community covenant, ~~or~~ restriction, or governing document, as
81 defined in s. 720.301, from extinguishment by the operation of
82 this chapter by filing for record, at any time during the 30-
83 year period immediately following the effective date of the root
84 of title:

85 (a) A written notice in accordance with s. 712.06; or

86 (b) A summary notice in substantial form and content as
87 required under s. 720.3032(2), ~~+~~ or an amendment to a community

23-01144-19

20191362__

88 covenant, ~~or~~ restriction, or governing document, that is adopted
89 in accordance with the requirements of such governing document,
90 if filed after the initial recording of such covenant,
91 restriction, or governing document, that is indexed under the
92 legal name of the property owners' association and references
93 the recording information of the covenant, ~~or~~ restriction, or
94 governing document to be preserved. Failure of a summary notice
95 or amendment to be indexed to the current owners of the affected
96 property does not affect the validity of the notice or vitiate
97 the effect of the filing of such notice.

98 (3) A notice under subsection (1) or any notice or
99 amendment to a covenant, restriction, or governing document
100 referenced in subsection (2) preserves an interest in land or
101 other right subject to extinguishment under this chapter, or a
102 covenant, ~~or~~ restriction, or governing document, or portion of
103 such covenant, ~~or~~ restriction, or governing document, for not
104 less than 30 years after filing the notice unless the notice is
105 filed again as required in this chapter. A person's disability
106 or lack of knowledge of any kind may not delay the commencement
107 of or suspend the running of the 30-year period. Such notice may
108 be filed for record by the claimant or by any other person
109 acting on behalf of a claimant who is:

- 110 (a) Under a disability;
- 111 (b) Unable to assert a claim on his or her behalf; or
- 112 (c) One of a class, but whose identity cannot be
113 established or is uncertain at the time of filing such notice of
114 claim for record.

115

116 The property owners' association or clerk of the circuit court

23-01144-19

20191362__

117 is not required to provide additional notice pursuant to s.
118 712.06(3) for a notice filed under subsection (2). The preceding
119 sentence is intended to clarify existing law.

120 Section 3. Paragraph (a) of subsection (1) of section
121 718.110, Florida Statutes, is amended to read:

122 718.110 Amendment of declaration; correction of error or
123 omission in declaration by circuit court.—

124 (1) (a) Notwithstanding any provision to the contrary in any
125 declaration, articles of incorporation, or bylaws ~~If the~~
126 ~~declaration fails to provide a method of amendment,~~ the
127 declaration, articles of incorporation, or bylaws may be amended
128 as to all matters except those described in subsection (4) or
129 subsection (8) if the amendment is approved by ~~the~~ owners
130 holding at least a majority of the voting interests of all
131 units. However, the declaration, articles of incorporation, or
132 bylaws may be amended by a lower voting percentage if so stated
133 in the declaration, articles of incorporation, or bylaws ~~of not~~
134 ~~less than two-thirds of the units. Except as to those matters~~
135 ~~described in subsection (4) or subsection (8), no declaration~~
136 ~~recorded after April 1, 1992, shall require that amendments be~~
137 ~~approved by more than four-fifths of the voting interests.~~

138 Section 4. Paragraph (n) of subsection (11) and paragraphs
139 (a), (b), and (c) of subsection (12) of section 718.111, Florida
140 Statutes, are amended to read:

141 718.111 The association.—

142 (11) INSURANCE.—In order to protect the safety, health, and
143 welfare of the people of the State of Florida and to ensure
144 consistency in the provision of insurance coverage to
145 condominiums and their unit owners, this subsection applies to

23-01144-19

20191362__

146 every residential condominium in the state, regardless of the
147 date of its declaration of condominium. It is the intent of the
148 Legislature to encourage lower or stable insurance premiums for
149 associations described in this subsection.

150 (n) The association is not obligated to pay for any
151 reconstruction or repair expenses due to property loss to any
152 improvements installed by a current or former owner of the unit
153 or by the developer if the improvement benefits only the unit
154 for which it was installed and is not part of the standard
155 improvements installed by the developer on all units as part of
156 original construction, whether or not such improvement is
157 located within the unit. Improvements installed by a unit owner,
158 with the permission required by the declaration of condominium
159 as originally recorded or as amended, which are made either to a
160 unit or to limited common elements, the use of which is
161 appurtenant to a single unit, for the protection of the unit or
162 other portions of the condominium property, are considered
163 approved improvements as required under s. 718.113(2), if the
164 provision in the declaration of condominium as originally
165 recorded, or as amended, authorizing such improvements provides
166 that such approval allows all or substantially all unit owners
167 to proceed with specific planned improvements following receipt
168 of approval, and such provision, if created by an amendment to
169 the declaration of condominium, involved a vote or the written
170 consent of at least a majority of the voting interests in the
171 association. This paragraph does not relieve any party of its
172 obligations regarding recovery due under any insurance
173 implemented specifically for such improvements.

174 (12) OFFICIAL RECORDS.-

23-01144-19

20191362__

175 (a) From the inception of the association, the association
176 shall maintain each of the following items, if applicable, which
177 constitutes the official records of the association:

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

180 2. A photocopy of the recorded declaration of condominium
181 of each condominium operated by the association and each
182 amendment to each declaration.

183 3. A photocopy of the recorded bylaws of the association
184 and each amendment to the bylaws.

185 4. A certified copy of the articles of incorporation of the
186 association, or other documents creating the association, and
187 each amendment thereto.

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

189 6. A book or books that contain the minutes of all meetings
190 of the association, the board of administration, and the unit
191 owners.

192 7. A current roster of all unit owners and their mailing
193 addresses, unit identifications, voting certifications, and, if
194 known, telephone numbers. The association shall also maintain
195 the e-mail addresses and facsimile numbers of unit owners
196 consenting to receive notice by electronic transmission. The e-
197 mail addresses and facsimile numbers are not accessible to unit
198 owners if consent to receive notice by electronic transmission
199 is not provided in accordance with sub-subparagraph (c)3.e.
200 However, the association is not liable for an inadvertent
201 disclosure of the e-mail address or facsimile number for
202 receiving electronic transmission of notices.

203 8. All current insurance policies of the association and

23-01144-19

20191362__

204 condominiums operated by the association.

205 9. A current copy of any management agreement, lease, or
206 other contract to which the association is a party or under
207 which the association or the unit owners have an obligation or
208 responsibility.

209 10. Bills of sale or transfer for all property owned by the
210 association.

211 11. Accounting records for the association and separate
212 accounting records for each condominium that the association
213 operates. Any person who knowingly or intentionally defaces or
214 destroys such records, or who knowingly or intentionally fails
215 to create or maintain such records, with the intent of causing
216 harm to the association or one or more of its members, is
217 personally subject to a civil penalty pursuant to s.
218 718.501(1)(d). The accounting records must include, but are not
219 limited to:

220 a. Accurate, itemized, and detailed records of all receipts
221 and expenditures.

222 b. A current account and a monthly, bimonthly, or quarterly
223 statement of the account for each unit designating the name of
224 the unit owner, the due date and amount of each assessment, the
225 amount paid on the account, and the balance due.

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

228 d. All contracts for work to be performed. Bids for work to
229 be performed are also considered official records and must be
230 maintained by the association for at least 1 year after receipt
231 of the bid.

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

23-01144-19

20191362__

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

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

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

241 ~~15. All other written records of the association not~~
242 ~~specifically included in the foregoing which are related to the~~
243 ~~operation of the association.~~

244 15.16. A copy of the inspection report as described in s.
245 718.301(4)(p).

246 16.17. Bids for materials, equipment, or services for 1
247 year after receipt of the bid.

248 17. All other written records of the association not
249 specifically included in subparagraphs 1.-16. which are related
250 to the operation of the association. However, the records
251 contained on the personal computers or electronic devices of the
252 officers, directors, and committee members are not official
253 records of the association, but are personal property of the
254 owner of the computer or electronic device. Electronic
255 correspondence between officers, directors, or committee members
256 is not an official record unless the correspondence is also
257 located on a computer maintained by the association and is not
258 otherwise excluded or exempted from the official records.

