



248146

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/16/2021	.	
	.	
	.	
	.	

The Committee on Regulated Industries (Hutson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(4) Every individual unit owner's residential property
policy must contain a provision stating that the coverage



248146

11 afforded by such policy is excess coverage over the amount
12 recoverable under any other policy covering the same property.
13 If a condominium association's insurance policy does not provide
14 rights for subrogation against the unit owners in the
15 association, an insurance policy issued to an individual unit
16 owner in the association may not provide rights of subrogation
17 against the condominium association.

18 Section 2. Subsections (20) and (21) of section 718.103,
19 Florida Statutes, are amended to read:

20 718.103 Definitions.—As used in this chapter, the term:

21 (20) "Multicondominium" means real property ~~a real estate~~
22 ~~development~~ containing two or more condominiums, all of which
23 are operated by the same association.

24 (21) "Operation" or "operation of the condominium" includes
25 the administration and management of the condominium property
26 and the association.

27 Section 3. Paragraphs (a), (b), (c), and (g) of subsection
28 (12) of section 718.111, Florida Statutes, are amended to read:

29 718.111 The association.—

30 (12) OFFICIAL RECORDS.—

31 (a) From the inception of the association, the association
32 shall maintain each of the following items, if applicable, which
33 constitutes the official records of the association:

34 1. A copy of the plans, permits, warranties, and other
35 items provided by the developer under ~~pursuant to~~ s. 718.301(4).

36 2. A photocopy of the recorded declaration of condominium
37 of each condominium operated by the association and each
38 amendment to each declaration.

39 3. A photocopy of the recorded bylaws of the association



248146

40 and each amendment to the bylaws.

41 4. A certified copy of the articles of incorporation of the
42 association, or other documents creating the association, and
43 each amendment thereto.

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

45 6. A book or books that contain the minutes of all meetings
46 of the association, the board of administration, and the unit
47 owners.

48 7. A current roster of all unit owners and their mailing
49 addresses, unit identifications, voting certifications, and, if
50 known, telephone numbers. The association shall also maintain
51 the e-mail addresses and facsimile numbers of unit owners
52 consenting to receive notice by electronic transmission. The e-
53 mail addresses and facsimile numbers are not accessible to unit
54 owners if consent to receive notice by electronic transmission
55 is not provided in accordance with sub-subparagraph (c)3.e.
56 However, the association is not liable for an inadvertent
57 disclosure of the e-mail address or facsimile number for
58 receiving electronic transmission of notices.

59 8. All current insurance policies of the association and
60 condominiums operated by the association.

61 9. A current copy of any management agreement, lease, or
62 other contract to which the association is a party or under
63 which the association or the unit owners have an obligation or
64 responsibility.

65 10. Bills of sale or transfer for all property owned by the
66 association.

67 11. Accounting records for the association and separate
68 accounting records for each condominium that the association



248146

69 operates. Any person who knowingly or intentionally defaces or
70 destroys such records, or who knowingly or intentionally fails
71 to create or maintain such records, with the intent of causing
72 harm to the association or one or more of its members, is
73 personally subject to a civil penalty pursuant to s.

74 718.501(1)(d). The accounting records must include, but are not
75 limited to:

76 a. Accurate, itemized, and detailed records of all receipts
77 and expenditures.

78 b. A current account and a monthly, bimonthly, or quarterly
79 statement of the account for each unit designating the name of
80 the unit owner, the due date and amount of each assessment, the
81 amount paid on the account, and the balance due.

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

84 d. All contracts for work to be performed. Bids for work to
85 be performed are also considered official records and must be
86 maintained by the association for at least 1 year after receipt
87 of the bid.

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

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

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

97 15. ~~All other written records of the association not~~



248146

98 ~~specifically included in the foregoing which are related to the~~
99 ~~operation of the association.~~

100 ~~16.~~ A copy of the inspection report as described in s.
101 718.301(4) (p) .

102 ~~16.17.~~ Bids for materials, equipment, or services.

103 17. All other written records of the association not
104 specified in subparagraphs 1.-16. which are related to the
105 operation of the association.

106 (b) The official records specified in subparagraphs (a)1.-
107 6. must be permanently maintained from the inception of the
108 association. Bids for work to be performed or for materials,
109 equipment, or services must be maintained for at least 1 year
110 after receipt of the bid. All other official records must be
111 maintained within the state for at least 7 years, unless
112 otherwise provided by general law. The records of the
113 association shall be made available to a unit owner within 45
114 miles of the condominium property or within the county in which
115 the condominium property is located within 10 working days after
116 receipt of a written request by the board or its designee.
117 However, such distance requirement does not apply to an
118 association governing a timeshare condominium. This paragraph
119 may be complied with by having a copy of the official records of
120 the association available for inspection or copying on the
121 condominium property or association property, or the association
122 may offer the option of making the records available to a unit
123 owner electronically via the Internet or by allowing the records
124 to be viewed in electronic format on a computer screen and
125 printed upon request. The association is not responsible for the
126 use or misuse of the information provided to an association



248146

127 member or his or her authorized representative in ~~pursuant to~~
128 ~~the~~ compliance with ~~requirements of~~ this chapter unless the
129 association has an affirmative duty not to disclose such
130 information under ~~pursuant to~~ this chapter.

131 (c)1. The official records of the association are open to
132 inspection by any association member or the authorized
133 representative of such member at all reasonable times. The right
134 to inspect the records includes the right to make or obtain
135 copies, at the reasonable expense, if any, of the member or
136 authorized representative of such member. A renter of a unit has
137 a right to inspect and copy only the declaration of condominium
138 and the association's bylaws and rules. The association may
139 adopt reasonable rules regarding the frequency, time, location,
140 notice, and manner of record inspections and copying, but may
141 not require a member to demonstrate any purpose or state any
142 reason for the inspection. The failure of an association to
143 provide the records within 10 working days after receipt of a
144 written request creates a rebuttable presumption that the
145 association willfully failed to comply with this paragraph. A
146 unit owner who is denied access to official records is entitled
147 to the actual damages or minimum damages for the association's
148 willful failure to comply. Minimum damages are \$50 per calendar
149 day for up to 10 days, beginning on the 11th working day after
150 receipt of the written request. The failure to permit inspection
151 entitles any person prevailing in an enforcement action to
152 recover reasonable attorney fees from the person in control of
153 the records who, directly or indirectly, knowingly denied access
154 to the records.

155 2. Any person who knowingly or intentionally defaces or



248146

156 destroys accounting records that are required by this chapter to
157 be maintained during the period for which such records are
158 required to be maintained, or who knowingly or intentionally
159 fails to create or maintain accounting records that are required
160 to be created or maintained, with the intent of causing harm to
161 the association or one or more of its members, is personally
162 subject to a civil penalty pursuant to s. 718.501(1)(d).

163 3. The association shall maintain an adequate number of
164 copies of the declaration, articles of incorporation, bylaws,
165 and rules, and all amendments to each of the foregoing, as well
166 as the question and answer sheet as described in s. 718.504 and
167 year-end financial information required under this section, on
168 the condominium property to ensure their availability to unit
169 owners and prospective purchasers, and may charge its actual
170 costs for preparing and furnishing these documents to those
171 requesting the documents. An association shall allow a member or
172 his or her authorized representative to use a portable device,
173 including a smartphone, tablet, portable scanner, or any other
174 technology capable of scanning or taking photographs, to make an
175 electronic copy of the official records in lieu of the
176 association's providing the member or his or her authorized
177 representative with a copy of such records. The association may
178 not charge a member or his or her authorized representative for
179 the use of a portable device. Notwithstanding this paragraph,
180 the following records are not accessible to unit owners:

181 a. Any record protected by the lawyer-client privilege as
182 described in s. 90.502 and any record protected by the work-
183 product privilege, including a record prepared by an association
184 attorney or prepared at the attorney's express direction, which



248146

185 reflects a mental impression, conclusion, litigation strategy,
186 or legal theory of the attorney or the association, and which
187 was prepared exclusively for civil or criminal litigation or for
188 adversarial administrative proceedings, or which was prepared in
189 anticipation of such litigation or proceedings until the
190 conclusion of the litigation or proceedings.

191 b. Information obtained by an association in connection
192 with the approval of the lease, sale, or other transfer of a
193 unit.

194 c. Personnel records of association or management company
195 employees, including, but not limited to, disciplinary, payroll,
196 health, and insurance records. For purposes of this sub-
197 subparagraph, the term "personnel records" does not include
198 written employment agreements with an association employee or
199 management company, or budgetary or financial records that
200 indicate the compensation paid to an association employee.

201 d. Medical records of unit owners.

202 e. Social security numbers, driver license numbers, credit
203 card numbers, e-mail addresses, telephone numbers, facsimile
204 numbers, emergency contact information, addresses of a unit
205 owner other than as provided to fulfill the association's notice
206 requirements, and other personal identifying information of any
207 person, excluding the person's name, unit designation, mailing
208 address, property address, and any address, e-mail address, or
209 facsimile number provided to the association to fulfill the
210 association's notice requirements. Notwithstanding the
211 restrictions in this sub-subparagraph, an association may print
212 and distribute to unit ~~parcel~~ owners a directory containing the
213 name, unit ~~parcel~~ address, and all telephone numbers of each



248146

214 unit parcel owner. However, an owner may exclude his or her
215 telephone numbers from the directory by so requesting in writing
216 to the association. An owner may consent in writing to the
217 disclosure of other contact information described in this sub-
218 subparagraph. The association is not liable for the inadvertent
219 disclosure of information that is protected under this sub-
220 subparagraph if the information is included in an official
221 record of the association and is voluntarily provided by an
222 owner and not requested by the association.

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

225 g. The software and operating system used by the
226 association which allow the manipulation of data, even if the
227 owner owns a copy of the same software used by the association.
228 The data is part of the official records of the association.

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

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

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

238 (II) A website, application, or web portal operated by a
239 third-party provider with whom the association owns, leases,
240 rents, or otherwise obtains the right to operate a web page,
241 subpage, web portal, ~~or~~ collection of subpages or web portals,
242 or an application which is dedicated to the association's



248146

243 activities and on which required notices, records, and documents
244 may be posted or made available by the association.

245 b. The association's website or application must be
246 accessible through the Internet and must contain a subpage, web
247 portal, or other protected electronic location that is
248 inaccessible to the general public and accessible only to unit
249 owners and employees of the association.

250 c. Upon a unit owner's written request, the association
251 must provide the unit owner with a username and password and
252 access to the protected sections of the association's website or
253 application which ~~that~~ contain any notices, records, or
254 documents that must be electronically provided.

255 2. A current copy of the following documents must be posted
256 in digital format on the association's website or application:

257 a. The recorded declaration of condominium of each
258 condominium operated by the association and each amendment to
259 each declaration.

260 b. The recorded bylaws of the association and each
261 amendment to the bylaws.

262 c. The articles of incorporation of the association, or
263 other documents creating the association, and each amendment to
264 the articles of incorporation or other documents ~~thereto~~. The
265 copy posted pursuant to this sub-subparagraph must be a copy of
266 the articles of incorporation filed with the Department of
267 State.

268 d. The rules of the association.

269 e. A list of all executory contracts or documents to which
270 the association is a party or under which the association or the
271 unit owners have an obligation or responsibility and, after



248146

272 bidding for the related materials, equipment, or services has
273 closed, a list of bids received by the association within the
274 past year. Summaries of bids for materials, equipment, or
275 services which exceed \$500 must be maintained on the website or
276 application for 1 year. In lieu of summaries, complete copies of
277 the bids may be posted.

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

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

283 h. The certification of each director required by s.
284 718.112(2)(d)4.b.

285 i. All contracts or transactions between the association
286 and any director, officer, corporation, firm, or association
287 that is not an affiliated condominium association or any other
288 entity in which an association director is also a director or
289 officer and financially interested.

290 j. Any contract or document regarding a conflict of
291 interest or possible conflict of interest as provided in ss.
292 468.436(2)(b)6. and 718.3027(3).

293 k. The notice of any unit owner meeting and the agenda for
294 the meeting, as required by s. 718.112(2)(d)3., no later than 14
295 days before the meeting. The notice must be posted in plain view
296 on the front page of the website or application, or on a
297 separate subpage of the website or application labeled "Notices"
298 which is conspicuously visible and linked from the front page.
299 The association must also post on its website or application any
300 document to be considered and voted on by the owners during the



301 meeting or any document listed on the agenda at least 7 days
302 before the meeting at which the document or the information
303 within the document will be considered.

304 1. Notice of any board meeting, the agenda, and any other
305 document required for the meeting as required by s.
306 718.112(2)(c), which must be posted no later than the date
307 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

308 3. The association shall ensure that the information and
309 records described in paragraph (c), which are not allowed to be
310 accessible to unit owners, are not posted on the association's
311 website or application. If protected information or information
312 restricted from being accessible to unit owners is included in
313 documents that are required to be posted on the association's
314 website or application, the association shall ensure the
315 information is redacted before posting the documents ~~online~~.
316 Notwithstanding the foregoing, the association or its agent is
317 not liable for disclosing information that is protected or
318 restricted under ~~pursuant to~~ this paragraph unless such
319 disclosure was made with a knowing or intentional disregard of
320 the protected or restricted nature of such information.

321 4. The failure of the association to post information
322 required under subparagraph 2. is not in and of itself
323 sufficient to invalidate any action or decision of the
324 association's board or its committees.

325 Section 4. Paragraphs (d), (i), (j), (k), and (p) of
326 subsection (2) of section 718.112, Florida Statutes, are
327 amended, and paragraph (c) is added to subsection (1) of that
328 section, to read:

329 718.112 Bylaws.—



248146

330 (1) GENERALLY.—

331 (c) The association may extinguish a discriminatory
332 restriction as provided under s. 712.065.

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

336 (d) *Unit owner meetings.*—

337 1. An annual meeting of the unit owners must be held at the
338 location provided in the association bylaws and, if the bylaws
339 are silent as to the location, the meeting must be held within
340 45 miles of the condominium property. However, such distance
341 requirement does not apply to an association governing a
342 timeshare condominium.

343 2. Unless the bylaws provide otherwise, a vacancy on the
344 board caused by the expiration of a director's term must be
345 filled by electing a new board member, and the election must be
346 by secret ballot. An election is not required if the number of
347 vacancies equals or exceeds the number of candidates. For
348 purposes of this paragraph, the term "candidate" means an
349 eligible person who has timely submitted the written notice, as
350 described in sub-subparagraph 4.a., of his or her intention to
351 become a candidate. Except in a timeshare or nonresidential
352 condominium, or if the staggered term of a board member does not
353 expire until a later annual meeting, or if all members' terms
354 would otherwise expire but there are no candidates, the terms of
355 all board members expire at the annual meeting, and such members
356 may stand for reelection unless prohibited by the bylaws. Board
357 members may serve terms longer than 1 year if permitted by the
358 bylaws or articles of incorporation. A board member may not



248146

359 serve more than 8 consecutive years unless approved by an
360 affirmative vote of unit owners representing two-thirds of all
361 votes cast in the election or unless there are not enough
362 eligible candidates to fill the vacancies on the board at the
363 time of the vacancy. Only board service that occurs on or after
364 July 1, 2018, may be used when calculating a board member's term
365 limit. If the number of board members whose terms expire at the
366 annual meeting equals or exceeds the number of candidates, the
367 candidates become members of the board effective upon the
368 adjournment of the annual meeting. Unless the bylaws provide
369 otherwise, any remaining vacancies shall be filled by the
370 affirmative vote of the majority of the directors making up the
371 newly constituted board even if the directors constitute less
372 than a quorum or there is only one director. In a residential
373 condominium association of more than 10 units or in a
374 residential condominium association that does not include
375 timeshare units or timeshare interests, co-owners of a unit may
376 not serve as members of the board of directors at the same time
377 unless they own more than one unit or unless there are not
378 enough eligible candidates to fill the vacancies on the board at
379 the time of the vacancy. A unit owner in a residential
380 condominium desiring to be a candidate for board membership must
381 comply with sub-subparagraph 4.a. and must be eligible to be a
382 candidate to serve on the board of directors at the time of the
383 deadline for submitting a notice of intent to run in order to
384 have his or her name listed as a proper candidate on the ballot
385 or to serve on the board. A person who has been suspended or
386 removed by the division under this chapter, or who is delinquent
387 in the payment of any monetary obligation due to the



248146

388 association, is not eligible to be a candidate for board
389 membership and may not be listed on the ballot. A person who has
390 been convicted of any felony in this state or in a United States
391 District or Territorial Court, or who has been convicted of any
392 offense in another jurisdiction which would be considered a
393 felony if committed in this state, is not eligible for board
394 membership unless such felon's civil rights have been restored
395 for at least 5 years as of the date such person seeks election
396 to the board. The validity of an action by the board is not
397 affected if it is later determined that a board member is
398 ineligible for board membership due to having been convicted of
399 a felony. This subparagraph does not limit the term of a member
400 of the board of a nonresidential or timeshare condominium.