259 (b) The official records specified in subparagraphs (a)1.-
260 6. must be permanently maintained from the inception of the
261 association. Bids for work to be performed or for materials,

23-01144-19

20191362__

262 equipment, or services must be maintained for 1 year after
263 receipt of the bid. All other official records must be
264 maintained within the state for at least 7 years, unless
265 otherwise provided by general law. The records of the
266 association shall be made available to a unit owner within 45
267 miles of the condominium property or within the county in which
268 the condominium property is located within 10 working days after
269 receipt of a written request by the board or its designee.
270 However, such distance requirement does not apply to an
271 association governing a timeshare condominium. This paragraph
272 may be complied with by having a copy of the official records of
273 the association available for inspection or copying on the
274 condominium property or association property, or the association
275 may offer the option of making the records available to a unit
276 owner electronically via the Internet or by allowing the records
277 to be viewed in electronic format on a computer screen and
278 printed upon request. The association is not responsible for the
279 use or misuse of the information provided to an association
280 member or his or her authorized representative pursuant to the
281 compliance requirements of this chapter unless the association
282 has an affirmative duty not to disclose such information
283 pursuant to this chapter.

284 (c)1. The official records of the association are open to
285 inspection by any association member or the authorized
286 representative of such member at all reasonable times. The right
287 to inspect the records includes the right to make or obtain
288 copies, at the reasonable expense, if any, of the member or
289 authorized representative of such member. A renter of a unit has
290 a right to inspect and copy the association's bylaws and rules.

23-01144-19

20191362__

291 The association may adopt reasonable rules regarding the
292 frequency, time, location, notice, and manner of record
293 inspections and copying, but may not require a unit owner to
294 demonstrate any purpose for the inspection, state any reason for
295 the inspection, or limit a unit owner's right to inspect records
296 to less than one 8-hour business day per month. The failure of
297 an association to provide the records within 10 working days
298 after receipt of a written request creates a rebuttable
299 presumption that the association willfully failed to comply with
300 this paragraph. A unit owner who is denied access to official
301 records is entitled to the actual damages or minimum damages for
302 the association's willful failure to comply. Minimum damages are
303 \$50 per calendar day for up to 10 days, beginning on the 11th
304 working day after receipt of the written request. The failure to
305 permit inspection entitles any person prevailing in an
306 enforcement action to recover reasonable attorney fees from the
307 person in control of the records who, directly or indirectly,
308 knowingly denied access to the records.

309 2. Any person who knowingly or intentionally defaces or
310 destroys accounting records that are required by this chapter to
311 be maintained during the period for which such records are
312 required to be maintained, or who knowingly or intentionally
313 fails to create or maintain accounting records that are required
314 to be created or maintained, with the intent of causing harm to
315 the association or one or more of its members, is personally
316 subject to a civil penalty pursuant to s. 718.501(1)(d).

317 3. The association shall maintain an adequate number of
318 copies of the declaration, articles of incorporation, bylaws,
319 and rules, and all amendments to each of the foregoing, as well

23-01144-19

20191362__

320 as the question and answer sheet as described in s. 718.504 and
321 year-end financial information required under this section, on
322 the condominium property to ensure their availability to unit
323 owners and prospective purchasers, and may charge its actual
324 costs for preparing and furnishing these documents to those
325 requesting the documents. An association shall allow a member or
326 his or her authorized representative to use a portable device,
327 including a smartphone, tablet, portable scanner, or any other
328 technology capable of scanning or taking photographs, to make an
329 electronic copy of the official records in lieu of the
330 association's providing the member or his or her authorized
331 representative with a copy of such records. The association may
332 not charge a member or his or her authorized representative for
333 the use of a portable device. Notwithstanding this paragraph,
334 the following records are not accessible to unit owners:

335 a. Any record protected by the lawyer-client privilege as
336 described in s. 90.502 and any record protected by the work-
337 product privilege, including a record prepared by an association
338 attorney or prepared at the attorney's express direction, which
339 reflects a mental impression, conclusion, litigation strategy,
340 or legal theory of the attorney or the association, and which
341 was prepared exclusively for civil or criminal litigation or for
342 adversarial administrative proceedings, or which was prepared in
343 anticipation of such litigation or proceedings until the
344 conclusion of the litigation or proceedings.

345 b. Information obtained by an association in connection
346 with the approval of the lease, sale, or other transfer of a
347 unit.

348 c. Personnel records of association or management company

23-01144-19

20191362__

349 employees, including, but not limited to, disciplinary, payroll,
350 health, and insurance records. For purposes of this sub-
351 subparagraph, the term "personnel records" does not include
352 written employment agreements with an association employee or
353 management company, or budgetary or financial records that
354 indicate the compensation paid to an association employee.

355 d. Medical records of unit owners.

356 e. Social security numbers, driver license numbers, credit
357 card numbers, e-mail addresses, telephone numbers, facsimile
358 numbers, emergency contact information, addresses of a unit
359 owner other than as provided to fulfill the association's notice
360 requirements, and other personal identifying information of any
361 person, excluding the person's name, unit designation, mailing
362 address, property address, and any address, e-mail address, or
363 facsimile number provided to the association to fulfill the
364 association's notice requirements. Notwithstanding the
365 restrictions in this sub-subparagraph, an association may print
366 and distribute to parcel owners a directory containing the name,
367 parcel address, and all telephone numbers of each parcel owner.
368 However, an owner may exclude his or her telephone numbers from
369 the directory by so requesting in writing to the association. An
370 owner may consent in writing to the disclosure of other contact
371 information described in this sub-subparagraph. The association
372 is not liable for the inadvertent disclosure of information that
373 is protected under this sub-subparagraph if the information is
374 included in an official record of the association and is
375 voluntarily provided by an owner and not requested by the
376 association.

377 f. Electronic security measures that are used by the

23-01144-19

20191362__

378 association to safeguard data, including passwords.

379 g. The software and operating system used by the
380 association which allow the manipulation of data, even if the
381 owner owns a copy of the same software used by the association.
382 The data is part of the official records of the association.

383 Section 5. Paragraphs (d), (i), and (p) of subsection (2)
384 of section 718.112, Florida Statutes, are amended to read:

385 718.112 Bylaws.—

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

389 (d) *Unit owner meetings*.—

390 1. An annual meeting of the unit owners must be held at the
391 location provided in the association bylaws and, if the bylaws
392 are silent as to the location, the meeting must be held within
393 45 miles of the condominium property. However, such distance
394 requirement does not apply to an association governing a
395 timeshare condominium.

396 2. Unless the bylaws provide otherwise, a vacancy on the
397 board caused by the expiration of a director's term must be
398 filled by electing a new board member, and the election must be
399 by secret ballot. An election is not required if the number of
400 vacancies equals or exceeds the number of candidates. For
401 purposes of this paragraph, the term "candidate" means an
402 eligible person who has timely submitted the written notice, as
403 described in sub-subparagraph 4.a., of his or her intention to
404 become a candidate. Except in a timeshare or nonresidential
405 condominium, or if the staggered term of a board member does not
406 expire until a later annual meeting, or if all members' terms

23-01144-19

20191362__

407 would otherwise expire but there are no candidates, the terms of
408 all board members expire at the annual meeting, and such members
409 may stand for reelection unless prohibited by the bylaws. Board
410 members may serve terms longer than 1 year if permitted by the
411 bylaws or articles of incorporation. A board member may not
412 serve more than 8 consecutive years unless approved by an
413 affirmative vote of unit owners representing two-thirds of all
414 votes cast in the election or unless there are not enough
415 eligible candidates to fill the vacancies on the board at the
416 time of the vacancy. If the number of board members whose terms
417 expire at the annual meeting equals or exceeds the number of
418 candidates, the candidates become members of the board effective
419 upon the adjournment of the annual meeting. Unless the bylaws
420 provide otherwise, any remaining vacancies shall be filled by
421 the affirmative vote of the majority of the directors making up
422 the newly constituted board even if the directors constitute
423 less than a quorum or there is only one director. In a
424 residential condominium association of more than 10 units or in
425 a residential condominium association that does not include
426 timeshare units or timeshare interests, coowners of a unit may
427 not serve as members of the board of directors at the same time
428 unless they own more than one unit or unless there are not
429 enough eligible candidates to fill the vacancies on the board at
430 the time of the vacancy. A unit owner in a residential
431 condominium desiring to be a candidate for board membership must
432 comply with sub-subparagraph 4.a. and must be eligible to be a
433 candidate to serve on the board of directors at the time of the
434 deadline for submitting a notice of intent to run in order to
435 have his or her name listed as a proper candidate on the ballot

23-01144-19

20191362__

436 or to serve on the board. A person who has been suspended or
437 removed by the division under this chapter, or who is delinquent
438 in the payment of any monetary obligation due to the
439 association, is not eligible to be a candidate for board
440 membership and may not be listed on the ballot. A person who has
441 been convicted of any felony in this state or in a United States
442 District or Territorial Court, or who has been convicted of any
443 offense in another jurisdiction which would be considered a
444 felony if committed in this state, is not eligible for board
445 membership unless such felon's civil rights have been restored
446 for at least 5 years as of the date such person seeks election
447 to the board. The validity of an action by the board is not
448 affected if it is later determined that a board member is
449 ineligible for board membership due to having been convicted of
450 a felony. This subparagraph does not limit the term of a member
451 of the board of a nonresidential or timeshare condominium.

452 3. The bylaws must provide the method of calling meetings
453 of unit owners, including annual meetings. Written notice must
454 include an agenda, must be mailed, hand delivered, or
455 electronically transmitted to each unit owner at least 14 days
456 before the ~~annual~~ meeting, and must be posted in a conspicuous
457 place on the condominium property at least 14 continuous days
458 before the ~~annual~~ meeting. Upon notice to the unit owners, the
459 board shall, by duly adopted rule, designate a specific location
460 on the condominium property where all notices of unit owner
461 meetings must be posted. This requirement does not apply if
462 there is no condominium property for posting notices. In lieu
463 of, or in addition to, the physical posting of meeting notices,
464 the association may, by reasonable rule, adopt a procedure for

23-01144-19

20191362__

465 conspicuously posting and repeatedly broadcasting the notice and
466 the agenda on a closed-circuit cable television system serving
467 the condominium association. However, if broadcast notice is
468 used in lieu of a notice posted physically on the condominium
469 property, the notice and agenda must be broadcast at least four
470 times every broadcast hour of each day that a posted notice is
471 otherwise required under this section. If broadcast notice is
472 provided, the notice and agenda must be broadcast in a manner
473 and for a sufficient continuous length of time so as to allow an
474 average reader to observe the notice and read and comprehend the
475 entire content of the notice and the agenda. In addition to any
476 of the authorized means of providing notice of a meeting of the
477 board, the association may, by rule, adopt a procedure for
478 conspicuously posting the meeting notice and the agenda on a
479 website serving the condominium association for at least the
480 minimum period of time for which a notice of a meeting is also
481 required to be physically posted on the condominium property.
482 Any rule adopted shall, in addition to other matters, include a
483 requirement that the association send an electronic notice in
484 the same manner as a notice for a meeting of the members, which
485 must include a hyperlink to the website where the notice is
486 posted, to unit owners whose e-mail addresses are included in
487 the association's official records. Unless a unit owner waives
488 in writing the right to receive notice of the annual meeting,
489 such notice must be hand delivered, mailed, or electronically
490 transmitted to each unit owner. Notice for meetings and notice
491 for all other purposes must be mailed to each unit owner at the
492 address last furnished to the association by the unit owner, or
493 hand delivered to each unit owner. However, if a unit is owned

23-01144-19

20191362__

494 by more than one person, the association must provide notice to
495 the address that the developer identifies for that purpose and
496 thereafter as one or more of the owners of the unit advise the
497 association in writing, or if no address is given or the owners
498 of the unit do not agree, to the address provided on the deed of
499 record. An officer of the association, or the manager or other
500 person providing notice of the association meeting, must provide
501 an affidavit or United States Postal Service certificate of
502 mailing, to be included in the official records of the
503 association affirming that the notice was mailed or hand
504 delivered in accordance with this provision.

505 4. The members of the board of a residential condominium
506 shall be elected by written ballot or voting machine. Proxies
507 may not be used in electing the board in general elections or
508 elections to fill vacancies caused by recall, resignation, or
509 otherwise, unless otherwise provided in this chapter. This
510 subparagraph does not apply to an association governing a
511 timeshare condominium.

512 a. At least 60 days before a scheduled election, the
513 association shall mail, deliver, or electronically transmit, by
514 separate association mailing or included in another association
515 mailing, delivery, or transmission, including regularly
516 published newsletters, to each unit owner entitled to a vote, a
517 first notice of the date of the election. A unit owner or other
518 eligible person desiring to be a candidate for the board must
519 give written notice of his or her intent to be a candidate to
520 the association at least 40 days before a scheduled election.
521 Together with the written notice and agenda as set forth in
522 subparagraph 3., the association shall mail, deliver, or

23-01144-19

20191362__

523 electronically transmit a second notice of the election to all
524 unit owners entitled to vote, together with a ballot that lists
525 all candidates. Upon request of a candidate, an information
526 sheet, no larger than 8 1/2 inches by 11 inches, which must be
527 furnished by the candidate at least 35 days before the election,
528 must be included with the mailing, delivery, or transmission of
529 the ballot, with the costs of mailing, delivery, or electronic
530 transmission and copying to be borne by the association. The
531 association is not liable for the contents of the information
532 sheets prepared by the candidates. In order to reduce costs, the
533 association may print or duplicate the information sheets on
534 both sides of the paper. The division shall by rule establish
535 voting procedures consistent with this sub-subparagraph,
536 including rules establishing procedures for giving notice by
537 electronic transmission and rules providing for the secrecy of
538 ballots. Elections shall be decided by a plurality of ballots
539 cast. There is no quorum requirement; however, at least 20
540 percent of the eligible voters must cast a ballot in order to
541 have a valid election. A unit owner may not authorize any other
542 person to vote his or her ballot, and any ballots improperly
543 cast are invalid. A unit owner who violates this provision may
544 be fined by the association in accordance with s. 718.303. A
545 unit owner who needs assistance in casting the ballot for the
546 reasons stated in s. 101.051 may obtain such assistance. The
547 regular election must occur on the date of the annual meeting.
548 Notwithstanding this sub-subparagraph, an election is not
549 required unless more candidates file notices of intent to run or
550 are nominated than board vacancies exist.

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

23-01144-19

20191362__

552 board of an association of a residential condominium, each newly
553 elected or appointed director shall certify in writing to the
554 secretary of the association that he or she has read the
555 association's declaration of condominium, articles of
556 incorporation, bylaws, and current written policies; that he or
557 she will work to uphold such documents and policies to the best
558 of his or her ability; and that he or she will faithfully
559 discharge his or her fiduciary responsibility to the
560 association's members. In lieu of this written certification,
561 within 90 days after being elected or appointed to the board,
562 the newly elected or appointed director may submit a certificate
563 of having satisfactorily completed the educational curriculum
564 administered by a division-approved condominium education
565 provider within 1 year before or 90 days after the date of
566 election or appointment. The written certification or
567 educational certificate is valid and does not have to be
568 resubmitted as long as the director serves on the board without
569 interruption. A director of an association of a residential
570 condominium who fails to timely file the written certification
571 or educational certificate is suspended from service on the
572 board until he or she complies with this sub-subparagraph. The
573 board may temporarily fill the vacancy during the period of
574 suspension. The secretary shall cause the association to retain
575 a director's written certification or educational certificate
576 for inspection by the members for 5 years after a director's
577 election or the duration of the director's uninterrupted tenure,
578 whichever is longer. Failure to have such written certification
579 or educational certificate on file does not affect the validity
580 of any board action.

23-01144-19

20191362__

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

583 5. Any approval by unit owners called for by this chapter
584 or the applicable declaration or bylaws, including, but not
585 limited to, the approval requirement in s. 718.111(8), must be
586 made at a duly noticed meeting of unit owners and is subject to
587 all requirements of this chapter or the applicable condominium
588 documents relating to unit owner decisionmaking, except that
589 unit owners may take action by written agreement, without
590 meetings, on matters for which action by written agreement
591 without meetings is expressly allowed by the applicable bylaws
592 or declaration or any law that provides for such action.

593 6. Unit owners may waive notice of specific meetings if
594 allowed by the applicable bylaws or declaration or any law.
595 Notice of meetings of the board of administration, unit owner
596 meetings, except unit owner meetings called to recall board
597 members under paragraph (j), and committee meetings may be given
598 by electronic transmission to unit owners who consent to receive
599 notice by electronic transmission. A unit owner who consents to
600 receiving notices by electronic transmission is solely
601 responsible for removing or bypassing filters that block receipt
602 of mass emails sent to members on behalf of the association in
603 the course of giving electronic notices.

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

608 8. A unit owner may tape record or videotape a meeting of
609 the unit owners subject to reasonable rules adopted by the

23-01144-19

20191362__

610 division.

611 9. Unless otherwise provided in the bylaws, any vacancy
612 occurring on the board before the expiration of a term may be
613 filled by the affirmative vote of the majority of the remaining
614 directors, even if the remaining directors constitute less than
615 a quorum, or by the sole remaining director. In the alternative,
616 a board may hold an election to fill the vacancy, in which case
617 the election procedures must conform to sub-subparagraph 4.a.
618 unless the association governs 10 units or fewer and has opted
619 out of the statutory election process, in which case the bylaws
620 of the association control. Unless otherwise provided in the
621 bylaws, a board member appointed or elected under this section
622 shall fill the vacancy for the unexpired term of the seat being
623 filled. Filling vacancies created by recall is governed by
624 paragraph (j) and rules adopted by the division.