401 3. The bylaws must provide the method of calling meetings
402 of unit owners, including annual meetings. Written notice of an
403 annual meeting must include an agenda; ~~it must~~ be mailed, hand
404 delivered, or electronically transmitted to each unit owner at
405 least 14 days before the annual meeting; ~~it~~ and ~~must~~ be posted in
406 a conspicuous place on the condominium property or association
407 property at least 14 continuous days before the annual meeting.
408 Written notice of a meeting other than an annual meeting must
409 include an agenda; be mailed, hand delivered, or electronically
410 transmitted to each unit owner; and be posted in a conspicuous
411 place on the condominium property or association property within
412 the timeframe specified in the bylaws. If the bylaws do not
413 specify a timeframe for written notice of a meeting other than
414 an annual meeting, notice must be provided at least 14
415 continuous days before the meeting. Upon notice to the unit
416 owners, the board shall, by duly adopted rule, designate a



248146

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



248146

446 in writing the right to receive notice of the annual meeting,
447 such notice must be hand delivered, mailed, or electronically
448 transmitted to each unit owner. Notice for meetings and notice
449 for all other purposes must be mailed to each unit owner at the
450 address last furnished to the association by the unit owner, or
451 hand delivered to each unit owner. However, if a unit is owned
452 by more than one person, the association must provide notice to
453 the address that the developer identifies for that purpose and
454 thereafter as one or more of the owners of the unit advise the
455 association in writing, or if no address is given or the owners
456 of the unit do not agree, to the address provided on the deed of
457 record. An officer of the association, or the manager or other
458 person providing notice of the association meeting, must provide
459 an affidavit or United States Postal Service certificate of
460 mailing, to be included in the official records of the
461 association affirming that the notice was mailed or hand
462 delivered in accordance with this provision.

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

470 a. At least 60 days before a scheduled election, the
471 association shall mail, deliver, or electronically transmit, by
472 separate association mailing or included in another association
473 mailing, delivery, or transmission, including regularly
474 published newsletters, to each unit owner entitled to a vote, a



248146

475 first notice of the date of the election. A unit owner or other
476 eligible person desiring to be a candidate for the board must
477 give written notice of his or her intent to be a candidate to
478 the association at least 40 days before a scheduled election.
479 Together with the written notice and agenda as set forth in
480 subparagraph 3., the association shall mail, deliver, or
481 electronically transmit a second notice of the election to all
482 unit owners entitled to vote, together with a ballot that lists
483 all candidates not less than 14 days or more than 34 days before
484 the date of the election. Upon request of a candidate, an
485 information sheet, no larger than 8 1/2 inches by 11 inches,
486 which must be furnished by the candidate at least 35 days before
487 the election, must be included with the mailing, delivery, or
488 transmission of the ballot, with the costs of mailing, delivery,
489 or electronic transmission and copying to be borne by the
490 association. The association is not liable for the contents of
491 the information sheets prepared by the candidates. In order to
492 reduce costs, the association may print or duplicate the
493 information sheets on both sides of the paper. The division
494 shall by rule establish voting procedures consistent with this
495 sub-subparagraph, including rules establishing procedures for
496 giving notice by electronic transmission and rules providing for
497 the secrecy of ballots. Elections shall be decided by a
498 plurality of ballots cast. There is no quorum requirement;
499 however, at least 20 percent of the eligible voters must cast a
500 ballot in order to have a valid election. A unit owner may not
501 authorize any other person to vote his or her ballot, and any
502 ballots improperly cast are invalid. A unit owner who violates
503 this provision may be fined by the association in accordance



248146

504 with s. 718.303. A unit owner who needs assistance in casting
505 the ballot for the reasons stated in s. 101.051 may obtain such
506 assistance. The regular election must occur on the date of the
507 annual meeting. Notwithstanding this sub-subparagraph, an
508 election is not required unless more candidates file notices of
509 intent to run or are nominated than board vacancies exist.

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



248146

533 suspension. The secretary shall cause the association to retain
534 a director's written certification or educational certificate
535 for inspection by the members for 5 years after a director's
536 election or the duration of the director's uninterrupted tenure,
537 whichever is longer. Failure to have such written certification
538 or educational certificate on file does not affect the validity
539 of any board action.

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

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

552 6. Unit owners may waive notice of specific meetings if
553 allowed by the applicable bylaws or declaration or any law.
554 Notice of meetings of the board of administration, unit owner
555 meetings, except unit owner meetings called to recall board
556 members under paragraph (j), and committee meetings may be given
557 by electronic transmission to unit owners who consent to receive
558 notice by electronic transmission. A unit owner who consents to
559 receiving notices by electronic transmission is solely
560 responsible for removing or bypassing filters that block receipt
561 of mass e-mails ~~emails~~ sent to members on behalf of the



248146

562 association in the course of giving electronic notices.

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

567 8. A unit owner may tape record or videotape a meeting of
568 the unit owners subject to reasonable rules adopted by the
569 division.

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

584 10. This chapter does not limit the use of general or
585 limited proxies, require the use of general or limited proxies,
586 or require the use of a written ballot or voting machine for any
587 agenda item or election at any meeting of a timeshare
588 condominium association or nonresidential condominium
589 association.

590



248146

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

599 (i) *Transfer fees.*—An association may not ~~no~~ charge a fee
600 shall be made by the association or any body thereof in
601 connection with the sale, mortgage, lease, sublease, or other
602 transfer of a unit unless the association is required to approve
603 such transfer and a fee for such approval is provided for in the
604 declaration, articles, or bylaws. Any such fee may be preset,
605 but may not in no event may such fee exceed \$150 \$100 per
606 applicant. For the purpose of calculating the fee, spouses or a
607 parent or parents and any dependent children ~~other than~~
608 husband/wife or parent/dependent child, which are considered one
609 applicant. However, if the lease or sublease is a renewal of a
610 lease or sublease with the same lessee or sublessee, a charge
611 may not ~~no charge shall~~ be made. Such fees must be adjusted
612 every 5 years in an amount equal to the total of the annual
613 increases occurring in the Consumer Price Index for All Urban
614 Consumers, U.S. City Average, All Items during that 5-year
615 period. The Department of Business and Professional Regulation
616 shall periodically calculate the fees, rounded to the nearest
617 dollar, and publish the amounts, as adjusted, on its website.
618 The foregoing notwithstanding, ~~an association may,~~ if the
619 authority to do so appears in the declaration, articles, or



248146

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

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

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



248146

649 their possession.

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

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

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



248146

678 of service on the board and the facial validity of the written
679 agreement or ballots filed.

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

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



248146

707 they prevail, if the arbitrator or court makes a finding that
708 the petitioner's claim is frivolous.

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

716 (k) Alternative dispute resolution Arbitration.—There must
717 ~~shall~~ be a provision for alternative dispute resolution
718 ~~mandatory nonbinding arbitration~~ as provided for in s. 718.1255
719 for any residential condominium.

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

731 Section 5. Subsection (8) of section 718.113, Florida
732 Statutes, is amended to read:

733 718.113 Maintenance; limitation upon improvement; display
734 of flag; hurricane shutters and protection; display of religious
735 decorations.—



248146

736 (8) The Legislature finds that the use of electric and
737 natural gas fuel vehicles conserves and protects the state's
738 environmental resources, provides significant economic savings
739 to drivers, and serves an important public interest. The
740 participation of condominium associations is essential to the
741 state's efforts to conserve and protect the state's
742 environmental resources and provide economic savings to drivers.
743 For purposes of this subsection, the term "natural gas fuel" has
744 the same meaning as in s. 206.9951, and the term "natural gas
745 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
746 that is powered by natural gas fuel. Therefore, the installation
747 of an electric vehicle charging station or a natural gas fuel
748 station shall be governed as follows:

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

762 (b) The installation may not cause irreparable damage to
763 the condominium property.

764 (c) The electricity for the electric vehicle charging



248146

765 station or natural gas fuel station must be separately metered
766 or metered by an embedded meter and payable by the unit owner
767 installing such charging or fuel station or by his or her
768 successor.

769 (d) The cost for supply and storage of the natural gas fuel
770 must be paid by the unit owner installing the natural gas fuel
771 station or by his or her successor.

772 (e) ~~(d)~~ The unit owner who is installing an electric vehicle
773 charging station or a natural gas fuel station is responsible
774 for the costs of installation, operation, maintenance, and
775 repair, including, but not limited to, hazard and liability
776 insurance. The association may enforce payment of such costs
777 under ~~pursuant to~~ s. 718.116.

778 (f) ~~(e)~~ If the unit owner or his or her successor decides
779 there is no longer a need for the electric ~~electronic~~ vehicle
780 charging station or natural gas fuel station, such person is
781 responsible for the cost of removal of such ~~the electronic~~
782 ~~vehicle~~ charging or fuel station. The association may enforce
783 payment of such costs under ~~pursuant to~~ s. 718.116.

784 (g) The unit owner installing, maintaining, or removing the
785 electric vehicle charging station or natural gas fuel station is
786 responsible for complying with all federal, state, or local laws
787 and regulations applicable to such installation, maintenance, or
788 removal.

789 (h) ~~(f)~~ The association may require the unit owner to:

790 1. Comply with bona fide safety requirements, consistent
791 with applicable building codes or recognized safety standards,
792 for the protection of persons and property.

793 2. Comply with reasonable architectural standards adopted



248146

794 by the association that govern the dimensions, placement, or
795 external appearance of the electric vehicle charging station or
796 natural gas fuel station, provided that such standards may not
797 prohibit the installation of such charging or fuel station or
798 substantially increase the cost thereof.

799 3. Engage the services of a licensed and registered firm
800 ~~electrical contractor or engineer~~ familiar with the installation
801 or removal and core requirements of an electric vehicle charging
802 station or a natural gas fuel station.

803 4. Provide a certificate of insurance naming the
804 association as an additional insured on the owner's insurance
805 policy for any claim related to the installation, maintenance,
806 or use of the electric vehicle charging station or natural gas
807 fuel station within 14 days after receiving the association's
808 approval to install such charging or fuel station or notice to
809 provide such a certificate.

810 5. Reimburse the association for the actual cost of any
811 increased insurance premium amount attributable to the electric
812 vehicle charging station or natural gas fuel station within 14
813 days after receiving the association's insurance premium
814 invoice.

815 (i) ~~(g)~~ The association provides an implied easement across
816 the common elements of the condominium property to the unit
817 owner for purposes of ~~the installation of the~~ electric vehicle
818 charging station or natural gas fuel station installation, and
819 the furnishing of electrical power or natural gas fuel supply,
820 including any necessary equipment, to such charging or fuel
821 station, subject to the requirements of this subsection.

822 Section 6. Subsection (16) of section 718.117, Florida



248146

823 Statutes, is amended to read:

824 718.117 Termination of condominium.—

825 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
826 plan of termination by initiating a petition in accordance with
827 ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~
828 within 90 days after the date the plan is recorded. A unit owner
829 or lienor may only contest the fairness and reasonableness of
830 the apportionment of the proceeds from the sale among the unit
831 owners, that the liens of the first mortgages of unit owners
832 other than the bulk owner have not or will not be satisfied to
833 the extent required by subsection (3), or that the required vote
834 to approve the plan was not obtained. A unit owner or lienor who
835 does not contest the plan within the 90-day period is barred
836 from asserting or prosecuting a claim against the association,
837 the termination trustee, any unit owner, or any successor in
838 interest to the condominium property. In an action contesting a
839 plan of termination, the person contesting the plan has the
840 burden of pleading and proving that the apportionment of the
841 proceeds from the sale among the unit owners was not fair and
842 reasonable or that the required vote was not obtained. The
843 apportionment of sale proceeds is presumed fair and reasonable
844 if it was determined pursuant to the methods prescribed in
845 subsection (12). If the petition is filed with the division for
846 arbitration, the arbitrator shall determine the rights and
847 interests of the parties in the apportionment of the sale
848 proceeds. If the arbitrator determines that the apportionment of
849 sales proceeds is not fair and reasonable, the arbitrator may
850 void the plan or may modify the plan to apportion the proceeds
851 in a fair and reasonable manner pursuant to this section based



248146

852 upon the proceedings and order the modified plan of termination
853 to be implemented. If the arbitrator determines that the plan
854 was not properly approved, or that the procedures to adopt the
855 plan were not properly followed, the arbitrator may void the
856 plan or grant other relief it deems just and proper. The
857 arbitrator shall automatically void the plan upon a finding that
858 any of the disclosures required in subparagraph (3)(c)5. are
859 omitted, misleading, incomplete, or inaccurate. Any challenge to
860 a plan, other than a challenge that the required vote was not
861 obtained, does not affect title to the condominium property or
862 the vesting of the condominium property in the trustee, but
863 shall only be a claim against the proceeds of the plan. In any
864 such action, the prevailing party shall recover reasonable
865 attorney fees and costs.

866 Section 7. Subsections (2) and (4) of section 718.121,
867 Florida Statutes, are amended to read:

868 718.121 Liens.—

869 (2) Labor performed on or materials furnished to a unit may
870 ~~shall~~ not be the basis for the filing of a lien under ~~pursuant~~
871 ~~to~~ part I of chapter 713, the Construction Lien Law, against the
872 unit or condominium parcel of any unit owner not expressly
873 consenting to or requesting the labor or materials. Labor
874 performed on or materials furnished for the installation of a
875 natural gas fuel station or an electric ~~electronic~~ vehicle
876 charging station under ~~pursuant to~~ s. 718.113(8) may not be the
877 basis for filing a lien under part I of chapter 713 against the
878 association, but such a lien may be filed against the unit
879 owner. Labor performed on or materials furnished to the common
880 elements are not the basis for a lien on the common elements,



248146

881 but if authorized by the association, the labor or materials are
882 deemed to be performed or furnished with the express consent of
883 each unit owner and may be the basis for the filing of a lien
884 against all condominium parcels in the proportions for which the
885 owners are liable for common expenses.

886 (4) Except as otherwise provided in this chapter, no lien
887 may be filed by the association against a condominium unit until
888 30 days after the date on which a notice of intent to file a
889 lien has been delivered to the owner by registered or certified
890 mail, return receipt requested, and by first-class United States
891 mail to the owner at his or her last address as reflected in the
892 records of the association, if the address is within the United
893 States, and delivered to the owner at the address of the unit if
894 the owner's address as reflected in the records of the
895 association is not the unit address. If the address reflected in
896 the records is outside the United States, sending the notice to
897 that address and to the unit address by first-class United
898 States mail is sufficient. ~~Delivery of the Notice is shall be~~
899 deemed to have been delivered given upon mailing as required by
900 this subsection, provided that it is. ~~The notice must be~~ in
901 substantially the following form:

902
903 NOTICE OF INTENT
904 TO RECORD A CLAIM OF LIEN

905
906 RE: Unit of ...(name of association)...