625 10. This chapter does not limit the use of general or
626 limited proxies, require the use of general or limited proxies,
627 or require the use of a written ballot or voting machine for any
628 agenda item or election at any meeting of a timeshare
629 condominium association or nonresidential condominium
630 association.

631
632 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
633 association of 10 or fewer units may, by affirmative vote of a
634 majority of the total voting interests, provide for different
635 voting and election procedures in its bylaws, which may be by a
636 proxy specifically delineating the different voting and election
637 procedures. The different voting and election procedures may
638 provide for elections to be conducted by limited or general

23-01144-19

20191362__

639 proxy.

640 (i) Transfer costs fees.—An association may charge an
641 applicant the actual transfer costs in connection with the sale,
642 mortgage, lease, sublease, or other transfer of a unit,
643 including the actual costs of any background check or screening
644 performed by the association, if the association has the
645 authority to require approval of such transfer under the
646 declaration of condominium as originally recorded or as amended.
647 In addition to actual transfer costs, an association may also
648 charge any administrative or service costs that are authorized
649 under the declaration of condominium, the bylaws, or any
650 contract to which the association is a party. Any additional
651 administrative or service costs may not exceed \$100 per
652 applicant. For purposes of this paragraph, a husband and wife or
653 parent and dependent child are considered one applicant. This
654 paragraph does not limit an association's authority to charge a
655 capital contribution, if the declaration of condominium as
656 originally recorded or as amended provides for the collection of
657 such capital contributions ~~No charge shall be made by the~~
658 ~~association or any body thereof in connection with the sale,~~
659 ~~mortgage, lease, sublease, or other transfer of a unit unless~~
660 ~~the association is required to approve such transfer and a fee~~
661 ~~for such approval is provided for in the declaration, articles,~~
662 ~~or bylaws. Any such fee may be preset, but in no event may such~~
663 ~~fee exceed \$100 per applicant other than husband/wife or~~
664 ~~parent/dependent child, which are considered one applicant.~~
665 ~~However, if the lease or sublease is a renewal of a lease or~~
666 ~~sublease with the same lessee or sublessee, no charge shall be~~
667 ~~made. The foregoing notwithstanding, an association may, if the~~

23-01144-19

20191362__

668 ~~authority to do so appears in the declaration or bylaws, require~~
669 ~~that a prospective lessee place a security deposit, in an amount~~
670 ~~not to exceed the equivalent of 1 month's rent, into an escrow~~
671 ~~account maintained by the association. The security deposit~~
672 ~~shall protect against damages to the common elements or~~
673 ~~association property. Payment of interest, claims against the~~
674 ~~deposit, refunds, and disputes under this paragraph shall be~~
675 ~~handled in the same fashion as provided in part II of chapter~~
676 ~~83.~~

677 ~~(p) Service providers; conflicts of interest. An~~
678 ~~association, which is not a timeshare condominium association,~~
679 ~~may not employ or contract with any service provider that is~~
680 ~~owned or operated by a board member or with any person who has a~~
681 ~~financial relationship with a board member or officer, or a~~
682 ~~relative within the third degree of consanguinity by blood or~~
683 ~~marriage of a board member or officer. This paragraph does not~~
684 ~~apply to a service provider in which a board member or officer,~~
685 ~~or a relative within the third degree of consanguinity by blood~~
686 ~~or marriage of a board member or officer, owns less than 1~~
687 ~~percent of the equity shares.~~

688 Section 6. Paragraph (b) of subsection (5) of section
689 718.116, Florida Statutes, is amended to read:

690 718.116 Assessments; liability; lien and priority;
691 interest; collection.—

692 (5)

693 (b) To be valid, a claim of lien must state the description
694 of the condominium parcel, the name of the record owner, the
695 name and address of the association, the amount due, and the due
696 dates. It must be executed and acknowledged by an officer or

23-01144-19

20191362__

697 authorized agent of the association. The time to enforce a lien
698 ~~is not effective 1 year after the claim of lien was recorded~~
699 ~~unless, within that time, an action to enforce the lien is~~
700 ~~commenced. The 1 year period is~~ automatically extended for any
701 length of time during which the association is prevented from
702 filing a foreclosure action by an automatic stay resulting from
703 a bankruptcy petition filed by the parcel owner or any other
704 person claiming an interest in the parcel. The claim of lien
705 secures all unpaid assessments that are due and that may accrue
706 after the claim of lien is recorded and through the entry of a
707 final judgment, as well as interest, administrative late fees,
708 and all reasonable costs and attorney fees incurred by the
709 association incident to the collection process. Upon payment in
710 full, the person making the payment is entitled to a
711 satisfaction of the lien.

712 Section 7. Subsection (4) of section 718.128, Florida
713 Statutes, is amended to read:

714 718.128 Electronic voting.—The association may conduct
715 elections and other unit owner votes through an Internet-based
716 online voting system if a unit owner consents, in writing, to
717 online voting and if the following requirements are met:

718 (4) This section applies to an association that provides
719 for and authorizes an online voting system pursuant to this
720 section by a board resolution. The board resolution must provide
721 that unit owners receive notice of the opportunity to vote
722 through an online voting system; ~~it~~ must establish reasonable
723 procedures and deadlines for unit owners to consent, in writing
724 or as evidenced by a unit owner registering to utilize online
725 voting through the online voting service provider chosen by the

23-01144-19

20191362__

726 association, to online voting; ~~and~~ must establish reasonable
727 procedures and deadlines for unit owners to opt out of online
728 voting after giving consent; and may adopt reasonable procedures
729 and deadlines for addressing motions brought at meetings.

730 Written notice of a meeting at which the resolution will be
731 considered must be ~~mailed, delivered, or electronically~~
732 ~~transmitted to the unit owners and~~ posted conspicuously on the
733 condominium property or association property at least 14 days
734 before the meeting. ~~Evidence of compliance with the 14-day~~
735 ~~notice requirement must be made by an affidavit executed by the~~
736 ~~person providing the notice and filed with the official records~~
737 ~~of the association.~~

738 Section 8. Subsections (1) and (3) of section 718.303,
739 Florida Statutes, are amended to read:

740 718.303 Obligations of owners and occupants; remedies.—

741 (1) Each unit owner, each tenant and other invitee, and
742 each association is governed by, and must comply with the
743 provisions of, this chapter, the declaration, the documents
744 creating the association, and the association bylaws which shall
745 be deemed expressly incorporated into any lease of a unit.
746 Actions for damages or for injunctive relief, or both, for
747 failure to comply with these provisions may be brought by the
748 association or by a unit owner against:

749 (a) The association.

750 (b) A unit owner.

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

754 (d) Any director who willfully and knowingly fails to

23-01144-19

20191362__

755 comply with these provisions.

756 (e) Any tenant leasing a unit, and any other invitee
757 occupying a unit.

758

759 The prevailing party in any such action or in any action in
760 which the purchaser claims a right of voidability based upon
761 contractual provisions as required in s. 718.503(1)(a) is
762 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
763 owner prevailing in an action between the association and the
764 unit owner under this section, in addition to recovering his or
765 her reasonable attorney ~~attorney's~~ fees, may recover additional
766 amounts as determined by the court to be necessary to reimburse
767 the unit owner for his or her share of assessments levied by the
768 association to fund its expenses of the litigation. This relief
769 does not exclude other remedies provided by law. Actions arising
770 under this subsection may not be deemed to be actions for
771 specific performance.

772 (3) The association may levy reasonable fines for the
773 failure of the owner of the unit or its occupant, licensee, or
774 invitee to comply with any provision of the declaration, the
775 association bylaws, or reasonable rules of the association.
776 Except as otherwise provided in this subsection, a fine may not
777 become a lien against a unit. A fine may be levied by the board
778 on the basis of each day of a continuing violation, with a
779 single notice and opportunity for hearing before a committee as
780 provided in paragraph (b). However, the fine may not exceed \$100
781 per violation~~7~~ or \$1,000 in the aggregate unless otherwise
782 provided in the condominium documents. A fine of \$1,000 or more
783 is considered an assessment and is collectible as provided in s.

23-01144-19

20191362__

784 718.116. In any action to recover a fine, the prevailing party
785 is entitled to reasonable attorney fees and costs from the
786 nonprevailing party as determined by the court.

787 (a) An association may suspend, for a reasonable period of
788 time, the right of a unit owner, or a unit owner's tenant,
789 guest, or invitee, to use the common elements, common
790 facilities, or any other association property for failure to
791 comply with any provision of the declaration, the association
792 bylaws, or reasonable rules of the association. This paragraph
793 does not apply to limited common elements intended to be used
794 only by that unit, common elements needed to access the unit,
795 utility services provided to the unit, parking spaces, or
796 elevators.

797 (b) A fine or suspension levied by the board of
798 administration may not be imposed unless the board first
799 provides at least 14 days' written notice to the unit owner and,
800 if applicable, any occupant, licensee, or invitee of the unit
801 owner sought to be fined or suspended, and an opportunity for a
802 hearing before a committee of at least three members appointed
803 by the board who are not officers, directors, or employees of
804 the association, or the spouse, parent, child, brother, or
805 sister of an officer, director, or employee. The role of the
806 committee is limited to determining whether to confirm or reject
807 the fine or suspension levied by the board. If the committee
808 does not approve the proposed fine or suspension by majority
809 vote, the fine or suspension may not be imposed. If the proposed
810 fine or suspension is approved by the committee, the fine
811 payment is due 5 days after notice of the approved fine is
812 provided to the unit owner and, if applicable, to any tenant,

23-01144-19

20191362__

813 licensee, or invitee of the unit owner ~~the date of the committee~~
814 ~~meeting at which the fine is approved.~~ The association must
815 provide written notice of such fine or suspension by mail or
816 hand delivery to the unit owner and, if applicable, to any
817 tenant, licensee, or invitee of the unit owner.

818 Section 9. Paragraphs (a) and (c) of subsection (2) of
819 section 719.104, Florida Statutes, are amended to read:

820 719.104 Cooperatives; access to units; records; financial
821 reports; assessments; purchase of leases.-

822 (2) OFFICIAL RECORDS.-

823 (a) From the inception of the association, the association
824 shall maintain a copy of each of the following, where
825 applicable, which shall constitute the official records of the
826 association:

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

829 2. A photocopy of the cooperative documents.

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

831 4. A book or books containing the minutes of all meetings
832 of the association, of the board of directors, and of the unit
833 owners.

834 5. A current roster of all unit owners and their mailing
835 addresses, unit identifications, voting certifications, and, if
836 known, telephone numbers. The association shall also maintain
837 the e-mail addresses and the numbers designated by unit owners
838 for receiving notice sent by electronic transmission of those
839 unit owners consenting to receive notice by electronic
840 transmission. The e-mail addresses and numbers provided by unit
841 owners to receive notice by electronic transmission shall be

23-01144-19

20191362__

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

846 6. All current insurance policies of the association.

847 7. A current copy of any management agreement, lease, or
848 other contract to which the association is a party or under
849 which the association or the unit owners have an obligation or
850 responsibility.

851 8. Bills of sale or transfer for all property owned by the
852 association.

853 9. Accounting records for the association and separate
854 accounting records for each unit it operates, according to good
855 accounting practices. The accounting records shall include, but
856 not be limited to:

857 a. Accurate, itemized, and detailed records of all receipts
858 and expenditures.

859 b. A current account and a monthly, bimonthly, or quarterly
860 statement of the account for each unit designating the name of
861 the unit owner, the due date and amount of each assessment, the
862 amount paid upon the account, and the balance due.

863 c. All audits, reviews, accounting statements, and
864 financial reports of the association.

865 d. All contracts for work to be performed. Bids for work to
866 be performed shall also be considered official records and shall
867 be maintained for a period of 1 year.

868 10. Ballots, sign-in sheets, voting proxies, and all other
869 papers and electronic records relating to voting by unit owners,
870 which shall be maintained for a period of 1 year after the date

23-01144-19

20191362__

871 of the election, vote, or meeting to which the document relates.

872 11. All rental records where the association is acting as
873 agent for the rental of units.

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

876 13. All other written records of the association not
877 specifically included in the foregoing which are related to the
878 operation of the association. However, the records contained on
879 the personal computers or electronic devices of the officers,
880 directors, and committee members are not official records of the
881 association, but are personal property of the owner of the
882 computer or electronic device. Electronic correspondence between
883 officers, directors, or committee members is not an official
884 record unless the correspondence is also located on a computer
885 maintained by the association and is not otherwise excluded or
886 exempted from the official records.

887 (c) The official records of the association are open to
888 inspection by any association member or the authorized
889 representative of such member at all reasonable times. The right
890 to inspect the records includes the right to make or obtain
891 copies, at the reasonable expense, if any, of the association
892 member. The association may adopt reasonable rules regarding the
893 frequency, time, location, notice, and manner of record
894 inspections and copying, but may not require a unit owner to
895 demonstrate any purpose for the inspection or state any reason
896 for the inspection, or limit a unit owner's right to inspect
897 records to less than one 8-hour business day per month. The
898 failure of an association to provide the records within 10
899 working days after receipt of a written request creates a

23-01144-19

20191362__

900 rebuttable presumption that the association willfully failed to
901 comply with this paragraph. A unit owner who is denied access to
902 official records is entitled to the actual damages or minimum
903 damages for the association's willful failure to comply. The
904 minimum damages are \$50 per calendar day for up to 10 days,
905 beginning on the 11th working day after receipt of the written
906 request. The failure to permit inspection entitles any person
907 prevailing in an enforcement action to recover reasonable
908 attorney fees from the person in control of the records who,
909 directly or indirectly, knowingly denied access to the records.
910 Any person who knowingly or intentionally defaces or destroys
911 accounting records that are required by this chapter to be
912 maintained during the period for which such records are required
913 to be maintained, or who knowingly or intentionally fails to
914 create or maintain accounting records that are required to be
915 created or maintained, with the intent of causing harm to the
916 association or one or more of its members, is personally subject
917 to a civil penalty pursuant to s. 719.501(1)(d). The association
918 shall maintain an adequate number of copies of the declaration,
919 articles of incorporation, bylaws, and rules, and all amendments
920 to each of the foregoing, as well as the question and answer
921 sheet as described in s. 719.504 and year-end financial
922 information required by the department, on the cooperative
923 property to ensure their availability to unit owners and
924 prospective purchasers, and may charge its actual costs for
925 preparing and furnishing these documents to those requesting the
926 same. An association shall allow a member or his or her
927 authorized representative to use a portable device, including a
928 smartphone, tablet, portable scanner, or any other technology

23-01144-19

20191362__

929 capable of scanning or taking photographs, to make an electronic
930 copy of the official records in lieu of the association
931 providing the member or his or her authorized representative
932 with a copy of such records. The association may not charge a
933 member or his or her authorized representative for the use of a
934 portable device. Notwithstanding this paragraph, the following
935 records shall not be accessible to unit owners:

936 1. Any record protected by the lawyer-client privilege as
937 described in s. 90.502 and any record protected by the work-
938 product privilege, including any record prepared by an
939 association attorney or prepared at the attorney's express
940 direction which reflects a mental impression, conclusion,
941 litigation strategy, or legal theory of the attorney or the
942 association, and which was prepared exclusively for civil or
943 criminal litigation or for adversarial administrative
944 proceedings, or which was prepared in anticipation of such
945 litigation or proceedings until the conclusion of the litigation
946 or proceedings.

947 2. Information obtained by an association in connection
948 with the approval of the lease, sale, or other transfer of a
949 unit.

950 3. Personnel records of association or management company
951 employees, including, but not limited to, disciplinary, payroll,
952 health, and insurance records. For purposes of this
953 subparagraph, the term "personnel records" does not include
954 written employment agreements with an association employee or
955 management company, or budgetary or financial records that
956 indicate the compensation paid to an association employee.

957 4. Medical records of unit owners.

23-01144-19

20191362__

958 5. Social security numbers, driver license numbers, credit
959 card numbers, e-mail addresses, telephone numbers, facsimile
960 numbers, emergency contact information, addresses of a unit
961 owner other than as provided to fulfill the association's notice
962 requirements, and other personal identifying information of any
963 person, excluding the person's name, unit designation, mailing
964 address, property address, and any address, e-mail address, or
965 facsimile number provided to the association to fulfill the
966 association's notice requirements. Notwithstanding the
967 restrictions in this subparagraph, an association may print and
968 distribute to parcel owners a directory containing the name,
969 parcel address, and all telephone numbers of each parcel owner.
970 However, an owner may exclude his or her telephone numbers from
971 the directory by so requesting in writing to the association. An
972 owner may consent in writing to the disclosure of other contact
973 information described in this subparagraph. The association is
974 not liable for the inadvertent disclosure of information that is
975 protected under this subparagraph if the information is included
976 in an official record of the association and is voluntarily
977 provided by an owner and not requested by the association.