907
908 The following amounts are currently due on your
909 account to ...(name of association)..., and must be



910 paid within 30 days after your receipt of this letter.
911 This letter shall serve as the association's notice of
912 intent to record a Claim of Lien against your property
913 no sooner than 30 days after your receipt of this
914 letter, unless you pay in full the amounts set forth
915 below:

916		
917	Maintenance due ... (dates)...	\$.....
918	Late fee, if applicable	\$.....
919	Interest through ... (dates)...*	\$.....
920	Certified mail charges <u>... (dates)...</u>	\$.....
921	Other costs	\$.....
922	TOTAL OUTSTANDING	\$.....

923
924 *Interest accrues at the rate of percent per annum.
925 Section 8. Section 718.1255, Florida Statutes, is amended
926 to read:

927 718.1255 Alternative dispute resolution; ~~voluntary~~
928 mediation; ~~mandatory~~ nonbinding arbitration; legislative
929 findings.—

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

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

935 1. Require any owner to take any action, or not to take any
936 action, involving that owner's unit or the appurtenances
937 thereto.

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



248146

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

- 941 1. Properly conduct elections.
942 2. Give adequate notice of meetings or other actions.
943 3. Properly conduct meetings.
944 4. Allow inspection of books and records.

945 (c) A plan of termination pursuant to s. 718.117.
946

947 "Dispute" does not include any disagreement that primarily
948 involves: title to any unit or common element; the
949 interpretation or enforcement of any warranty; the levy of a fee
950 or assessment, or the collection of an assessment levied against
951 a party; the eviction or other removal of a tenant from a unit;
952 alleged breaches of fiduciary duty by one or more directors; or
953 claims for damages to a unit based upon the alleged failure of
954 the association to maintain the common elements or condominium
955 property.

956 (2) ~~VOLUNTARY MEDIATION.~~—Voluntary Mediation through
957 Citizen Dispute Settlement Centers as provided for in s. 44.201
958 is encouraged.

959 (3) LEGISLATIVE FINDINGS.—

960 (a) The Legislature finds that unit owners are frequently
961 at a disadvantage when litigating against an association.
962 Specifically, a condominium association, with its statutory
963 assessment authority, is often more able to bear the costs and
964 expenses of litigation than the unit owner who must rely on his
965 or her own financial resources to satisfy the costs of
966 litigation against the association.

967 (b) The Legislature finds that alternative dispute



248146

968 resolution has been making progress in reducing court dockets
969 and trials and in offering a more efficient, cost-effective
970 option to court litigation. However, the Legislature also finds
971 that alternative dispute resolution should not be used as a
972 mechanism to encourage the filing of frivolous or nuisance
973 suits.

974 (c) There exists a need to develop a flexible means of
975 alternative dispute resolution that directs disputes to the most
976 efficient means of resolution.

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

983 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
984 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
985 Mobile Homes of the Department of Business and Professional
986 Regulation may employ full-time attorneys to act as arbitrators
987 to conduct the arbitration hearings provided by this chapter.
988 The division may also certify attorneys who are not employed by
989 the division to act as arbitrators to conduct the arbitration
990 hearings provided by this chapter. A ~~No~~ person may not be
991 employed by the department as a full-time arbitrator unless he
992 or she is a member in good standing of The Florida Bar. A person
993 may only be certified by the division to act as an arbitrator if
994 he or she has been a member in good standing of The Florida Bar
995 for at least 5 years and has mediated or arbitrated at least 10
996 disputes involving condominiums in this state during the 3 years



248146

997 immediately preceding the date of application, mediated or
998 arbitrated at least 30 disputes in any subject area in this
999 state during the 3 years immediately preceding the date of
1000 application, or attained board certification in real estate law
1001 or condominium and planned development law from The Florida Bar.
1002 Arbitrator certification is valid for 1 year. An arbitrator who
1003 does not maintain the minimum qualifications for initial
1004 certification may not have his or her certification renewed. The
1005 department may not enter into a legal services contract for an
1006 arbitration hearing under this chapter with an attorney who is
1007 not a certified arbitrator unless a certified arbitrator is not
1008 available within 50 miles of the dispute. The department shall
1009 adopt rules of procedure to govern such arbitration hearings
1010 including mediation incident thereto. The decision of an
1011 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1012 ~~be~~ deemed final agency action. Nothing in this provision shall
1013 be construed to foreclose parties from proceeding in a trial de
1014 novo unless the parties have agreed that the arbitration is
1015 binding. If judicial proceedings are initiated, the final
1016 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1017 the trial de novo.

1018 (a) Before ~~Prior to~~ the institution of court litigation, a
1019 party to a dispute, other than an election or recall dispute,
1020 shall either petition the division for nonbinding arbitration or
1021 initiate presuit mediation as provided in subsection (5).
1022 Arbitration is binding on the parties if all parties in
1023 arbitration agree to be bound in a writing filed in arbitration.
1024 The petition must be accompanied by a filing fee in the amount
1025 of \$50. Filing fees collected under this section must be used to



248146

1026 defray the expenses of the alternative dispute resolution
1027 program.

1028 (b) The petition must recite, and have attached thereto,
1029 supporting proof that the petitioner gave the respondents:

1030 1. Advance written notice of the specific nature of the
1031 dispute;

1032 2. A demand for relief, and a reasonable opportunity to
1033 comply or to provide the relief; and

1034 3. Notice of the intention to file an arbitration petition
1035 or other legal action in the absence of a resolution of the
1036 dispute.

1037
1038 Failure to include the allegations or proof of compliance with
1039 these prerequisites requires dismissal of the petition without
1040 prejudice.

1041 (c) Upon receipt, the petition shall be promptly reviewed
1042 by the division to determine the existence of a dispute and
1043 compliance with the requirements of paragraphs (a) and (b). If
1044 emergency relief is required and is not available through
1045 arbitration, a motion to stay the arbitration may be filed. The
1046 motion must be accompanied by a verified petition alleging facts
1047 that, if proven, would support entry of a temporary injunction,
1048 and if an appropriate motion and supporting papers are filed,
1049 the division may abate the arbitration pending a court hearing
1050 and disposition of a motion for temporary injunction.

1051 (d) Upon determination by the division that a dispute
1052 exists and that the petition substantially meets the
1053 requirements of paragraphs (a) and (b) and any other applicable
1054 rules, the division shall assign or enter into a contract with



248146

1055 an arbitrator and serve a copy of the petition upon all
1056 respondents. The arbitrator shall conduct a hearing within 30
1057 days after being assigned or entering into a contract unless the
1058 petition is withdrawn or a continuance is granted for good cause
1059 shown.

1060 (e) Before or after the filing of the respondents' answer
1061 to the petition, any party may request that the arbitrator refer
1062 the case to mediation under this section and any rules adopted
1063 by the division. Upon receipt of a request for mediation, the
1064 division shall promptly contact the parties to determine if
1065 there is agreement that mediation would be appropriate. If all
1066 parties agree, the dispute must be referred to mediation.
1067 Notwithstanding a lack of an agreement by all parties, the
1068 arbitrator may refer a dispute to mediation at any time.

1069 (f) Upon referral of a case to mediation, the parties must
1070 select a mutually acceptable mediator. To assist in the
1071 selection, the arbitrator shall provide the parties with a list
1072 of both volunteer and paid mediators that have been certified by
1073 the division under s. 718.501. If the parties are unable to
1074 agree on a mediator within the time allowed by the arbitrator,
1075 the arbitrator shall appoint a mediator from the list of
1076 certified mediators. If a case is referred to mediation, the
1077 parties shall attend a mediation conference, as scheduled by the
1078 parties and the mediator. If any party fails to attend a duly
1079 noticed mediation conference, without the permission or approval
1080 of the arbitrator or mediator, the arbitrator must impose
1081 sanctions against the party, including the striking of any
1082 pleadings filed, the entry of an order of dismissal or default
1083 if appropriate, and the award of costs and attorney fees



248146

1084 incurred by the other parties. Unless otherwise agreed to by the
1085 parties or as provided by order of the arbitrator, a party is
1086 deemed to have appeared at a mediation conference by the
1087 physical presence of the party or its representative having full
1088 authority to settle without further consultation, provided that
1089 an association may comply by having one or more representatives
1090 present with full authority to negotiate a settlement and
1091 recommend that the board of administration ratify and approve
1092 such a settlement within 5 days from the date of the mediation
1093 conference. The parties shall share equally the expense of
1094 mediation, unless they agree otherwise.

1095 (g) The purpose of mediation as provided for by this
1096 section is to present the parties with an opportunity to resolve
1097 the underlying dispute in good faith, and with a minimum
1098 expenditure of time and resources.

1099 (h) Mediation proceedings must generally be conducted in
1100 accordance with the Florida Rules of Civil Procedure, and these
1101 proceedings are privileged and confidential to the same extent
1102 as court-ordered mediation. Persons who are not parties to the
1103 dispute are not allowed to attend the mediation conference
1104 without the consent of all parties, with the exception of
1105 counsel for the parties and corporate representatives designated
1106 to appear for a party. If the mediator declares an impasse after
1107 a mediation conference has been held, the arbitration proceeding
1108 terminates, unless all parties agree in writing to continue the
1109 arbitration proceeding, in which case the arbitrator's decision
1110 shall be binding or nonbinding, as agreed upon by the parties;
1111 in the arbitration proceeding, the arbitrator shall not consider
1112 any evidence relating to the unsuccessful mediation except in a



1113 proceeding to impose sanctions for failure to appear at the
1114 mediation conference. If the parties do not agree to continue
1115 arbitration, the arbitrator shall enter an order of dismissal,
1116 and either party may institute a suit in a court of competent
1117 jurisdiction. The parties may seek to recover any costs and
1118 attorney fees incurred in connection with arbitration and
1119 mediation proceedings under this section as part of the costs
1120 and fees that may be recovered by the prevailing party in any
1121 subsequent litigation.

1122 (i) Arbitration shall be conducted according to rules
1123 adopted by the division. The filing of a petition for
1124 arbitration shall toll the applicable statute of limitations.

1125 (j) At the request of any party to the arbitration, the
1126 arbitrator shall issue subpoenas for the attendance of witnesses
1127 and the production of books, records, documents, and other
1128 evidence and any party on whose behalf a subpoena is issued may
1129 apply to the court for orders compelling such attendance and
1130 production. Subpoenas shall be served and shall be enforceable
1131 in the manner provided by the Florida Rules of Civil Procedure.
1132 Discovery may, in the discretion of the arbitrator, be permitted
1133 in the manner provided by the Florida Rules of Civil Procedure.
1134 Rules adopted by the division may authorize any reasonable
1135 sanctions except contempt for a violation of the arbitration
1136 procedural rules of the division or for the failure of a party
1137 to comply with a reasonable nonfinal order issued by an
1138 arbitrator which is not under judicial review.

1139 (k) The arbitration decision shall be rendered within 30
1140 days after the hearing and presented to the parties in writing.
1141 An arbitration decision is final in those disputes in which the



248146

1142 parties have agreed to be bound. An arbitration decision is also
1143 final if a complaint for a trial de novo is not filed in a court
1144 of competent jurisdiction in which the condominium is located
1145 within 30 days. The right to file for a trial de novo entitles
1146 the parties to file a complaint in the appropriate trial court
1147 for a judicial resolution of the dispute. The prevailing party
1148 in an arbitration proceeding shall be awarded the costs of the
1149 arbitration and reasonable attorney fees in an amount determined
1150 by the arbitrator. Such an award shall include the costs and
1151 reasonable attorney fees incurred in the arbitration proceeding
1152 as well as the costs and reasonable attorney fees incurred in
1153 preparing for and attending any scheduled mediation. An
1154 arbitrator's failure to render a written decision within 30 days
1155 after the hearing may result in the cancellation of his or her
1156 arbitration certification.

1157 (l) The party who files a complaint for a trial de novo
1158 shall be assessed the other party's arbitration costs, court
1159 costs, and other reasonable costs, including attorney fees,
1160 investigation expenses, and expenses for expert or other
1161 testimony or evidence incurred after the arbitration hearing if
1162 the judgment upon the trial de novo is not more favorable than
1163 the arbitration decision. If the judgment is more favorable, the
1164 party who filed a complaint for trial de novo shall be awarded
1165 reasonable court costs and attorney fees.

1166 (m) Any party to an arbitration proceeding may enforce an
1167 arbitration award by filing a petition in a court of competent
1168 jurisdiction in which the condominium is located. A petition may
1169 not be granted unless the time for appeal by the filing of a
1170 complaint for trial de novo has expired. If a complaint for a



248146

1171 trial de novo has been filed, a petition may not be granted with
1172 respect to an arbitration award that has been stayed. If the
1173 petition for enforcement is granted, the petitioner shall
1174 recover reasonable attorney fees and costs incurred in enforcing
1175 the arbitration award. A mediation settlement may also be
1176 enforced through the county or circuit court, as applicable, and
1177 any costs and fees incurred in the enforcement of a settlement
1178 agreement reached at mediation must be awarded to the prevailing
1179 party in any enforcement action.

1180 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1181 nonbinding arbitration as provided in subsections (1)-(4), a
1182 party may submit a dispute to presuit mediation in accordance
1183 with s. 720.311; however, election and recall disputes are not
1184 eligible for mediation and such disputes must be arbitrated by
1185 the division or filed in a court of competent jurisdiction.

1186 (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
1187 arbitration petition received by the division and required to be
1188 filed under this section challenging the legality of the
1189 election of any director of the board of administration must be
1190 handled on an expedited basis in the manner provided by the
1191 division's rules for recall arbitration disputes.

1192 (7) ~~(6)~~ APPLICABILITY.—This section does not apply to a
1193 nonresidential condominium unless otherwise specifically
1194 provided for in the declaration of the nonresidential
1195 condominium.

1196 Section 9. Section 718.1265, Florida Statutes, is amended
1197 to read:

1198 718.1265 Association emergency powers.—

1199 (1) To the extent allowed by law, and unless specifically



248146

1200 prohibited by the declaration of condominium, the articles, or
1201 the bylaws of an association, and consistent with ~~the provisions~~
1202 ~~of~~ s. 617.0830, the board of administration, in response to
1203 damage or injury caused by or anticipated in connection with an
1204 emergency, as defined in s. 252.34(4), ~~event~~ for which a state
1205 of emergency is declared pursuant to s. 252.36 in the locale in
1206 which the condominium is located, may, ~~but is not required to,~~
1207 exercise the following powers:

1208 (a) Conduct board meetings, committee meetings, elections,
1209 and membership meetings, in whole or in part, by telephone,
1210 real-time videoconferencing, or similar real-time electronic or
1211 video communication with notice given as is practicable. Such
1212 notice may be given in any practicable manner, including
1213 publication, radio, United States mail, the Internet, electronic
1214 transmission, public service announcements, and conspicuous
1215 posting on the condominium property or association property or
1216 any other means the board deems reasonable under the
1217 circumstances. Notice of ~~board~~ decisions also may be
1218 communicated as provided in this paragraph.

1219 (b) Cancel and reschedule any association meeting.

1220 (c) Name as assistant officers persons who are not
1221 directors, which assistant officers shall have the same
1222 authority as the executive officers to whom they are assistants
1223 during the state of emergency to accommodate the incapacity or
1224 unavailability of any officer of the association.

1225 (d) Relocate the association's principal office or
1226 designate alternative principal offices.

1227 (e) Enter into agreements with local counties and
1228 municipalities to assist counties and municipalities with debris



1229 removal.

1230 (f) Implement a disaster plan or an emergency plan before,
1231 during, or ~~immediately~~ following the event for which a state of
1232 emergency is declared which may include, but is not limited to,
1233 shutting down or off elevators; electricity; water, sewer, or
1234 security systems; or air conditioners.

1235 (g) Based upon advice of emergency management officials or
1236 public health officials, or upon the advice of licensed
1237 professionals retained by or otherwise available to the board,
1238 determine any portion of the condominium property or association
1239 property unavailable for entry or occupancy by unit owners,
1240 family members, tenants, guests, agents, or invitees to protect
1241 the health, safety, or welfare of such persons.

1242 (h) Require the evacuation of the condominium property in
1243 the event of a mandatory evacuation order in the locale in which
1244 the condominium is located. Should any unit owner or other
1245 occupant of a condominium fail or refuse to evacuate the
1246 condominium property or association property where the board has
1247 required evacuation, the association shall be immune from
1248 liability or injury to persons or property arising from such
1249 failure or refusal.

1250 (i) Based upon advice of emergency management officials or
1251 public health officials, or upon the advice of licensed
1252 professionals retained by or otherwise available to the board,
1253 determine whether the condominium property, association
1254 property, or any portion thereof can be safely inhabited,
1255 accessed, or occupied. However, such determination is not
1256 conclusive as to any determination of habitability pursuant to
1257 the declaration.



248146

1258 (j) Mitigate further damage, injury, or contagion,
1259 including taking action to contract for the removal of debris
1260 and to prevent or mitigate the spread of fungus or contagion,
1261 including, but not limited to, mold or mildew, by removing and
1262 disposing of wet drywall, insulation, carpet, cabinetry, or
1263 other fixtures on or within the condominium property, even if
1264 the unit owner is obligated by the declaration or law to insure
1265 or replace those fixtures and to remove personal property from a
1266 unit.

1267 (k) Contract, on behalf of any unit owner or owners, for
1268 items or services for which the owners are otherwise
1269 individually responsible, but which are necessary to prevent
1270 further injury, contagion, or damage to the condominium property
1271 or association property. In such event, the unit owner or owners
1272 on whose behalf the board has contracted are responsible for
1273 reimbursing the association for the actual costs of the items or
1274 services, and the association may use its lien authority
1275 provided by s. 718.116 to enforce collection of the charges.
1276 Without limitation, such items or services may include the
1277 drying of units, the boarding of broken windows or doors, ~~and~~
1278 the replacement of damaged air conditioners or air handlers to
1279 provide climate control in the units or other portions of the
1280 property, and the sanitizing of the condominium property or
1281 association property, as applicable.

1282 (l) Regardless of any provision to the contrary and even if
1283 such authority does not specifically appear in the declaration
1284 of condominium, articles, or bylaws of the association, levy
1285 special assessments without a vote of the owners.

1286 (m) Without unit owners' approval, borrow money and pledge



248146

1287 association assets as collateral to fund emergency repairs and
1288 carry out the duties of the association when operating funds are
1289 insufficient. This paragraph does not limit the general
1290 authority of the association to borrow money, subject to such
1291 restrictions as are contained in the declaration of condominium,
1292 articles, or bylaws of the association.

1293 (2) The special powers authorized under subsection (1)
1294 shall be limited to that time reasonably necessary to protect
1295 the health, safety, and welfare of the association and the unit
1296 owners and the unit owners' family members, tenants, guests,
1297 agents, or invitees and shall be reasonably necessary to
1298 mitigate further damage, injury, or contagion and make emergency
1299 repairs.

1300 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
1301 of emergency declared by executive order or proclamation of the
1302 Governor pursuant to s. 252.36, an association may not prohibit
1303 unit owners, tenants, guests, agents, or invitees of a unit
1304 owner from accessing the unit and the common elements and
1305 limited common elements appurtenant thereto for the purposes of
1306 ingress to and egress from the unit and when access is necessary
1307 in connection with:

1308 (a) The sale, lease, or other transfer of title of a unit;
1309 or

1310 (b) The habitability of the unit or for the health and
1311 safety of such person unless a governmental order or
1312 determination, or a public health directive from the Centers for
1313 Disease Control and Prevention, has been issued prohibiting such
1314 access to the unit. Any such access is subject to reasonable
1315 restrictions adopted by the association.



248146

1316 Section 10. Subsection (3) of section 718.202, Florida
1317 Statutes, is amended to read:

1318 718.202 Sales or reservation deposits prior to closing.—

1319 (3) If the contract for sale of the condominium unit so
1320 provides, the developer may withdraw escrow funds in excess of
1321 10 percent of the purchase price from the special account
1322 required by subsection (2) when the construction of improvements
1323 has begun. He or she may use the funds for the actual costs
1324 incurred by the developer in the actual construction and
1325 development of the condominium property in which the unit to be
1326 sold is located. For purposes of this subsection, the term
1327 “actual costs” includes, but is not limited to, expenditures for
1328 demolition, site clearing, permit fees, impact fees, and utility
1329 reservation fees, as well as architectural, engineering, and
1330 surveying fees that directly relate to construction and
1331 development of the condominium property. However, no part of
1332 these funds may be used for salaries, commissions, or expenses
1333 of salespersons; ~~or~~ for advertising, marketing, or promotional
1334 purposes; or for loan fees and costs, principal and interest on
1335 loans, attorney fees, accounting fees, or insurance costs. A
1336 contract which permits use of the advance payments for these
1337 purposes shall include the following legend conspicuously
1338 printed or stamped in boldfaced type on the first page of the
1339 contract and immediately above the place for the signature of
1340 the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE
1341 PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS
1342 CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.

1343 Section 11. Subsection (1) and paragraph (b) of subsection
1344 (3) of section 718.303, Florida Statutes, are amended to read:



248146

1345 718.303 Obligations of owners and occupants; remedies.-
1346 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1347 ~~each~~ association is governed by, and must comply with the
1348 provisions of, this chapter, the declaration, the documents
1349 creating the association, and the association bylaws which are
1350 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1351 Actions at law or in equity for damages or for injunctive
1352 ~~relief~~, or both, for failure to comply with these provisions may
1353 be brought by the association or by a unit owner against:

- 1354 (a) The association.
1355 (b) A unit owner.
1356 (c) Directors designated by the developer, for actions
1357 taken by them before control of the association is assumed by
1358 unit owners other than the developer.
1359 (d) Any director who willfully and knowingly fails to
1360 comply with these provisions.
1361 (e) Any tenant leasing a unit, and any other invitee
1362 occupying a unit.

1363
1364 The prevailing party in any such action or in any action in
1365 which the purchaser claims a right of voidability based upon
1366 contractual provisions as required in s. 718.503(1)(a) is
1367 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1368 owner prevailing in an action between the association and the
1369 unit owner under this subsection ~~section~~, in addition to
1370 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1371 recover additional amounts as determined by the court to be
1372 necessary to reimburse the unit owner for his or her share of
1373 assessments levied by the association to fund its expenses of



248146

1374 the litigation. This relief does not exclude other remedies
1375 provided by law. Actions arising under this subsection are not
1376 considered ~~may not be deemed to be~~ actions for specific
1377 performance.

1378 (3) The association may levy reasonable fines for the
1379 failure of the owner of the unit or its occupant, licensee, or
1380 invitee to comply with any provision of the declaration, the
1381 association bylaws, or reasonable rules of the association. A
1382 fine may not become a lien against a unit. A fine may be levied
1383 by the board on the basis of each day of a continuing violation,
1384 with a single notice and opportunity for hearing before a
1385 committee as provided in paragraph (b). However, the fine may
1386 not exceed \$100 per violation, or \$1,000 in the aggregate.

1387 (b) A fine or suspension levied by the board of
1388 administration may not be imposed unless the board first
1389 provides at least 14 days' written notice to the unit owner and,
1390 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1391 unit owner sought to be fined or suspended, and an opportunity
1392 for a hearing before a committee of at least three members
1393 appointed by the board who are not officers, directors, or
1394 employees of the association, or the spouse, parent, child,
1395 brother, or sister of an officer, director, or employee. The
1396 role of the committee is limited to determining whether to
1397 confirm or reject the fine or suspension levied by the board. If
1398 the committee does not approve the proposed fine or suspension
1399 by majority vote, the fine or suspension may not be imposed. If
1400 the proposed fine or suspension is approved by the committee,
1401 the fine payment is due 5 days after notice of the approved fine
1402 is provided to the unit owner and, if applicable, to any tenant,



248146

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

1408 Section 12. Subsection (5) is added to section 718.405,
1409 Florida Statutes, to read:

1410 718.405 Multicondominiums; multicondominium associations.—

1411 (5) This section does not prevent or restrict a
1412 multicondominium association from adopting a consolidated or
1413 combined declaration of condominium if such declaration complies
1414 with s. 718.104 and does not serve to merge the condominiums or
1415 change the legal descriptions of the condominium parcels as set
1416 forth in s. 718.109, unless accomplished in accordance with law.
1417 This section is intended to clarify existing law and applies to
1418 associations existing on July 1, 2021.

1419 Section 13. Section 718.501, Florida Statutes, is amended
1420 to read:

1421 718.501 Authority, responsibility, and duties of Division
1422 of Florida Condominiums, Timeshares, and Mobile Homes.—

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



1432 or bulk buyers involving improper turnover or failure to
1433 turnover, pursuant to s. 718.301. However, after turnover has
1434 occurred, the division has jurisdiction to investigate
1435 complaints related only to financial issues, elections, and the
1436 maintenance of and unit owner access to association records
1437 under ~~pursuant to~~ s. 718.111(12).

1438 (a)1. The division may make necessary public or private
1439 investigations within or outside this state to determine whether
1440 any person has violated this chapter or any rule or order
1441 hereunder, to aid in the enforcement of this chapter, or to aid
1442 in the adoption of rules or forms.

1443 2. The division may submit any official written report,
1444 worksheet, or other related paper, or a duly certified copy
1445 thereof, compiled, prepared, drafted, or otherwise made by and
1446 duly authenticated by a financial examiner or analyst to be
1447 admitted as competent evidence in any hearing in which the
1448 financial examiner or analyst is available for cross-examination
1449 and attests under oath that such documents were prepared as a
1450 result of an examination or inspection conducted pursuant to
1451 this chapter.

1452 (b) The division may require or permit any person to file a
1453 statement in writing, under oath or otherwise, as the division
1454 determines, as to the facts and circumstances concerning a
1455 matter to be investigated.

1456 (c) For the purpose of any investigation under this
1457 chapter, the division director or any officer or employee
1458 designated by the division director may administer oaths or
1459 affirmations, subpoena witnesses and compel their attendance,
1460 take evidence, and require the production of any matter which is



248146

1461 relevant to the investigation, including the existence,
1462 description, nature, custody, condition, and location of any
1463 books, documents, or other tangible things and the identity and
1464 location of persons having knowledge of relevant facts or any
1465 other matter reasonably calculated to lead to the discovery of
1466 material evidence. Upon the failure by a person to obey a
1467 subpoena or to answer questions propounded by the investigating
1468 officer and upon reasonable notice to all affected persons, the
1469 division may apply to the circuit court for an order compelling
1470 compliance.

1471 (d) Notwithstanding any remedies available to unit owners
1472 and associations, if the division has reasonable cause to
1473 believe that a violation of any provision of this chapter or
1474 related rule has occurred, the division may institute
1475 enforcement proceedings in its own name against any developer,
1476 bulk assignee, bulk buyer, association, officer, or member of
1477 the board of administration, or its assignees or agents, as
1478 follows:

1479 1. The division may permit a person whose conduct or
1480 actions may be under investigation to waive formal proceedings
1481 and enter into a consent proceeding whereby orders, rules, or
1482 letters of censure or warning, whether formal or informal, may
1483 be entered against the person.

1484 2. The division may issue an order requiring the developer,
1485 bulk assignee, bulk buyer, association, developer-designated
1486 officer, or developer-designated member of the board of
1487 administration, developer-designated assignees or agents, bulk
1488 assignee-designated assignees or agents, bulk buyer-designated
1489 assignees or agents, community association manager, or community



248146

1490 association management firm to cease and desist from the
1491 unlawful practice and take such affirmative action as in the
1492 judgment of the division carry out the purposes of this chapter.
1493 If the division finds that a developer, bulk assignee, bulk
1494 buyer, association, officer, or member of the board of
1495 administration, or its assignees or agents, is violating or is
1496 about to violate any provision of this chapter, any rule adopted
1497 or order issued by the division, or any written agreement
1498 entered into with the division, and presents an immediate danger
1499 to the public requiring an immediate final order, it may issue
1500 an emergency cease and desist order reciting with particularity
1501 the facts underlying such findings. The emergency cease and
1502 desist order is effective for 90 days. If the division begins
1503 nonemergency cease and desist proceedings, the emergency cease
1504 and desist order remains effective until the conclusion of the
1505 proceedings under ss. 120.569 and 120.57.

1506 3. If a developer, bulk assignee, or bulk buyer, fails to
1507 pay any restitution determined by the division to be owed, plus
1508 any accrued interest at the highest rate permitted by law,
1509 within 30 days after expiration of any appellate time period of
1510 a final order requiring payment of restitution or the conclusion
1511 of any appeal thereof, whichever is later, the division must
1512 bring an action in circuit or county court on behalf of any
1513 association, class of unit owners, lessees, or purchasers for
1514 restitution, declaratory relief, injunctive relief, or any other
1515 available remedy. The division may also temporarily revoke its
1516 acceptance of the filing for the developer to which the
1517 restitution relates until payment of restitution is made.

1518 4. The division may petition the court for appointment of a



248146

1519 receiver or conservator. If appointed, the receiver or
1520 conservator may take action to implement the court order to
1521 ensure the performance of the order and to remedy any breach
1522 thereof. In addition to all other means provided by law for the
1523 enforcement of an injunction or temporary restraining order, the
1524 circuit court may impound or sequester the property of a party
1525 defendant, including books, papers, documents, and related
1526 records, and allow the examination and use of the property by
1527 the division and a court-appointed receiver or conservator.

1528 5. The division may apply to the circuit court for an order
1529 of restitution whereby the defendant in an action brought under
1530 ~~pursuant to~~ subparagraph 4. is ordered to make restitution of
1531 those sums shown by the division to have been obtained by the
1532 defendant in violation of this chapter. At the option of the
1533 court, such restitution is payable to the conservator or
1534 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1535 to the persons whose funds or assets were obtained in violation
1536 of this chapter.

1537 6. The division may impose a civil penalty against a
1538 developer, bulk assignee, or bulk buyer, or association, or its
1539 assignee or agent, for any violation of this chapter or related
1540 rule. The division may impose a civil penalty individually
1541 against an officer or board member who willfully and knowingly
1542 violates ~~a provision of~~ this chapter, adopted rule, or a final
1543 order of the division; may order the removal of such individual
1544 as an officer or from the board of administration or as an
1545 officer of the association; and may prohibit such individual
1546 from serving as an officer or on the board of a community
1547 association for a period of time. The term "willfully and



248146

1548 knowingly" means that the division informed the officer or board
1549 member that his or her action or intended action violates this
1550 chapter, a rule adopted under this chapter, or a final order of
1551 the division and that the officer or board member refused to
1552 comply with the requirements of this chapter, a rule adopted
1553 under this chapter, or a final order of the division. The
1554 division, before initiating formal agency action under chapter
1555 120, must afford the officer or board member an opportunity to
1556 voluntarily comply, and an officer or board member who complies
1557 within 10 days is not subject to a civil penalty. A penalty may
1558 be imposed on the basis of each day of continuing violation, but
1559 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1560 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1561 applicable to possible violations or to categories of violations
1562 of this chapter or rules adopted by the division. The guidelines
1563 must specify a meaningful range of civil penalties for each such
1564 violation of the statute and rules and must be based upon the
1565 harm caused by the violation, the repetition of the violation,
1566 and upon such other factors deemed relevant by the division. For
1567 example, the division may consider whether the violations were
1568 committed by a developer, bulk assignee, or bulk buyer, or
1569 owner-controlled association, the size of the association, and
1570 other factors. The guidelines must designate the possible
1571 mitigating or aggravating circumstances that justify a departure
1572 from the range of penalties provided by the rules. It is the
1573 legislative intent that minor violations be distinguished from
1574 those which endanger the health, safety, or welfare of the
1575 condominium residents or other persons and that such guidelines
1576 provide reasonable and meaningful notice to the public of likely



248146

1577 penalties that may be imposed for proscribed conduct. This
1578 subsection does not limit the ability of the division to
1579 informally dispose of administrative actions or complaints by
1580 stipulation, agreed settlement, or consent order. All amounts
1581 collected shall be deposited with the Chief Financial Officer to
1582 the credit of the Division of Florida Condominiums, Timeshares,
1583 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1584 bulk buyer fails to pay the civil penalty and the amount deemed
1585 to be owed to the association, the division shall issue an order
1586 directing that such developer, bulk assignee, or bulk buyer
1587 cease and desist from further operation until such time as the
1588 civil penalty is paid or may pursue enforcement of the penalty
1589 in a court of competent jurisdiction. If an association fails to
1590 pay the civil penalty, the division shall pursue enforcement in
1591 a court of competent jurisdiction, and the order imposing the
1592 civil penalty or the cease and desist order is not effective
1593 until 20 days after the date of such order. Any action commenced
1594 by the division shall be brought in the county in which the
1595 division has its executive offices or in the county where the
1596 violation occurred.