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

980 7. The software and operating system used by the
981 association which allow the manipulation of data, even if the
982 owner owns a copy of the same software used by the association.
983 The data is part of the official records of the association.

984 Section 10. Subsection (4) of section 719.129, Florida
985 Statutes, is amended to read:

986 719.129 Electronic voting.—The association may conduct

23-01144-19

20191362__

987 elections and other unit owner votes through an Internet-based
988 online voting system if a unit owner consents, in writing, to
989 online voting and if the following requirements are met:

990 (4) This section applies to an association that provides
991 for and authorizes an online voting system pursuant to this
992 section by a board resolution. The board resolution must provide
993 that unit owners receive notice of the opportunity to vote
994 through an online voting system;7 must establish reasonable
995 procedures and deadlines for unit owners to consent, in writing
996 or as evidenced by a unit owner registering to utilize online
997 voting through the online voting service provider chosen by the
998 association, to online voting;~~7~~ and must establish reasonable
999 procedures and deadlines for unit owners to opt out of online
1000 voting after giving consent; and may adopt reasonable procedures
1001 and deadlines for addressing motions brought at meetings.

1002 Written notice of a meeting at which the resolution will be
1003 considered must be ~~mailed, delivered, or electronically~~
1004 ~~transmitted to the unit owners and~~ posted conspicuously on the
1005 condominium property or association property at least 14 days
1006 before the meeting. ~~Evidence of compliance with the 14-day~~
1007 ~~notice requirement must be made by an affidavit executed by the~~
1008 ~~person providing the notice and filed with the official records~~
1009 ~~of the association.~~

1010 Section 11. Paragraph (c) of subsection (2) and paragraph
1011 (1) of subsection (4) of section 720.303, Florida Statutes, are
1012 amended, and paragraph (m) is added to subsection (4) of that
1013 section, to read:

1014 720.303 Association powers and duties; meetings of board;
1015 official records; budgets; financial reporting; association

23-01144-19

20191362__

1016 funds; recalls.—

1017 (2) BOARD MEETINGS.—

1018 (c) The bylaws shall provide the following for giving
1019 notice to parcel owners and members of all board meetings and,
1020 if they do not do so, shall be deemed to include the following:

1021 1. Notices of all board meetings must be posted in a
1022 conspicuous place in the community at least 48 hours in advance
1023 of a meeting, except in an emergency. In the alternative, if
1024 notice is not posted in a conspicuous place in the community,
1025 notice of each board meeting must be mailed or delivered to each
1026 member at least 7 days before the meeting, except in an
1027 emergency. Notwithstanding this general notice requirement, for
1028 communities with more than 100 members, the association bylaws
1029 may provide for a reasonable alternative to posting or mailing
1030 of notice for each board meeting, including publication of
1031 notice, provision of a schedule of board meetings, or the
1032 conspicuous posting and repeated broadcasting of the notice on a
1033 closed-circuit cable television system serving the homeowners'
1034 association. However, if broadcast notice is used in lieu of a
1035 notice posted physically in the community, the notice must be
1036 broadcast at least four times every broadcast hour of each day
1037 that a posted notice is otherwise required. When broadcast
1038 notice is provided, the notice and agenda must be broadcast in a
1039 manner and for a sufficient continuous length of time so as to
1040 allow an average reader to observe the notice and read and
1041 comprehend the entire content of the notice and the agenda. In
1042 addition to any of the authorized means of providing notice of a
1043 meeting of the board, the association may, by rule, adopt a
1044 procedure for conspicuously posting the meeting notice and the

23-01144-19

20191362__

1045 agenda on a website serving the association for at least the
1046 minimum period of time for which a notice of a meeting is also
1047 required to be physically posted on the association property.
1048 Any rule adopted shall, in addition to other matters, include a
1049 requirement that the association send an electronic notice in
1050 the same manner as a notice for a meeting of the members, which
1051 must include a hyperlink to the website where the notice is
1052 posted, to members whose e-mail addresses are included in the
1053 association's official records. The association may provide
1054 notice by electronic transmission in a manner authorized by law
1055 for meetings of the board of directors, committee meetings
1056 requiring notice under this section, and annual and special
1057 meetings of the members to any member who has provided a
1058 facsimile number or e-mail address to the association to be used
1059 for such purposes; however, a member must consent in writing to
1060 receiving notice by electronic transmission.

1061 2. An assessment may not be levied at a board meeting
1062 unless the notice of the meeting includes a statement that
1063 assessments will be considered and the nature of the
1064 assessments. Written notice of any meeting at which special
1065 assessments will be considered or at which amendments to rules
1066 regarding parcel use will be considered must be mailed,
1067 delivered, or electronically transmitted to the members and
1068 parcel owners and posted conspicuously on the property or
1069 broadcast on closed-circuit cable television not less than 14
1070 days before the meeting.

1071 3. Directors may not vote by proxy or by secret ballot at
1072 board meetings, except that secret ballots may be used in the
1073 election of officers. This subsection also applies to the

23-01144-19

20191362__

1074 meetings of any committee or other similar body, when a final
1075 decision will be made regarding the expenditure of association
1076 funds, and to any body vested with the power to approve or
1077 disapprove architectural decisions with respect to a specific
1078 parcel of residential property owned by a member of the
1079 community.

1080 (4) OFFICIAL RECORDS.—The association shall maintain each
1081 of the following items, when applicable, which constitute the
1082 official records of the association:

1083 (1) Ballots, sign-in sheets, voting proxies, and all other
1084 papers and electronic records relating to voting by parcel
1085 owners, which shall be maintained for at least 1 year after the
1086 date of the election, vote, or meeting to which the document
1087 relates ~~All other written records of the association not~~
1088 ~~specifically included in the foregoing which are related to the~~
1089 ~~operation of the association.~~

1090 (m) All other written records of the association not
1091 specifically included in paragraphs (a)-(l) which are related to
1092 the operation of the association. However, the records contained
1093 on the personal computers or electronic devices of the officers,
1094 directors, and committee members are not official records of the
1095 association, but are personal property of the owner of the
1096 computer or electronic device. Electronic correspondence between
1097 officers, directors, or committee members is not an official
1098 record unless the correspondence is also located on a computer
1099 maintained by the association and is not otherwise excluded or
1100 exempted from the official records.

1101 Section 12. Paragraph (c) of subsection (2) of section
1102 720.3033, Florida Statutes, is amended to read:

23-01144-19

20191362__

1103 720.3033 Officers and directors.—

1104 (2) If the association enters into a contract or other
1105 transaction with any of its directors or a corporation, firm,
1106 association that is not an affiliated homeowners' association,
1107 or other entity in which an association director is also a
1108 director or officer or is financially interested, the board
1109 must:

1110 (c) Approve the contract or other transaction by an
1111 affirmative vote of two-thirds of the directors present at the
1112 meeting who do not have a financial interest in the contract or
1113 transaction.

1114 Section 13. Subsections (1) and (2) of section 720.305,
1115 Florida Statutes, are amended to read:

1116 720.305 Obligations of members; remedies at law or in
1117 equity; levy of fines and suspension of use rights.—

1118 (1) Each member and the member's tenants, guests, and
1119 invitees, and each association, are governed by, and must comply
1120 with, this chapter and, ~~the governing documents of the~~
1121 ~~community, and the rules of the association.~~ Actions at law or
1122 in equity, or both, to redress alleged failure or refusal to
1123 comply with these provisions may be brought by the association
1124 or by any member against:

1125 (a) The association;

1126 (b) A member;

1127 (c) Any director or officer of an association who willfully
1128 and knowingly fails to comply with these provisions; and

1129 (d) Any tenants, guests, or invitees occupying a parcel or
1130 using the common areas.

1131

23-01144-19

20191362__

1132 The prevailing party in any such litigation is entitled to
1133 recover reasonable attorney fees and costs. A member prevailing
1134 in an action between the association and the member under this
1135 section, in addition to recovering his or her reasonable
1136 attorney fees, may recover additional amounts as determined by
1137 the court to be necessary to reimburse the member for his or her
1138 share of assessments levied by the association to fund its
1139 expenses of the litigation. This relief does not exclude other
1140 remedies provided by law. This section does not deprive any
1141 person of any other available right or remedy.