1597 7. If a unit owner presents the division with proof that
1598 the unit owner has requested access to official records in
1599 writing by certified mail, and that after 10 days the unit owner
1600 again made the same request for access to official records in
1601 writing by certified mail, and that more than 10 days has
1602 elapsed since the second request and the association has still
1603 failed or refused to provide access to official records as
1604 required by this chapter, the division shall issue a subpoena
1605 requiring production of the requested records where the records



248146

1606 are kept pursuant to s. 718.112.

1607 8. In addition to subparagraph 6., the division may seek
1608 the imposition of a civil penalty through the circuit court for
1609 any violation for which the division may issue a notice to show
1610 cause under paragraph (r). The civil penalty shall be at least
1611 \$500 but no more than \$5,000 for each violation. The court may
1612 also award to the prevailing party court costs and reasonable
1613 attorney ~~attorney's~~ fees and, if the division prevails, may also
1614 award reasonable costs of investigation.

1615 (e) The division may prepare and disseminate a prospectus
1616 and other information to assist prospective owners, purchasers,
1617 lessees, and developers of residential condominiums in assessing
1618 the rights, privileges, and duties pertaining thereto.

1619 (f) The division may adopt rules to administer and enforce
1620 ~~the provisions of~~ this chapter.

1621 (g) The division shall establish procedures for providing
1622 notice to an association and the developer, bulk assignee, or
1623 bulk buyer during the period in which the developer, bulk
1624 assignee, or bulk buyer controls the association if the division
1625 is considering the issuance of a declaratory statement with
1626 respect to the declaration of condominium or any related
1627 document governing such condominium community.

1628 (h) The division shall furnish each association that pays
1629 the fees required by paragraph (2)(a) a copy of this chapter, as
1630 amended, and the rules adopted thereto on an annual basis.

1631 (i) The division shall annually provide each association
1632 with a summary of declaratory statements and formal legal
1633 opinions relating to the operations of condominiums which were
1634 rendered by the division during the previous year.



248146

1635 (j) The division shall provide training and educational
1636 programs for condominium association board members and unit
1637 owners. The training may, in the division's discretion, include
1638 web-based electronic media, and live training and seminars in
1639 various locations throughout the state. The division may review
1640 and approve education and training programs for board members
1641 and unit owners offered by providers and shall maintain a
1642 current list of approved programs and providers and make such
1643 list available to board members and unit owners in a reasonable
1644 and cost-effective manner.

1645 (k) The division shall maintain a toll-free telephone
1646 number accessible to condominium unit owners.

1647 (l) The division shall develop a program to certify both
1648 volunteer and paid mediators to provide mediation of condominium
1649 disputes. The division shall provide, upon request, a list of
1650 such mediators to any association, unit owner, or other
1651 participant in alternative dispute resolution ~~arbitration~~
1652 proceedings under s. 718.1255 requesting a copy of the list. The
1653 division shall include on the list of volunteer mediators only
1654 the names of persons who have received at least 20 hours of
1655 training in mediation techniques or who have mediated at least
1656 20 disputes. In order to become initially certified by the
1657 division, paid mediators must be certified by the Supreme Court
1658 to mediate court cases in county or circuit courts. However, the
1659 division may adopt, by rule, additional factors for the
1660 certification of paid mediators, which must be related to
1661 experience, education, or background. Any person initially
1662 certified as a paid mediator by the division must, in order to
1663 continue to be certified, comply with the factors or



248146

1664 requirements adopted by rule.

1665 (m) If a complaint is made, the division must conduct its
1666 inquiry with due regard for the interests of the affected
1667 parties. Within 30 days after receipt of a complaint, the
1668 division shall acknowledge the complaint in writing and notify
1669 the complainant whether the complaint is within the jurisdiction
1670 of the division and whether additional information is needed by
1671 the division from the complainant. The division shall conduct
1672 its investigation and, within 90 days after receipt of the
1673 original complaint or of timely requested additional
1674 information, take action upon the complaint. However, the
1675 failure to complete the investigation within 90 days does not
1676 prevent the division from continuing the investigation,
1677 accepting or considering evidence obtained or received after 90
1678 days, or taking administrative action if reasonable cause exists
1679 to believe that a violation of this chapter or a rule has
1680 occurred. If an investigation is not completed within the time
1681 limits established in this paragraph, the division shall, on a
1682 monthly basis, notify the complainant in writing of the status
1683 of the investigation. When reporting its action to the
1684 complainant, the division shall inform the complainant of any
1685 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57.

1686 (n) Condominium association directors, officers, and
1687 employees; condominium developers; bulk assignees, bulk buyers,
1688 and community association managers; and community association
1689 management firms have an ongoing duty to reasonably cooperate
1690 with the division in any investigation under ~~pursuant to~~ this
1691 section. The division shall refer to local law enforcement
1692 authorities any person whom the division believes has altered,



248146

1693 destroyed, concealed, or removed any record, document, or thing
1694 required to be kept or maintained by this chapter with the
1695 purpose to impair its verity or availability in the department's
1696 investigation.

1697 (o) The division may:

- 1698 1. Contract with agencies in this state or other
1699 jurisdictions to perform investigative functions; or
1700 2. Accept grants-in-aid from any source.

1701 (p) The division shall cooperate with similar agencies in
1702 other jurisdictions to establish uniform filing procedures and
1703 forms, public offering statements, advertising standards, and
1704 rules and common administrative practices.

1705 (q) The division shall consider notice to a developer, bulk
1706 assignee, or bulk buyer to be complete when it is delivered to
1707 the address of the developer, bulk assignee, or bulk buyer
1708 currently on file with the division.

1709 (r) In addition to its enforcement authority, the division
1710 may issue a notice to show cause, which must provide for a
1711 hearing, upon written request, in accordance with chapter 120.

1712 (s) The division shall submit to the Governor, the
1713 President of the Senate, the Speaker of the House of
1714 Representatives, and the chairs of the legislative
1715 appropriations committees an annual report that includes, but
1716 need not be limited to, the number of training programs provided
1717 for condominium association board members and unit owners, the
1718 number of complaints received by type, the number and percent of
1719 complaints acknowledged in writing within 30 days and the number
1720 and percent of investigations acted upon within 90 days in
1721 accordance with paragraph (m), and the number of investigations



248146

1722 exceeding the 90-day requirement. The annual report must also
1723 include an evaluation of the division's core business processes
1724 and make recommendations for improvements, including statutory
1725 changes. The report shall be submitted by September 30 following
1726 the end of the fiscal year.

1727 (2) (a) Each condominium association which operates more
1728 than two units shall pay to the division an annual fee in the
1729 amount of \$4 for each residential unit in condominiums operated
1730 by the association. If the fee is not paid by March 1, the
1731 association shall be assessed a penalty of 10 percent of the
1732 amount due, and the association will not have standing to
1733 maintain or defend any action in the courts of this state until
1734 the amount due, plus any penalty, is paid.

1735 (b) All fees shall be deposited in the Division of Florida
1736 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1737 provided by law.

1738 Section 14. Section 718.5014, Florida Statutes, is amended
1739 to read:

1740 718.5014 Ombudsman location.—The ombudsman shall maintain
1741 his or her principal office in a Leon County ~~on the premises of~~
1742 ~~the division or, if suitable space cannot be provided there, at~~
1743 ~~another~~ place convenient to the offices of the division which
1744 will enable the ombudsman to expeditiously carry out the duties
1745 and functions of his or her office. The ombudsman may establish
1746 branch offices elsewhere in the state upon the concurrence of
1747 the Governor.

1748 Section 15. Subsection (25) of section 719.103, Florida
1749 Statutes, is amended to read:

1750 719.103 Definitions.—As used in this chapter:



248146

1751 (25) "Unit" means a part of the cooperative property which
1752 is subject to exclusive use and possession. A unit may be
1753 improvements, land, or land and improvements together, as
1754 specified in the cooperative documents. An interest in a unit is
1755 an interest in real property.

1756 Section 16. Paragraph (c) of subsection (2) of section
1757 719.104, Florida Statutes, is amended to read:

1758 719.104 Cooperatives; access to units; records; financial
1759 reports; assessments; purchase of leases.—

1760 (2) OFFICIAL RECORDS.—

1761 (c)The official records of the association are open to
1762 inspection by any association member or the authorized
1763 representative of such member at all reasonable times. The right
1764 to inspect the records includes the right to make or obtain
1765 copies, at the reasonable expense, if any, of the association
1766 member. The association may adopt reasonable rules regarding the
1767 frequency, time, location, notice, and manner of record
1768 inspections and copying, but may not require a member to
1769 demonstrate any purpose or state any reason for the inspection.

1770 The failure of an association to provide the records within 10
1771 working days after receipt of a written request creates a
1772 rebuttable presumption that the association willfully failed to
1773 comply with this paragraph. A member ~~unit owner~~ who is denied
1774 access to official records is entitled to the actual damages or
1775 minimum damages for the association's willful failure to comply.
1776 The minimum damages are \$50 per calendar day for up to 10 days,
1777 beginning on the 11th working day after receipt of the written
1778 request. The failure to permit inspection entitles any person
1779 prevailing in an enforcement action to recover reasonable



248146

1780 attorney fees from the person in control of the records who,
1781 directly or indirectly, knowingly denied access to the records.
1782 Any person who knowingly or intentionally defaces or destroys
1783 accounting records that are required by this chapter to be
1784 maintained during the period for which such records are required
1785 to be maintained, or who knowingly or intentionally fails to
1786 create or maintain accounting records that are required to be
1787 created or maintained, with the intent of causing harm to the
1788 association or one or more of its members, is personally subject
1789 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1790 association shall maintain an adequate number of copies of the
1791 declaration, articles of incorporation, bylaws, and rules, and
1792 all amendments to each of the foregoing, as well as the question
1793 and answer sheet as described in s. 719.504 and year-end
1794 financial information required by the department, on the
1795 cooperative property to ensure their availability to members
1796 ~~unit owners~~ and prospective purchasers, and may charge its
1797 actual costs for preparing and furnishing these documents to
1798 those requesting the same. An association shall allow a member
1799 or his or her authorized representative to use a portable
1800 device, including a smartphone, tablet, portable scanner, or any
1801 other technology capable of scanning or taking photographs, to
1802 make an electronic copy of the official records in lieu of the
1803 association providing the member or his or her authorized
1804 representative with a copy of such records. The association may
1805 not charge a member or his or her authorized representative for
1806 the use of a portable device. Notwithstanding this paragraph,
1807 the following records shall not be accessible to members ~~unit~~
1808 ~~owners~~:



1809 1. Any record protected by the lawyer-client privilege as
1810 described in s. 90.502 and any record protected by the work-
1811 product privilege, including any record prepared by an
1812 association attorney or prepared at the attorney's express
1813 direction which reflects a mental impression, conclusion,
1814 litigation strategy, or legal theory of the attorney or the
1815 association, and which was prepared exclusively for civil or
1816 criminal litigation or for adversarial administrative
1817 proceedings, or which was prepared in anticipation of such
1818 litigation or proceedings until the conclusion of the litigation
1819 or proceedings.

1820 2. Information obtained by an association in connection
1821 with the approval of the lease, sale, or other transfer of a
1822 unit.

1823 3. Personnel records of association or management company
1824 employees, including, but not limited to, disciplinary, payroll,
1825 health, and insurance records. For purposes of this
1826 subparagraph, the term "personnel records" does not include
1827 written employment agreements with an association employee or
1828 management company, or budgetary or financial records that
1829 indicate the compensation paid to an association employee.

1830 4. Medical records of unit owners.

1831 5. Social security numbers, driver license numbers, credit
1832 card numbers, e-mail addresses, telephone numbers, facsimile
1833 numbers, emergency contact information, addresses of a unit
1834 owner other than as provided to fulfill the association's notice
1835 requirements, and other personal identifying information of any
1836 person, excluding the person's name, unit designation, mailing
1837 address, property address, and any address, e-mail address, or



248146

1838 facsimile number provided to the association to fulfill the
1839 association's notice requirements. Notwithstanding the
1840 restrictions in this subparagraph, an association may print and
1841 distribute to unit ~~parcel~~ owners a directory containing the
1842 name, unit ~~parcel~~ address, and all telephone numbers of each
1843 unit ~~parcel~~ owner. However, an owner may exclude his or her
1844 telephone numbers from the directory by so requesting in writing
1845 to the association. An owner may consent in writing to the
1846 disclosure of other contact information described in this
1847 subparagraph. The association is not liable for the inadvertent
1848 disclosure of information that is protected under this
1849 subparagraph if the information is included in an official
1850 record of the association and is voluntarily provided by an
1851 owner and not requested by the association.

1852 6. Electronic security measures that are used by the
1853 association to safeguard data, including passwords.

1854 7. The software and operating system used by the
1855 association which allow the manipulation of data, even if the
1856 owner owns a copy of the same software used by the association.
1857 The data is part of the official records of the association.

1858 Section 17. Paragraphs (b), (f), and (l) of subsection (1)
1859 of section 719.106, Florida Statutes, are amended, and
1860 subsection (3) is added to that section, to read:

1861 719.106 Bylaws; cooperative ownership.—

1862 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1863 documents shall provide for the following, and if they do not,
1864 they shall be deemed to include the following:

1865 (b) *Quorum; voting requirements; proxies.*—

1866 1. Unless otherwise provided in the bylaws, the percentage



248146

1867 of voting interests required to constitute a quorum at a meeting
1868 of the members shall be a majority of voting interests, and
1869 decisions shall be made by owners of a majority of the voting
1870 interests. Unless otherwise provided in this chapter, or in the
1871 articles of incorporation, bylaws, or other cooperative
1872 documents, and except as provided in subparagraph (d)1.,
1873 decisions shall be made by owners of a majority of the voting
1874 interests represented at a meeting at which a quorum is present.

1875 2. Except as specifically otherwise provided herein, after
1876 January 1, 1992, unit owners may not vote by general proxy, but
1877 may vote by limited proxies substantially conforming to a
1878 limited proxy form adopted by the division. Limited proxies and
1879 general proxies may be used to establish a quorum. Limited
1880 proxies shall be used for votes taken to waive or reduce
1881 reserves in accordance with subparagraph (j)2., for votes taken
1882 to waive the financial reporting requirements of s.
1883 719.104(4)(b), for votes taken to amend the articles of
1884 incorporation or bylaws pursuant to this section, and for any
1885 other matter for which this chapter requires or permits a vote
1886 of the unit owners. Except as provided in paragraph (d), after
1887 January 1, 1992, no proxy, limited or general, shall be used in
1888 the election of board members. General proxies may be used for
1889 other matters for which limited proxies are not required, and
1890 may also be used in voting for nonsubstantive changes to items
1891 for which a limited proxy is required and given. Notwithstanding
1892 the provisions of this section, unit owners may vote in person
1893 at unit owner meetings. Nothing contained herein shall limit the
1894 use of general proxies or require the use of limited proxies or
1895 require the use of limited proxies for any agenda item or



248146

1896 election at any meeting of a timeshare cooperative.

1897 3. Any proxy given shall be effective only for the specific
1898 meeting for which originally given and any lawfully adjourned
1899 meetings thereof. In no event shall any proxy be valid for a
1900 period longer than 90 days after the date of the first meeting
1901 for which it was given. Every proxy shall be revocable at any
1902 time at the pleasure of the unit owner executing it.

1903 4. A member of the board of administration or a committee
1904 may submit in writing his or her agreement or disagreement with
1905 any action taken at a meeting that the member did not attend.
1906 This agreement or disagreement may not be used as a vote for or
1907 against the action taken and may not be used for the purposes of
1908 creating a quorum.

1909 5. A board member or committee member participating in a
1910 meeting via telephone, real-time videoconferencing, or similar
1911 real-time electronic or video communication counts toward a
1912 quorum, and such member may vote as if physically present ~~When~~
1913 ~~some or all of the board or committee members meet by telephone~~
1914 ~~conference, those board or committee members attending by~~
1915 ~~telephone conference may be counted toward obtaining a quorum~~
1916 ~~and may vote by telephone. A telephone speaker must shall be~~
1917 used ~~utilized~~ so that the conversation of such ~~those board or~~
1918 ~~committee members attending by telephone~~ may be heard by the
1919 board or committee members attending in person, as well as by
1920 any unit owners present at a meeting.

1921 (f) *Recall of board members.*—Subject to s. 719.301, any
1922 member of the board of administration may be recalled and
1923 removed from office with or without cause by the vote or
1924 agreement in writing by a majority of all the voting interests.



248146

1925 A special meeting of the voting interests to recall any member
1926 of the board of administration may be called by 10 percent of
1927 the unit owners giving notice of the meeting as required for a
1928 meeting of unit owners, and the notice shall state the purpose
1929 of the meeting. Electronic transmission may not be used as a
1930 method of giving notice of a meeting called in whole or in part
1931 for this purpose.

1932 1. If the recall is approved by a majority of all voting
1933 interests by a vote at a meeting, the recall shall be effective
1934 as provided in this paragraph. The board shall duly notice and
1935 hold a board meeting within 5 full business days after the
1936 adjournment of the unit owner meeting to recall one or more
1937 board members. At the meeting, the board shall either certify
1938 the recall, in which case such member or members shall be
1939 recalled effective immediately and shall turn over to the board
1940 within 5 full business days any and all records and property of
1941 the association in their possession, or shall proceed as set
1942 forth in subparagraph 3.

1943 2. If the proposed recall is by an agreement in writing by
1944 a majority of all voting interests, the agreement in writing or
1945 a copy thereof shall be served on the association by certified
1946 mail or by personal service in the manner authorized by chapter
1947 48 and the Florida Rules of Civil Procedure. The board of
1948 administration shall duly notice and hold a meeting of the board
1949 within 5 full business days after receipt of the agreement in
1950 writing. At the meeting, the board shall either certify the
1951 written agreement to recall members of the board, in which case
1952 such members shall be recalled effective immediately and shall
1953 turn over to the board, within 5 full business days, any and all



248146

1954 records and property of the association in their possession, or
1955 proceed as described in subparagraph 3.

1956 3. If the board determines not to certify the written
1957 agreement to recall members of the board, or does not certify
1958 the recall by a vote at a meeting, the board shall, within 5
1959 full business days after the board meeting, file with the
1960 division a petition for binding arbitration under ~~pursuant to~~
1961 ~~the procedures of~~ s. 719.1255 or file an action with a court of
1962 competent jurisdiction. For purposes of this paragraph, the unit
1963 owners who voted at the meeting or who executed the agreement in
1964 writing shall constitute one party under the petition for
1965 arbitration or in a court action. If the arbitrator or court
1966 certifies the recall as to any member of the board, the recall
1967 is ~~shall be~~ effective upon the mailing of the final order of
1968 arbitration to the association or the final order of the court.
1969 If the association fails to comply with the order of the court
1970 or the arbitrator, the division may take action under ~~pursuant~~
1971 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
1972 any and all records and property of the association in the
1973 member's possession within 5 full business days after the
1974 effective date of the recall.

1975 4. If the board fails to duly notice and hold a board
1976 meeting within 5 full business days after service of an
1977 agreement in writing or within 5 full business days after the
1978 adjournment of the unit owner recall meeting, the recall is
1979 ~~shall be~~ deemed effective and the board members so recalled
1980 shall immediately turn over to the board any and all records and
1981 property of the association.

1982 5. If the board fails to duly notice and hold the required



248146

1983 meeting or fails to file the required petition or action, the
1984 unit owner representative may file a petition under ~~pursuant to~~
1985 s. 719.1255 or file an action in a court of competent
1986 jurisdiction challenging the board's failure to act. The
1987 petition or action must be filed within 60 days after the
1988 expiration of the applicable 5-full-business-day period. The
1989 review of a petition or action under this subparagraph is
1990 limited to the sufficiency of service on the board and the
1991 facial validity of the written agreement or ballots filed.

1992 6. If a vacancy occurs on the board as a result of a recall
1993 and less than a majority of the board members are removed, the
1994 vacancy may be filled by the affirmative vote of a majority of
1995 the remaining directors, notwithstanding any provision to the
1996 contrary contained in this chapter. If vacancies occur on the
1997 board as a result of a recall and a majority or more of the
1998 board members are removed, the vacancies shall be filled in
1999 accordance with procedural rules to be adopted by the division,
2000 which rules need not be consistent with this chapter. The rules
2001 must provide procedures governing the conduct of the recall
2002 election as well as the operation of the association during the
2003 period after a recall but before the recall election.

2004 7. A board member who has been recalled may file a petition
2005 under ~~pursuant to~~ s. 719.1255 or file an action in a court of
2006 competent jurisdiction challenging the validity of the recall.
2007 The petition or action must be filed within 60 days after the
2008 recall is deemed certified. The association and the unit owner
2009 representative shall be named as the respondents.

2010 8. The division or court may not accept for filing a recall
2011 petition or action, whether filed under ~~pursuant to~~ subparagraph



248146

2012 1., subparagraph 2., subparagraph 5., or subparagraph 7. and
2013 regardless of whether the recall was certified, when there are
2014 60 or fewer days until the scheduled reelection of the board
2015 member sought to be recalled or when 60 or fewer days have not
2016 elapsed since the election of the board member sought to be
2017 recalled.

2018 (1) Alternative dispute resolution ~~Arbitration~~.—There shall
2019 be a provision for alternative dispute resolution ~~mandatory~~
2020 ~~nonbinding arbitration~~ of internal disputes arising from the
2021 operation of the cooperative in accordance with s. 719.1255.

2022 (3) GENERALLY.—The association may extinguish a
2023 discriminatory restriction as provided under s. 712.065.

2024 Section 18. Section 719.128, Florida Statutes, is amended
2025 to read:

2026 719.128 Association emergency powers.—

2027 (1) To the extent allowed by law, unless specifically
2028 prohibited by the cooperative documents, and consistent with s.
2029 617.0830, the board of administration, in response to damage or
2030 injury caused by or anticipated in connection with an emergency,
2031 as defined in s. 252.34(4), ~~event~~ for which a state of emergency
2032 is declared pursuant to s. 252.36 in the area encompassed by the
2033 cooperative, may exercise the following powers:

2034 (a) Conduct board meetings, committee meetings, elections,
2035 or membership meetings, in whole or in part, by telephone, real-
2036 time videoconferencing, or similar real-time electronic or video
2037 communication after notice of the meetings and board decisions
2038 is provided in as practicable a manner as possible, including
2039 via publication, radio, United States mail, the Internet,
2040 electronic transmission, public service announcements,



248146

2041 conspicuous posting on the cooperative property, or any other
2042 means the board deems appropriate under the circumstances.
2043 Notice of decisions may also be communicated as provided in this
2044 paragraph.

2045 (b) Cancel and reschedule an association meeting.

2046 (c) Designate assistant officers who are not directors. If
2047 the executive officer is incapacitated or unavailable, the
2048 assistant officer has the same authority during the state of
2049 emergency as the executive officer he or she assists.

2050 (d) Relocate the association's principal office or
2051 designate an alternative principal office.

2052 (e) Enter into agreements with counties and municipalities
2053 to assist counties and municipalities with debris removal.

2054 (f) Implement a disaster or an emergency plan before,
2055 during, or ~~immediately~~ following the event for which a state of
2056 emergency is declared, which may include turning on or shutting
2057 off elevators; electricity; water, sewer, or security systems;
2058 or air conditioners for association buildings.

2059 (g) Based upon the advice of emergency management officials
2060 or public health officials, or upon the advice of licensed
2061 professionals retained by or otherwise available to the board of
2062 administration, determine any portion of the cooperative
2063 property unavailable for entry or occupancy by unit owners or
2064 their family members, tenants, guests, agents, or invitees to
2065 protect their health, safety, or welfare.

2066 (h) Based upon the advice of emergency management officials
2067 or public health officials, or upon the advice of licensed
2068 professionals retained by or otherwise available to the board of
2069 administration, determine whether the cooperative property or



248146

2070 any portion thereof can be safely inhabited or occupied.
2071 However, such determination is not conclusive as to any
2072 determination of habitability pursuant to the cooperative
2073 documents declaration.

2074 (i) Require the evacuation of the cooperative property in
2075 the event of a mandatory evacuation order in the area where the
2076 cooperative is located or prohibit or restrict access to the
2077 cooperative property in the event of a public health threat. If
2078 a unit owner or other occupant of a cooperative fails to
2079 evacuate the cooperative property for which the board has
2080 required evacuation, the association is immune from liability
2081 for injury to persons or property arising from such failure.

2082 (j) Mitigate further damage, injury, or contagion,
2083 including taking action to contract for the removal of debris
2084 and to prevent or mitigate the spread of fungus, including mold
2085 or mildew, by removing and disposing of wet drywall, insulation,
2086 carpet, cabinetry, or other fixtures on or within the
2087 cooperative property, regardless of whether the unit owner is
2088 obligated by the cooperative documents declaration or law to
2089 insure or replace those fixtures and to remove personal property
2090 from a unit or to sanitize the cooperative property.

2091 (k) Contract, on behalf of a unit owner, for items or
2092 services for which the owner is otherwise individually
2093 responsible, but which are necessary to prevent further injury,
2094 contagion, or damage to the cooperative property. In such event,
2095 the unit owner on whose behalf the board has contracted is
2096 responsible for reimbursing the association for the actual costs
2097 of the items or services, and the association may use its lien
2098 authority provided by s. 719.108 to enforce collection of the



248146

2099 charges. Such items or services may include the drying of the
2100 unit, the boarding of broken windows or doors, ~~and~~ the
2101 replacement of a damaged air conditioner or air handler to
2102 provide climate control in the unit or other portions of the
2103 property, and the sanitizing of the cooperative property.

2104 (l) Notwithstanding a provision to the contrary, and
2105 regardless of whether such authority does not specifically
2106 appear in the cooperative documents, levy special assessments
2107 without a vote of the owners.

2108 (m) Without unit owners' approval, borrow money and pledge
2109 association assets as collateral to fund emergency repairs and
2110 carry out the duties of the association if operating funds are
2111 insufficient. This paragraph does not limit the general
2112 authority of the association to borrow money, subject to such
2113 restrictions contained in the cooperative documents.

2114 (2) The authority granted under subsection (1) is limited
2115 to that time reasonably necessary to protect the health, safety,
2116 and welfare of the association and the unit owners and their
2117 family members, tenants, guests, agents, or invitees, and to
2118 mitigate further damage, injury, or contagion and make emergency
2119 repairs.

2120 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2121 of emergency declared by executive order or proclamation of the
2122 Governor pursuant to s. 252.36, an association may not prohibit
2123 unit owners, tenants, guests, agents, or invitees of a unit
2124 owner from accessing the common elements and limited common
2125 elements appurtenant thereto for the purposes of ingress to and
2126 egress from the unit when access is necessary in connection
2127 with:



248146

2128 (a) The sale, lease, or other transfer of title of a unit;
2129 or

2130 (b) The habitability of the unit or for the health and
2131 safety of such person unless a governmental order or
2132 determination, or a public health directive from the Centers for
2133 Disease Control and Prevention, has been issued prohibiting such
2134 access to the unit. Any such access is subject to reasonable
2135 restrictions adopted by the association.

2136 Section 19. Subsection (8) of section 720.301, Florida
2137 Statutes, is amended to read:

2138 720.301 Definitions.—As used in this chapter, the term:

2139 (8) "Governing documents" means:

2140 (a) The recorded declaration of covenants for a community
2141 and all duly adopted and recorded amendments, supplements, and
2142 recorded exhibits thereto; and

2143 (b) The articles of incorporation and bylaws of the
2144 homeowners' association and any duly adopted amendments thereto;
2145 ~~and~~

2146 ~~(c) Rules and regulations adopted under the authority of~~
2147 ~~the recorded declaration, articles of incorporation, or bylaws~~
2148 ~~and duly adopted amendments thereto.~~

2149 Section 20. Present paragraph (1) of subsection (4) of
2150 section 720.303, Florida Statutes, is redesignated as paragraph
2151 (m) and amended, a new paragraph (1) is added to that
2152 subsection, and paragraph (c) of subsection (2), paragraph (c)
2153 of subsection (5), paragraphs (c) and (d) of subsection (6), and
2154 paragraphs (b), (d), (g), (k), and (l) of subsection (10) are
2155 amended, to read:

2156 720.303 Association powers and duties; meetings of board;



248146

2157 official records; budgets; financial reporting; association
2158 funds; recalls.—

2159 (2) BOARD MEETINGS.—

2160 (c) The bylaws shall provide the following for giving
2161 notice to parcel owners and members of all board meetings and,
2162 if they do not do so, shall be deemed to include the following:

2163 1. Notices of all board meetings must be posted in a
2164 conspicuous place in the community at least 48 hours in advance
2165 of a meeting, except in an emergency. In the alternative, if
2166 notice is not posted in a conspicuous place in the community,
2167 notice of each board meeting must be mailed or delivered to each
2168 member at least 7 days before the meeting, except in an
2169 emergency. Notwithstanding this general notice requirement, for
2170 communities with more than 100 members, the association bylaws
2171 may provide for a reasonable alternative to posting or mailing
2172 of notice for each board meeting, including publication of
2173 notice, provision of a schedule of board meetings, or the
2174 conspicuous posting and repeated broadcasting of the notice on a
2175 closed-circuit cable television system serving the homeowners'
2176 association. However, if broadcast notice is used in lieu of a
2177 notice posted physically in the community, the notice must be
2178 broadcast at least four times every broadcast hour of each day
2179 that a posted notice is otherwise required. When broadcast
2180 notice is provided, the notice and agenda must be broadcast in a
2181 manner and for a sufficient continuous length of time so as to
2182 allow an average reader to observe the notice and read and
2183 comprehend the entire content of the notice and the agenda. In
2184 addition to any of the authorized means of providing notice of a
2185 meeting of the board, the association may, by rule, adopt a



248146

2186 procedure for conspicuously posting the meeting notice and the
2187 agenda on the association's website or an application that can
2188 be downloaded on a mobile device for at least the minimum period
2189 of time for which a notice of a meeting is also required to be
2190 physically posted on the association property. Any rule adopted
2191 must, in addition to other matters, include a requirement that
2192 the association send an electronic notice to members whose e-
2193 mail addresses are included in the association's official
2194 records in the same manner as is required for a notice of a
2195 meeting of the members. Such notice must include a hyperlink to
2196 the website or such mobile application on which the meeting
2197 notice is posted. The association may provide notice by
2198 electronic transmission in a manner authorized by law for
2199 meetings of the board of directors, committee meetings requiring
2200 notice under this section, and annual and special meetings of
2201 the members to any member who has provided a facsimile number or
2202 e-mail address to the association to be used for such purposes;
2203 however, a member must consent in writing to receiving notice by
2204 electronic transmission.