1142 (2) All associations ~~The association~~ may levy reasonable
1143 fines and assessments for fines of \$1,000 or more. A fine may
1144 not exceed \$100 per violation against any member or any member's
1145 tenant, guest, or invitee for the failure of the owner of the
1146 parcel or its occupant, licensee, or invitee to comply with any
1147 provision of the declaration or, ~~the~~ association bylaws, ~~or~~
1148 ~~reasonable rules of the association~~ unless otherwise provided in
1149 the governing documents. A fine may be levied by the board for
1150 each day of a continuing violation, with a single notice and
1151 opportunity for hearing, except that the fine may not exceed
1152 \$1,000 in the aggregate unless otherwise provided in the
1153 governing documents. A fine of \$1,000 or more is considered an
1154 assessment and is collectible as provided in s. 720.3085. A fine
1155 of less than \$1,000 may not be assessed ~~become a lien~~ against a
1156 parcel. In any action to recover a fine, the prevailing party is
1157 entitled to reasonable attorney fees and costs from the
1158 nonprevailing party as determined by the court.

1159 (a) An association may suspend, for a reasonable period of
1160 time, the right of a member, or a member's tenant, guest, or

23-01144-19

20191362__

1161 invitee, to use common areas and facilities for the failure of
1162 the owner of the parcel or its occupant, licensee, or invitee to
1163 comply with any provision of the declaration or, ~~the~~ association
1164 bylaws, ~~or reasonable rules of the association~~. This paragraph
1165 does not apply to that portion of common areas used to provide
1166 access or utility services to the parcel. A suspension may not
1167 prohibit an owner or tenant of a parcel from having vehicular
1168 and pedestrian ingress to and egress from the parcel, including,
1169 but not limited to, the right to park.

1170 (b) A fine or suspension levied by the board of
1171 administration may not be imposed unless the board first
1172 provides at least 14 days' notice to the parcel owner and, if
1173 applicable, any occupant, licensee, or invitee of the parcel
1174 owner, sought to be fined or suspended and an opportunity for a
1175 hearing before a committee of at least three members appointed
1176 by the board who are not officers, directors, or employees of
1177 the association, or the spouse, parent, child, brother, or
1178 sister of an officer, director, or employee. If the committee,
1179 by majority vote, does not approve a proposed fine or
1180 suspension, the proposed fine or suspension may not be imposed.
1181 The role of the committee is limited to determining whether to
1182 confirm or reject the fine or suspension levied by the board. If
1183 the proposed fine or suspension levied by the board is approved
1184 by the committee, the fine payment is due 5 days after notice of
1185 the approved fine is provided to the parcel owner and, if
1186 applicable, to any occupant, licensee, or invitee of the parcel
1187 owner the date of the committee meeting at which the fine is
1188 approved. The association must provide written notice of such
1189 fine or suspension by mail or hand delivery to the parcel owner

23-01144-19

20191362__

1190 and, if applicable, to any tenant, licensee, or invitee of the
1191 parcel owner.

1192 Section 14. Paragraphs (b) and (g) of subsection (1) of
1193 section 720.306, Florida Statutes, are amended to read:

1194 720.306 Meetings of members; voting and election
1195 procedures; amendments.—

1196 (1) QUORUM; AMENDMENTS.—

1197 (b) Notwithstanding any provision to the contrary in any
1198 declaration, articles of incorporation, or bylaws ~~Unless~~
1199 ~~otherwise provided in the governing documents or required by~~
1200 ~~law,~~ and other than those matters set forth in paragraph (c),
1201 any governing document of an association may be amended by the
1202 approval of owners holding at least a majority of the voting
1203 interests of all parcels. However, the declaration, articles of
1204 incorporation, or bylaws may be amended by a lower voting
1205 percentage if so stated in the declaration, articles of
1206 incorporation, or bylaws ~~the affirmative vote of two thirds of~~
1207 ~~the voting interests of the association.~~ Within 30 days after
1208 recording an amendment to the governing documents, the
1209 association shall provide copies of the amendment to the
1210 members. However, if a copy of the proposed amendment is
1211 provided to the members before they vote on the amendment and
1212 the proposed amendment is not changed before the vote, the
1213 association, in lieu of providing a copy of the amendment, may
1214 provide notice to the members that the amendment was adopted,
1215 identifying the official book and page number or instrument
1216 number of the recorded amendment and that a copy of the
1217 amendment is available at no charge to the member upon written
1218 request to the association. The copies and notice described in

23-01144-19

20191362__

1219 this paragraph may be provided electronically to those owners
1220 who previously consented to receive notice electronically. The
1221 failure to timely provide notice of the recording of the
1222 amendment does not affect the validity or enforceability of the
1223 amendment.

1224 (g) A notice required under this section must be mailed or
1225 delivered to the address identified as the parcel owner's
1226 mailing address in the official records of the association as
1227 required under s. 720.303(4) ~~on the property appraiser's website~~
1228 ~~for the county in which the parcel is located~~, or electronically
1229 transmitted in a manner authorized by the association if the
1230 parcel owner has consented, in writing, to receive notice by
1231 electronic transmission.

1232 Section 15. Subsection (1) of section 720.3085, Florida
1233 Statutes, is amended to read:

1234 720.3085 Payment for assessments; lien claims.—

1235 (1) When authorized by the governing documents, the
1236 association has a lien on each parcel to secure the payment of
1237 assessments and other amounts provided for by this section.
1238 Except as otherwise set forth in this section, the lien is
1239 effective from and shall relate back to the date on which the
1240 original declaration of the community was recorded. However, as
1241 to first mortgages of record, the lien is effective from and
1242 after recording of a claim of lien in the public records of the
1243 county in which the parcel is located. This subsection does not
1244 bestow upon any lien, mortgage, or certified judgment of record
1245 on July 1, 2008, including the lien for unpaid assessments
1246 created in this section, a priority that, by law, the lien,
1247 mortgage, or judgment did not have before July 1, 2008. The time

23-01144-19

20191362__

1248 to enforce a lien is automatically extended for any length of
 1249 time during which the association is prevented from filing a
 1250 foreclosure action by an automatic stay resulting from a
 1251 bankruptcy petition filed by the parcel owner or any other
 1252 person claiming an interest in the parcel.

1253 (a) To be valid, a claim of lien must state the description
 1254 of the parcel, the name of the record owner, the name and
 1255 address of the association, the assessment amount due, and the
 1256 due date. The claim of lien secures all unpaid assessments that
 1257 are due and that may accrue subsequent to the recording of the
 1258 claim of lien and before entry of a certificate of title, as
 1259 well as interest, late charges, and reasonable costs and
 1260 attorney fees incurred by the association incident to the
 1261 collection process. The person making payment is entitled to a
 1262 satisfaction of the lien upon payment in full.

1263 (b) By recording a notice in substantially the following
 1264 form, a parcel owner or the parcel owner's agent or attorney may
 1265 require the association to enforce a recorded claim of lien
 1266 against his or her parcel:

1268 NOTICE OF CONTEST OF LIEN

1270 TO: ...(Name and address of association)...

1272 You are notified that the undersigned contests the claim of lien
 1273 filed by you on, ...(year)..., and recorded in Official
 1274 Records Book at page, of the public records of
 1275 County, Florida, and that the time within which you may file
 1276 suit to enforce your lien is limited to 90 days following the

23-01144-19

20191362__

1277 date of service of this notice. Executed this day of,
1278 ... (year)....

1279

1280 Signed: ... (Owner or Attorney)...

1281

1282 After the notice of a contest of lien has been recorded, the
1283 clerk of the circuit court shall mail a copy of the recorded
1284 notice to the association by certified mail, return receipt
1285 requested, at the address shown in the claim of lien or the most
1286 recent amendment to it and shall certify to the service on the
1287 face of the notice. Service is complete upon mailing. After
1288 service, the association has 90 days in which to file an action
1289 to enforce the lien and, if the action is not filed within the
1290 90-day period, the lien is void. However, the 90-day period
1291 shall be extended for any length of time that the association is
1292 prevented from filing its action because of an automatic stay
1293 resulting from the filing of a bankruptcy petition by the parcel
1294 owner or by any other person claiming an interest in the parcel.

1295 (c) The association may bring an action in its name to
1296 foreclose a lien for assessments in the same manner in which a
1297 mortgage of real property is foreclosed and may also bring an
1298 action to recover a money judgment for the unpaid assessments
1299 without waiving any claim of lien. The association is entitled
1300 to recover its reasonable attorney ~~attorney's~~ fees incurred in
1301 an action to foreclose a lien or an action to recover a money
1302 judgment for unpaid assessments.

1303 (d) A release of lien must be in substantially the
1304 following form:

1305

23-01144-19

20191362__

1306
1307
1308
1309
1310
1311
1312
1313
1314
1315
1316
1317
1318
1319
1320
1321
1322
1323
1324
1325
1326
1327
1328
1329
1330
1331
1332
1333
1334

RELEASE OF LIEN

The undersigned lienor, in consideration of the final payment in the amount of \$...., hereby waives and releases its lien and right to claim a lien for unpaid assessments through, ...(year)..., recorded in the Official Records Book at Page, of the public records of County, Florida, for the following described real property:

(PARCEL NO. OR LOT AND BLOCK) OF ...(subdivision name)... SUBDIVISION AS SHOWN IN THE PLAT THEREOF, RECORDED AT PLAT BOOK, PAGE, OF THE OFFICIAL RECORDS OF COUNTY, FLORIDA.