2205 2. An assessment may not be levied at a board meeting
2206 unless the notice of the meeting includes a statement that
2207 assessments will be considered and the nature of the
2208 assessments. Written notice of any meeting at which special
2209 assessments will be considered or at which amendments to rules
2210 regarding parcel use will be considered must be mailed,
2211 delivered, or electronically transmitted to the members and
2212 parcel owners and posted conspicuously on the property or
2213 broadcast on closed-circuit cable television not less than 14
2214 days before the meeting.



248146

2215 3. Directors may not vote by proxy or by secret ballot at
2216 board meetings, except that secret ballots may be used in the
2217 election of officers. This subsection also applies to the
2218 meetings of any committee or other similar body, when a final
2219 decision will be made regarding the expenditure of association
2220 funds, and to any body vested with the power to approve or
2221 disapprove architectural decisions with respect to a specific
2222 parcel of residential property owned by a member of the
2223 community.

2224 (4) OFFICIAL RECORDS.—The association shall maintain each
2225 of the following items, when applicable, which constitute the
2226 official records of the association:

2227 (1) Ballots, sign-in sheets, voting proxies, and all other
2228 papers and electronic records relating to voting by parcel
2229 owners, which must be maintained for at least 1 year after the
2230 date of the election, vote, or meeting.

2231 (m)~~(l)~~ All other written records of the association not
2232 specifically included in this subsection ~~the foregoing~~ which are
2233 related to the operation of the association.

2234 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2235 shall be maintained within the state for at least 7 years and
2236 shall be made available to a parcel owner for inspection or
2237 photocopying within 45 miles of the community or within the
2238 county in which the association is located within 10 business
2239 days after receipt by the board or its designee of a written
2240 request. This subsection may be complied with by having a copy
2241 of the official records available for inspection or copying in
2242 the community or, at the option of the association, by making
2243 the records available to a parcel owner electronically via the



248146

2244 Internet or by allowing the records to be viewed in electronic
2245 format on a computer screen and printed upon request. If the
2246 association has a photocopy machine available where the records
2247 are maintained, it must provide parcel owners with copies on
2248 request during the inspection if the entire request is limited
2249 to no more than 25 pages. An association shall allow a member or
2250 his or her authorized representative to use a portable device,
2251 including a smartphone, tablet, portable scanner, or any other
2252 technology capable of scanning or taking photographs, to make an
2253 electronic copy of the official records in lieu of the
2254 association's providing the member or his or her authorized
2255 representative with a copy of such records. The association may
2256 not charge a fee to a member or his or her authorized
2257 representative for the use of a portable device.

2258 (c) The association may adopt reasonable written rules
2259 governing the frequency, time, location, notice, records to be
2260 inspected, and manner of inspections, but may not require a
2261 parcel owner to demonstrate any proper purpose for the
2262 inspection, state any reason for the inspection, or limit a
2263 parcel owner's right to inspect records to less than one 8-hour
2264 business day per month. The association may impose fees to cover
2265 the costs of providing copies of the official records, including
2266 the costs of copying and the costs required for personnel to
2267 retrieve and copy the records if the time spent retrieving and
2268 copying the records exceeds one-half hour and if the personnel
2269 costs do not exceed \$20 per hour. Personnel costs may not be
2270 charged for records requests that result in the copying of 25 or
2271 fewer pages. The association may charge up to 25 cents per page
2272 for copies made on the association's photocopier. If the



248146

2273 association does not have a photocopy machine available where
2274 the records are kept, or if the records requested to be copied
2275 exceed 25 pages in length, the association may have copies made
2276 by an outside duplicating service and may charge the actual cost
2277 of copying, as supported by the vendor invoice. The association
2278 shall maintain an adequate number of copies of the recorded
2279 governing documents, to ensure their availability to members and
2280 prospective members. Notwithstanding this paragraph, the
2281 following records are not accessible to members or parcel
2282 owners:

2283 1. Any record protected by the lawyer-client privilege as
2284 described in s. 90.502 and any record protected by the work-
2285 product privilege, including, but not limited to, a record
2286 prepared by an association attorney or prepared at the
2287 attorney's express direction which reflects a mental impression,
2288 conclusion, litigation strategy, or legal theory of the attorney
2289 or the association and which was prepared exclusively for civil
2290 or criminal litigation or for adversarial administrative
2291 proceedings or which was prepared in anticipation of such
2292 litigation or proceedings until the conclusion of the litigation
2293 or proceedings.

2294 2. Information obtained by an association in connection
2295 with the approval of the lease, sale, or other transfer of a
2296 parcel.

2297 3. Information an association obtains in a gated community
2298 in connection with guests' visits to parcel owners or community
2299 residents.

2300 4. Personnel records of association or management company
2301 employees, including, but not limited to, disciplinary, payroll,



248146

2302 health, and insurance records. For purposes of this
2303 subparagraph, the term "personnel records" does not include
2304 written employment agreements with an association or management
2305 company employee or budgetary or financial records that indicate
2306 the compensation paid to an association or management company
2307 employee.

2308 ~~5.4.~~ Medical records of parcel owners or community
2309 residents.

2310 ~~6.5.~~ Social security numbers, driver license numbers,
2311 credit card numbers, electronic mailing addresses, telephone
2312 numbers, facsimile numbers, emergency contact information, any
2313 addresses for a parcel owner other than as provided for
2314 association notice requirements, and other personal identifying
2315 information of any person, excluding the person's name, parcel
2316 designation, mailing address, and property address.
2317 Notwithstanding the restrictions in this subparagraph, an
2318 association may print and distribute to parcel owners a
2319 directory containing the name, parcel address, and all telephone
2320 numbers of each parcel owner. However, an owner may exclude his
2321 or her telephone numbers from the directory by so requesting in
2322 writing to the association. An owner may consent in writing to
2323 the disclosure of other contact information described in this
2324 subparagraph. The association is not liable for the disclosure
2325 of information that is protected under this subparagraph if the
2326 information is included in an official record of the association
2327 and is voluntarily provided by an owner and not requested by the
2328 association.

2329 ~~7.6.~~ Any electronic security measure that is used by the
2330 association to safeguard data, including passwords.



248146

2331 ~~8.7.~~ The software and operating system used by the
2332 association which allows the manipulation of data, even if the
2333 owner owns a copy of the same software used by the association.
2334 The data is part of the official records of the association.

2335 (6) BUDGETS.—

2336 (c)1. If the budget of the association does not provide for
2337 reserve accounts under ~~pursuant to~~ paragraph (d), or the
2338 declaration of covenants, articles, or bylaws do not obligate
2339 the developer to create reserves, and the association is
2340 responsible for the repair and maintenance of capital
2341 improvements that may result in a special assessment if reserves
2342 are not provided or not fully funded, each financial report for
2343 the preceding fiscal year required by subsection (7) must
2344 contain the following statement in conspicuous type:

2345
2346 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
2347 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2348 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
2349 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
2350 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
2351 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
2352 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
2353 MEETING OR BY WRITTEN CONSENT.

2354 2. If the budget of the association does provide for
2355 funding accounts for deferred expenditures, including, but not
2356 limited to, funds for capital expenditures and deferred
2357 maintenance, but such accounts are not created or established
2358 under ~~pursuant to~~ paragraph (d), each financial report for the
2359 preceding fiscal year required under subsection (7) must also



248146

2360 contain the following statement in conspicuous type:
2361 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
2362 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
2363 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
2364 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
2365 TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION
2366 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
2367 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
2368 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

2369 (d) An association is deemed to have provided for reserve
2370 accounts ~~if reserve accounts have been initially established by~~
2371 ~~the developer or if the membership of the association~~
2372 ~~affirmatively elects to provide for reserves. If reserve~~
2373 ~~accounts are established by the developer, the budget must~~
2374 ~~designate the components for which the reserve accounts may be~~
2375 ~~used. If reserve accounts are not initially provided by the~~
2376 ~~developer, the membership of the association may elect to do so~~
2377 upon the affirmative approval of a majority of the total voting
2378 interests of the association. Such approval may be obtained by
2379 vote of the members at a duly called meeting of the membership
2380 or by the written consent of a majority of the total voting
2381 interests of the association. The approval action of the
2382 membership must state that reserve accounts shall be provided
2383 for in the budget and must designate the components for which
2384 the reserve accounts are to be established. Upon approval by the
2385 membership, the board of directors shall include the required
2386 reserve accounts in the budget in the next fiscal year following
2387 the approval and each year thereafter. Once established as
2388 provided in this subsection, the reserve accounts must be funded



248146

2389 or maintained or have their funding waived in the manner
2390 provided in paragraph (f).

2391 (10) RECALL OF DIRECTORS.—

2392 (b)1. Board directors may be recalled by an agreement in
2393 writing or by written ballot without a membership meeting. The
2394 agreement in writing or the written ballots, or a copy thereof,
2395 shall be served on the association by certified mail or by
2396 personal service in the manner authorized by chapter 48 and the
2397 Florida Rules of Civil Procedure.

2398 2. The board shall duly notice and hold a meeting of the
2399 board within 5 full business days after receipt of the agreement
2400 in writing or written ballots. At the meeting, the board shall
2401 either certify the written ballots or written agreement to
2402 recall a director or directors of the board, in which case such
2403 director or directors shall be recalled effective immediately
2404 and shall turn over to the board within 5 full business days any
2405 and all records and property of the association in their
2406 possession, or proceed as described in paragraph (d).

2407 3. When it is determined by the department pursuant to
2408 binding arbitration proceedings or the court in an action filed
2409 in a court of competent jurisdiction that an initial recall
2410 effort was defective, written recall agreements or written
2411 ballots used in the first recall effort and not found to be
2412 defective may be reused in one subsequent recall effort.
2413 However, in no event is a written agreement or written ballot
2414 valid for more than 120 days after it has been signed by the
2415 member.

2416 4. Any rescission or revocation of a member's written
2417 recall ballot or agreement must be in writing and, in order to



248146

2418 be effective, must be delivered to the association before the
2419 association is served with the written recall agreements or
2420 ballots.

2421 5. The agreement in writing or ballot shall list at least
2422 as many possible replacement directors as there are directors
2423 subject to the recall, when at least a majority of the board is
2424 sought to be recalled; the person executing the recall
2425 instrument may vote for as many replacement candidates as there
2426 are directors subject to the recall.

2427 (d) If the board determines not to certify the written
2428 agreement or written ballots to recall a director or directors
2429 of the board or does not certify the recall by a vote at a
2430 meeting, the board shall, within 5 full business days after the
2431 meeting, file an action with a court of competent jurisdiction
2432 or file with the department a petition for binding arbitration
2433 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2434 and 718.1255 and the rules adopted thereunder. For the purposes
2435 of this section, the members who voted at the meeting or who
2436 executed the agreement in writing shall constitute one party
2437 under the petition for arbitration or in a court action. If the
2438 arbitrator or court certifies the recall as to any director or
2439 directors of the board, the recall will be effective upon the
2440 final order of the court or the mailing of the final order of
2441 arbitration to the association. The director or directors so
2442 recalled shall deliver to the board any and all records of the
2443 association in their possession within 5 full business days
2444 after the effective date of the recall.

2445 (g) If the board fails to duly notice and hold the required
2446 meeting or fails to file the required petition or action, the



248146

2447 parcel unit owner representative may file a petition or a court
2448 action under ~~pursuant to~~ s. 718.1255 challenging the board's
2449 failure to act. The petition or action must be filed within 60
2450 days after the expiration of the applicable 5-full-business-day
2451 period. The review of a petition or action under this paragraph
2452 is limited to the sufficiency of service on the board and the
2453 facial validity of the written agreement or ballots filed.

2454 (k) A board member who has been recalled may file an action
2455 with a court of competent jurisdiction or a petition under
2456 ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules adopted
2457 challenging the validity of the recall. The petition or action
2458 must be filed within 60 days after the recall is deemed
2459 certified. The association and the parcel unit owner
2460 representative shall be named as respondents.

2461 (l) The division or a court of competent jurisdiction may
2462 not accept for filing a recall petition or action, whether filed
2463 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2464 or paragraph (k) and regardless of whether the recall was
2465 certified, when there are 60 or fewer days until the scheduled
2466 reelection of the board member sought to be recalled or when 60
2467 or fewer days have not elapsed since the election of the board
2468 member sought to be recalled.

2469 Section 21. Subsection (2) of section 720.305, Florida
2470 Statutes, is amended to read:

2471 720.305 Obligations of members; remedies at law or in
2472 equity; levy of fines and suspension of use rights.—

2473 (2) An ~~The~~ association may levy reasonable fines. A fine
2474 may not exceed \$100 per violation against any member or any
2475 member's tenant, guest, or invitee for the failure of the owner



248146

2476 of the parcel or its occupant, licensee, or invitee to comply
2477 with any provision of the declaration, the association bylaws,
2478 or reasonable rules of the association unless otherwise provided
2479 in the governing documents. A fine may be levied by the board
2480 for each day of a continuing violation, with a single notice and
2481 opportunity for hearing, except that the fine may not exceed
2482 \$1,000 in the aggregate unless otherwise provided in the
2483 governing documents. A fine of less than \$1,000 may not become a
2484 lien against a parcel. In any action to recover a fine, the
2485 prevailing party is entitled to reasonable attorney fees and
2486 costs from the nonprevailing party as determined by the court.

2487 (a) An association may suspend, for a reasonable period of
2488 time, the right of a member, or a member's tenant, guest, or
2489 invitee, to use common areas and facilities for the failure of
2490 the owner of the parcel or its occupant, licensee, or invitee to
2491 comply with any provision of the declaration, the association
2492 bylaws, or reasonable rules of the association. This paragraph
2493 does not apply to that portion of common areas used to provide
2494 access or utility services to the parcel. A suspension may not
2495 prohibit an owner or tenant of a parcel from having vehicular
2496 and pedestrian ingress to and egress from the parcel, including,
2497 but not limited to, the right to park.

2498 (b) A fine or suspension levied by the board of
2499 administration may not be imposed unless the board first
2500 provides at least 14 days' notice to the parcel owner and, if
2501 applicable, any occupant, licensee, or invitee of the parcel
2502 owner, sought to be fined or suspended and an opportunity for a
2503 hearing before a committee of at least three members appointed
2504 by the board who are not officers, directors, or employees of



248146

2505 the association, or the spouse, parent, child, brother, or
2506 sister of an officer, director, or employee. If the committee,
2507 by majority vote, does not approve a proposed fine or
2508 suspension, the proposed fine or suspension may not be imposed.
2509 The role of the committee is limited to determining whether to
2510 confirm or reject the fine or suspension levied by the board. If
2511 the proposed fine or suspension levied by the board is approved
2512 by the committee, the fine payment is due 5 days after notice of
2513 the approved fine is provided to the parcel owner and, if
2514 applicable, to any occupant, licensee, or invitee of the parcel
2515 owner ~~the date of the committee meeting at which the fine is~~
2516 ~~approved~~. The association must provide written notice of such
2517 fine or suspension by mail or hand delivery to the parcel owner
2518 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
2519 of the parcel owner.

2520 Section 22. Paragraph (g) of subsection (1) and paragraph
2521 (c) of subsection (9) of section 720.306, Florida Statutes, are
2522 amended, and paragraph (h) is added to subsection (1) of that
2523 section, to read:

2524 720.306 Meetings of members; voting and election
2525 procedures; amendments.—

2526 (1) QUORUM; AMENDMENTS.—

2527 (g) A notice required under this section must be mailed or
2528 delivered to the address identified as the parcel owner's
2529 mailing address in the official records of the association as
2530 required under s. 720.303(4) ~~on the property appraiser's website~~
2531 ~~for the county in which the parcel is located~~, or electronically
2532 transmitted in a manner authorized by the association if the
2533 parcel owner has consented, in writing, to receive notice by



248146

2534 electronic transmission.

2535 (h)1. Except as provided herein, an amendment to a
2536 governing document, rule, or regulation enacted after July 1,
2537 2021, which prohibits a parcel owner from renting his or her
2538 parcel, alters the authorized duration of a rental term, or
2539 specifies or limits the number of times that a parcel owner may
2540 rent his or her parcel during a specified period, applies only
2541 to a parcel owner who consents, individually or through a
2542 representative, to the amendment, and to parcel owners who
2543 acquire title to a parcel after the effective date of the
2544 amendment.

2545 2. Notwithstanding subparagraph 1., an association may
2546 amend its governing documents to prohibit or regulate rental
2547 durations that are for terms of less than 6 months and to
2548 prohibit a parcel owner from renting his or parcel more than
2549 three times in a calendar year. Such amendments apply to all
2550 parcel owners.

2551 3. This paragraph does not affect the amendment
2552 restrictions for associations of 15 or fewer parcel owners as
2553 provided in s. 720.303(1).

2554 4. For purposes of this paragraph, a change of ownership
2555 does not occur when a parcel owner conveys the parcel to an
2556 affiliated entity, when beneficial ownership of the parcel does
2557 not change, or when an heir becomes a parcel owner. For purposes
2558 of this paragraph, the term "affiliated entity" means an entity
2559 that controls, is controlled by, or is under common control with
2560 the parcel owner or that becomes a parent or successor entity by
2561 reason of transfer, merger, consolidation, public offering,
2562 reorganization, dissolution or sale of stock, or transfer of



248146

2563 membership partnership interests. For a conveyance to be
2564 recognized as one made to an affiliated entity, the entity must
2565 furnish the association a document certifying that this
2566 paragraph applies, as well as providing any organizational
2567 documents for the parcel owner and the affiliated entity that
2568 support the representations in the certificate, as requested by
2569 the association.

2570 (9) ELECTIONS AND BOARD VACANCIES.—

2571 (c) Any election dispute between a member and an
2572 association must be submitted to ~~mandatory~~ binding arbitration
2573 with the division or filed with a court of competent
2574 jurisdiction. Such proceedings that are submitted to binding
2575 arbitration with the division must be conducted in the manner
2576 provided by s. 718.1255 and the procedural rules adopted by the
2577 division. Unless otherwise provided in the bylaws, any vacancy
2578 occurring on the board before the expiration of a term may be
2579 filled by an affirmative vote of the majority of the remaining
2580 directors, even if the remaining directors constitute less than
2581 a quorum, or by the sole remaining director. In the alternative,
2582 a board may hold an election to fill the vacancy, in which case
2583 the election procedures must conform to the requirements of the
2584 governing documents. Unless otherwise provided in the bylaws, a
2585 board member appointed or elected under this section is
2586 appointed for the unexpired term of the seat being filled.
2587 Filling vacancies created by recall is governed by s.
2588 720.303(10) and rules adopted by the division.

2589 Section 23. Subsections (1) and (2) of section 720.307,
2590 Florida Statutes, are amended to read:

2591 720.307 Transition of association control in a community.—



248146

2592 With respect to homeowners' associations:

2593 (1) Members other than the developer are entitled to elect
2594 at least a majority of the members of the board of directors of
2595 the homeowners' association when the earlier of the following
2596 events occurs:

2597 (a) Three months after 90 percent of the parcels in all
2598 phases of the community that will ultimately be operated by the
2599 homeowners' association have been conveyed to members other than
2600 the developer;

2601 (b) Such other percentage of the parcels has been conveyed
2602 to members, or such other date or event has occurred, as is set
2603 forth in the governing documents in order to comply with the
2604 requirements of any governmentally chartered entity with regard
2605 to the mortgage financing of parcels;

2606 (c) Upon the developer abandoning or deserting its
2607 responsibility to maintain and complete the amenities or
2608 infrastructure as disclosed in the governing documents. There is
2609 a rebuttable presumption that the developer has abandoned and
2610 deserted the property if the developer has unpaid assessments or
2611 guaranteed amounts under s. 720.308 for a period of more than 2
2612 years;

2613 (d) Upon the developer filing a petition seeking protection
2614 under chapter 7 of the federal Bankruptcy Code;

2615 (e) Upon the developer losing title to the property through
2616 a foreclosure action or the transfer of a deed in lieu of
2617 foreclosure, unless the successor owner has accepted an
2618 assignment of developer rights and responsibilities first
2619 arising after the date of such assignment; or

2620 (f) Upon a receiver for the developer being appointed by a



248146

2621 circuit court and not being discharged within 30 days after such
2622 appointment, unless the court determines within 30 days after
2623 such appointment that transfer of control would be detrimental
2624 to the association or its members.

2625

2626 For purposes of this section, the term "members other than the
2627 developer" shall not include builders, contractors, or others
2628 who purchase a parcel for the purpose of constructing
2629 improvements thereon for resale.

2630 (2) Members other than the developer are entitled to elect
2631 at least one member of the board of directors of the homeowners'
2632 association if 50 percent of the parcels in all phases of the
2633 community which will ultimately be operated by the association
2634 have been conveyed to members other than the developer.

2635 Section 24. Subsection (1) of section 720.311, Florida
2636 Statutes, is amended to read:

2637 720.311 Dispute resolution.—

2638 (1) The Legislature finds that alternative dispute
2639 resolution has made progress in reducing court dockets and
2640 trials and in offering a more efficient, cost-effective option
2641 to litigation. The filing of any petition for arbitration or the
2642 serving of a demand for presuit mediation as provided for in
2643 this section shall toll the applicable statute of limitations.
2644 Any recall dispute filed with the department under ~~pursuant to~~
2645 s. 720.303(10) shall be conducted by the department in
2646 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
2647 and the rules adopted by the division. In addition, the
2648 department shall conduct ~~mandatory~~ binding arbitration of
2649 election disputes between a member and an association in



248146

2650 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
2651 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
2652 not eligible for presuit mediation; these disputes must ~~shall~~ be
2653 arbitrated by the department or filed in a court of competent
2654 jurisdiction. At the conclusion of an arbitration ~~the~~
2655 proceeding, the department shall charge the parties a fee in an
2656 amount adequate to cover all costs and expenses incurred by the
2657 department in conducting the proceeding. Initially, the
2658 petitioner shall remit a filing fee of at least \$200 to the
2659 department. The fees paid to the department shall become a
2660 recoverable cost in the arbitration proceeding, and the
2661 prevailing party in an arbitration proceeding shall recover its
2662 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2663 reasonable by the arbitrator. The department shall adopt rules
2664 to effectuate the purposes of this section.

2665 Section 25. Subsection (6) is added to section 720.3075,
2666 Florida Statutes, to read:

2667 720.3075 Prohibited clauses in association documents.—

2668 (6) An association may extinguish a discriminatory
2669 restriction as provided in s. 712.065.

2670 Section 26. Section 720.316, Florida Statutes, is amended
2671 to read:

2672 720.316 Association emergency powers.—

2673 (1) To the extent allowed by law, unless specifically
2674 prohibited by the declaration or other recorded governing
2675 documents, and consistent with s. 617.0830, the board of
2676 directors, in response to damage or injury caused by or
2677 anticipated in connection with an emergency, as defined in s.
2678 252.34(4), event for which a state of emergency is declared



248146

2679 pursuant to s. 252.36 in the area encompassed by the
2680 association, may exercise the following powers:

2681 (a) Conduct board meetings, committee meetings, elections,
2682 or membership meetings, in whole or in part, by telephone, real-
2683 time videoconferencing, or similar real-time electronic or video
2684 communication after notice of the meetings and board decisions
2685 is provided in as practicable a manner as possible, including
2686 via publication, radio, United States mail, the Internet,
2687 electronic transmission, public service announcements,
2688 conspicuous posting on the common area association property, or
2689 any other means the board deems appropriate under the
2690 circumstances. Notice of decisions may also be communicated as
2691 provided in this paragraph.

2692 (b) Cancel and reschedule an association meeting.

2693 (c) Designate assistant officers who are not directors. If
2694 the executive officer is incapacitated or unavailable, the
2695 assistant officer has the same authority during the state of
2696 emergency as the executive officer he or she assists.

2697 (d) Relocate the association's principal office or
2698 designate an alternative principal office.

2699 (e) Enter into agreements with counties and municipalities
2700 to assist counties and municipalities with debris removal.

2701 (f) Implement a disaster or an emergency plan before,
2702 during, or ~~immediately~~ following the event for which a state of
2703 emergency is declared, which may include, but is not limited to,
2704 turning on or shutting off elevators; electricity; water, sewer,
2705 or security systems; or air conditioners for association
2706 buildings.

2707 (g) Based upon the advice of emergency management officials



248146

2708 or public health officials, or upon the advice of licensed
2709 professionals retained by or otherwise available to the board,
2710 determine any portion of the common areas or facilities
2711 ~~association property~~ unavailable for entry or occupancy by
2712 owners or their family members, tenants, guests, agents, or
2713 invitees to protect their health, safety, or welfare.

2714 (h) Based upon the advice of emergency management officials
2715 or public health officials or upon the advice of licensed
2716 professionals retained by or otherwise available to the board,
2717 determine whether the common areas or facilities ~~association~~
2718 ~~property~~ can be safely inhabited, accessed, or occupied.
2719 However, such determination is not conclusive as to any
2720 determination of habitability pursuant to the declaration.

2721 (i) Mitigate further damage, injury, or contagion,
2722 including taking action to contract for the removal of debris
2723 and to prevent or mitigate the spread of fungus, including mold
2724 or mildew, by removing and disposing of wet drywall, insulation,
2725 carpet, cabinetry, or other fixtures on or within the common
2726 areas or facilities or sanitizing the common areas or facilities
2727 ~~association property.~~

2728 (j) Notwithstanding a provision to the contrary, and
2729 regardless of whether such authority does not specifically
2730 appear in the declaration or other recorded governing documents,
2731 levy special assessments without a vote of the owners.

2732 (k) Without owners' approval, borrow money and pledge
2733 association assets as collateral to fund emergency repairs and
2734 carry out the duties of the association if operating funds are
2735 insufficient. This paragraph does not limit the general
2736 authority of the association to borrow money, subject to such



2737 restrictions contained in the declaration or other recorded
2738 governing documents.

2739 (2) The authority granted under subsection (1) is limited
2740 to that time reasonably necessary to protect the health, safety,
2741 and welfare of the association and the parcel owners and their
2742 family members, tenants, guests, agents, or invitees, and to
2743 mitigate further damage, injury, or contagion and make emergency
2744 repairs.

2745 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2746 of emergency declared by executive order or proclamation of the
2747 Governor pursuant to s. 252.36, an association may not prohibit
2748 parcel owners, tenants, guests, agents, or invitees of a parcel
2749 owner from accessing the common areas and facilities for the
2750 purposes of ingress to and egress from the parcel when access is
2751 necessary in connection with:

2752 (a) The sale, lease, or other transfer of title of a
2753 parcel; or

2754 (b) The habitability of the parcel or for the health and
2755 safety of such person unless a governmental order or
2756 determination, or a public health directive from the Centers for
2757 Disease Control and Prevention, has been issued prohibiting such
2758 access to the parcel. Any such access is subject to reasonable
2759 restrictions adopted by the association.

2760 Section 27. This act shall take effect July 1, 2021.

2761
2762 ===== T I T L E A M E N D M E N T =====

2763 And the title is amended as follows:

2764 Delete everything before the enacting clause
2765 and insert:



248146

2766 A bill to be entitled
2767 An act relating to community associations; amending s.
2768 627.714, F.S.; prohibiting insurance policies from
2769 providing specified rights of subrogation under
2770 certain circumstances; amending s. 718.103, F.S.;
2771 revising the definition of the terms
2772 "multicondominium," "operation," and "operation of the
2773 condominium"; amending s. 718.111, F.S.; requiring
2774 that certain records be maintained for a specified
2775 time; prohibiting an association from requiring
2776 certain actions relating to the inspection of records;
2777 revising requirements relating to the posting of
2778 digital copies of certain documents by certain
2779 condominium associations; amending s. 718.112, F.S.;
2780 authorizing a condominium association to extinguish
2781 discriminatory restrictions; revising the calculation
2782 used in determining a board member's term limit;
2783 providing requirements for certain notices; revising
2784 the fees that an association may charge for transfers;
2785 deleting a prohibition against employing or
2786 contracting with certain service providers; amending
2787 s. 718.113, F.S.; revising legislative findings;
2788 defining the terms "natural gas fuel" and "natural gas
2789 fuel vehicle"; revising requirements for electric
2790 vehicle charging stations; providing requirements for
2791 natural gas fuel stations on property governed by
2792 condominium associations; amending s. 718.117, F.S.;
2793 conforming provisions to changes made by the act;
2794 amending s. 718.121, F.S.; providing that labor and



248146

2795 materials associated with the installation of a
2796 natural gas fuel station may not serve as the basis
2797 for filing a lien against an association but may serve
2798 as the basis for filing a lien against a unit owner;
2799 requiring that notices of intent to record a claim of
2800 lien specify certain dates; amending s. 718.1255,
2801 F.S.; authorizing parties to initiate presuit
2802 mediation under certain circumstances; specifying the
2803 circumstances under which arbitration is binding on
2804 the parties; providing requirements for presuit
2805 mediation; making technical changes; amending s.
2806 718.1265, F.S.; revising the emergency powers of
2807 condominium associations; prohibiting condominium
2808 associations from taking certain actions during a
2809 declared state of emergency; amending s. 718.202,
2810 F.S.; revising the allowable uses of certain escrow
2811 funds withdrawn by developers; defining the term
2812 "actual costs"; amending s. 718.303, F.S.; revising
2813 requirements for certain actions for failure to comply
2814 with specified provisions relating to condominium
2815 associations; revising requirements for certain fines;
2816 amending s. 718.405, F.S.; providing clarifying
2817 language relating to certain multicondominium
2818 declarations; providing applicability; amending s.
2819 718.501, F.S.; conforming provisions to changes made
2820 by the act; amending s. 718.5014, F.S.; revising a
2821 requirement regarding the location of the principal
2822 office of the Office of the Condominium Ombudsman;
2823 amending s. 719.103, F.S.; revising the definition of



248146

2824 the term "unit" to specify that an interest in a
2825 cooperative unit is an interest in real property;
2826 amending s. 719.104, F.S.; prohibiting an association
2827 from requiring certain actions relating to the
2828 inspection of records; amending s. 719.106, F.S.;
2829 revising provisions relating to a quorum and voting
2830 rights for members remotely participating in meetings;
2831 revising the procedure to challenge a board member
2832 recall; authorizing cooperative associations to
2833 extinguish discriminatory restrictions; amending s.
2834 719.128, F.S.; revising emergency powers for
2835 cooperative associations; prohibiting cooperative
2836 associations from taking certain actions during a
2837 declared state of emergency; amending s. 720.301,
2838 F.S.; revising the definition of the term "governing
2839 documents"; amending s. 720.303, F.S.; authorizing an
2840 association to adopt procedures for electronic meeting
2841 notices; revising the documents that constitute the
2842 official records of an association; revising the types
2843 of records that are not accessible to members or
2844 parcel owners; revising the circumstances under which
2845 a specified statement must be included in an
2846 association's financial report; revising requirements
2847 for such statement; revising the circumstances under
2848 which an association is deemed to have provided for
2849 reserve accounts; revising the procedure to challenge
2850 a board member recall; amending s. 720.305, F.S.;
2851 providing requirements for certain fines levied by a
2852 board of administration; amending s. 720.306, F.S.;



248146

2853 revising requirements for providing certain notices;
2854 providing limitations on associations when a parcel
2855 owner attempts to rent or lease his or her parcel;
2856 defining the term "affiliated entity"; amending the
2857 procedure for election disputes; amending s. 720.307,
2858 F.S.; revising the circumstances under which members
2859 other than the developer are entitled to elect members
2860 to the board of directors of the homeowners'
2861 association; amending s. 720.311, F.S.; revising the
2862 dispute resolution requirements for election disputes
2863 and recall disputes; amending s. 720.3075, F.S.;
2864 authorizing homeowners' associations to extinguish
2865 discriminatory restrictions; amending s. 720.316,
2866 F.S.; revising emergency powers of homeowners'
2867 associations; prohibiting homeowners' associations
2868 from taking certain actions during a declared state of
2869 emergency; providing an effective date.