...(or insert appropriate metes and bounds description here)...

...(Signature of Authorized Agent)... ...(Signature of Witness)...

...(Print Name)... ...(Print Name)...

...(Signature of Witness)...

...(Print Name)...

Sworn to (or affirmed) and subscribed before me this day of, ...(year)..., by ...(name of person making statement)....

...(Signature of Notary Public)...

...(Print, type, or stamp commissioned name of Notary Public)...

Personally Known OR Produced as identification.

23-01144-19

20191362__

1335 (e) If the parcel owner remains in possession of the parcel
1336 after a foreclosure judgment has been entered, the court may
1337 require the parcel owner to pay a reasonable rent for the
1338 parcel. If the parcel is rented or leased during the pendency of
1339 the foreclosure action, the association is entitled to the
1340 appointment of a receiver to collect the rent. The expenses of
1341 the receiver must be paid by the party who does not prevail in
1342 the foreclosure action.

1343 (f) The association may purchase the parcel at the
1344 foreclosure sale and hold, lease, mortgage, or convey the
1345 parcel.

1346 Section 16. Subsection (4) of section 720.317, Florida
1347 Statutes, is amended to read:

1348 720.317 Electronic voting.—The association may conduct
1349 elections and other membership votes through an Internet-based
1350 online voting system if a member consents, in writing, to online
1351 voting and if the following requirements are met:

1352 (4) This section applies to an association that provides
1353 for and authorizes an online voting system pursuant to this
1354 section by a board resolution. The board resolution must provide
1355 that members receive notice of the opportunity to vote through
1356 an online voting system;~~;~~ must establish reasonable procedures
1357 and deadlines for members to consent, in writing or as evidenced
1358 by a unit owner registering to utilize online voting through the
1359 online voting service provider chosen by the association, to
1360 online voting;~~;~~ and must establish reasonable procedures and
1361 deadlines for members to opt out of online voting after giving
1362 consent; and may adopt reasonable procedures and deadlines for
1363 addressing motions brought at meetings. Written notice of a

23-01144-19

20191362__

1364 meeting at which the board resolution regarding online voting
1365 will be considered must be ~~mailed, delivered, or electronically~~
1366 ~~transmitted to the unit owners and~~ posted conspicuously on the
1367 condominium property or association property at least 14 days
1368 before the meeting. ~~Evidence of compliance with the 14-day~~
1369 ~~notice requirement must be made by an affidavit executed by the~~
1370 ~~person providing the notice and filed with the official records~~
1371 ~~of the association.~~

1372 Section 17. Subsection (3) of section 720.404, Florida
1373 Statutes, is amended to read:

1374 720.404 Eligible communities; requirements for revival of
1375 declaration.—Parcel owners in a community are eligible to seek
1376 approval from the Department of Economic Opportunity to revive a
1377 declaration of covenants under this act if all of the following
1378 requirements are met:

1379 (3) The revived declaration may not contain covenants that
1380 are more restrictive on the parcel owners than the covenants
1381 contained in the previous declaration, except that the
1382 declaration may:

1383 (a) Have an effective term of longer duration than the term
1384 of the previous declaration;

1385 (b) Omit restrictions contained in the previous
1386 declaration;

1387 (c) Govern fewer than all of the parcels governed by the
1388 previous declaration;

1389 (d) Provide for amendments to the declaration and other
1390 governing documents to be provided to the parcel owners in
1391 writing, electronically via the Internet or in another
1392 electronic format, or on a website made accessible to the parcel

23-01144-19

20191362__

1393 owners, if each voting parcel owner acknowledges, in writing,
1394 that he or she received the documents and the manner in which
1395 such documents were received; and

1396 (e) Contain provisions required by this chapter for new
1397 declarations that were not contained in the previous
1398 declaration.

1399 Section 18. Subsections (2), (5), and (6) of section
1400 720.405, Florida Statutes, are amended to read:

1401 720.405 Organizing committee; parcel owner approval.-

1402 (2) The organizing committee shall prepare or cause to be
1403 prepared the complete text of the proposed revised declaration
1404 of covenants to be submitted to the parcel owners for approval.
1405 The proposed revived documents must identify each parcel that is
1406 to be subject to the governing documents by its legal
1407 description, and by the name of the parcel owner or the person
1408 in whose name the parcel is assessed on the last completed tax
1409 assessment roll of the county at the time when the proposed
1410 revived declaration is submitted for approval by the parcel
1411 owners. The proposed revised declaration of covenants may be
1412 provided to the parcel owners in writing, electronically via the
1413 Internet or in another electronic format, or on a website made
1414 accessible to the parcel owners.

1415 (5) A copy of the complete text of the proposed revised
1416 declaration of covenants, the proposed new or existing articles
1417 of incorporation and bylaws of the association, and a graphic
1418 depiction of the property to be governed by the revived
1419 declaration shall be presented to all of the affected parcel
1420 owners by mail, or hand delivery, or another approved method not
1421 less than 14 days before the time that the consent of the

23-01144-19

20191362__

1422 affected parcel owners to the proposed governing documents is
1423 sought by the organizing committee. Such documents may be
1424 provided together with a required consent form for parcel owners
1425 to acknowledge receipt of the documents and the manner in which
1426 such documents were received. The required consent form must be
1427 returned to the organizing committee and later submitted to the
1428 Department of Economic Opportunity in the manner described in s.
1429 720.406(1).

1430 (6) The revived declaration of covenants and governing
1431 documents may be approved without a meeting if a majority of the
1432 affected parcel owners must agree using written consents, as
1433 provided in s. 617.0701, in writing to the revived declaration
1434 of covenants and governing documents of the association or
1435 approve the revived declaration and governing documents by a
1436 majority vote of the affected parcel owners at a meeting of the
1437 affected parcel owners noticed and conducted in the manner
1438 prescribed by s. 720.306. Proof of notice of the meeting to all
1439 affected owners of the meeting and the minutes of the meeting
1440 recording the votes of the property owners shall be certified by
1441 a court reporter or an attorney licensed to practice in the
1442 state.

1443 Section 19. Subsection (1) of section 720.406, Florida
1444 Statutes, is amended to read:

1445 720.406 Department of Economic Opportunity; submission;
1446 review and determination.—

1447 (1) No later than 60 days after the date the proposed
1448 revived declaration and other governing documents are approved
1449 by the affected parcel owners, the organizing committee or its
1450 designee must submit the proposed revived governing documents

23-01144-19

20191362__

1451 and supporting materials to the Department of Economic
1452 Opportunity to review and determine whether to approve or
1453 disapprove of the proposal to preserve the residential
1454 community. The submission to the department must include:

1455 (a) The full text of the proposed revived declaration of
1456 covenants and articles of incorporation and bylaws of the
1457 homeowners' association;

1458 (b) A verified copy of the previous declaration of
1459 covenants and other previous governing documents for the
1460 community, including any amendments thereto;

1461 (c) The legal description of each parcel to be subject to
1462 the revived declaration and other governing documents and a plat
1463 or other graphic depiction of the affected properties in the
1464 community;

1465 (d) A verified copy of the written consents of the
1466 requisite number of the affected parcel owners approving the
1467 revived declaration and other governing documents or, if
1468 approval was obtained by a vote at a meeting of affected parcel
1469 owners, verified copies of the notice of the meeting,
1470 attendance, and voting results;

1471 (e) An affidavit by a current or former officer of the
1472 association or by a member of the organizing committee verifying
1473 that the requirements for the revived declaration set forth in
1474 s. 720.404 have been satisfied; ~~and~~

1475 (f) Such other documentation that the organizing committee
1476 believes is supportive of the policy of preserving the
1477 residential community and operating, managing, and maintaining
1478 the infrastructure, aesthetic character, and common areas
1479 serving the residential community; and

23-01144-19

20191362__

1480 (g) A copy of the documents listed in paragraphs (a)-(f) in
1481 the same manner as they were provided to the parcel owners along
1482 with a copy of each parcel owner's required consent form
1483 acknowledging receipt of such documents and the manner in which
1484 they were received. If such documents were provided on a website
1485 made accessible to the parcel owners, a document with the
1486 hyperlink to access the website must also be submitted.

1487 Section 20. This act shall take effect July 1, 2019.