

By the Committees on Rules; and Regulated Industries; and
Senators Baxley, Hutson, and Rodriguez

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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 627.714, F.S.; prohibiting insurance policies from
4 providing specified rights of subrogation under
5 certain circumstances; amending s. 718.103, F.S.;
6 revising the definition of the terms
7 "multicondominium," "operation," and "operation of the
8 condominium"; amending s. 718.111, F.S.; requiring
9 that certain records be maintained for a specified
10 time; prohibiting an association from requiring
11 certain actions relating to the inspection of records;
12 revising requirements relating to the posting of
13 digital copies of certain documents by certain
14 condominium associations; amending s. 718.112, F.S.;
15 authorizing a condominium association to extinguish
16 discriminatory restrictions; revising the calculation
17 used in determining a board member's term limit;
18 providing requirements for certain notices; revising
19 the fees that an association may charge for transfers;
20 deleting a prohibition against employing or
21 contracting with certain service providers; amending
22 s. 718.113, F.S.; revising legislative findings;
23 defining the terms "natural gas fuel" and "natural gas
24 fuel vehicle"; revising requirements for electric
25 vehicle charging stations; providing requirements for
26 natural gas fuel stations on property governed by
27 condominium associations; amending s. 718.117, F.S.;
28 conforming provisions to changes made by the act;
29 amending s. 718.121, F.S.; providing that labor and

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30 materials associated with the installation of a
31 natural gas fuel station may not serve as the basis
32 for filing a lien against an association but may serve
33 as the basis for filing a lien against a unit owner;
34 requiring that notices of intent to record a claim of
35 lien specify certain dates; amending s. 718.1255,
36 F.S.; authorizing parties to initiate presuit
37 mediation under certain circumstances; specifying the
38 circumstances under which arbitration is binding on
39 the parties; providing requirements for presuit
40 mediation; making technical changes; amending s.
41 718.1265, F.S.; revising the emergency powers of
42 condominium associations; prohibiting condominium
43 associations from taking certain actions during a
44 declared state of emergency; amending s. 718.202,
45 F.S.; revising the allowable uses of certain escrow
46 funds withdrawn by developers; defining the term
47 "actual costs"; amending s. 718.303, F.S.; revising
48 requirements for certain actions for failure to comply
49 with specified provisions relating to condominium
50 associations; revising requirements for certain fines;
51 amending s. 718.405, F.S.; providing clarifying
52 language relating to certain multicondominium
53 declarations; providing applicability; amending s.
54 718.501, F.S.; conforming provisions to changes made
55 by the act; amending s. 718.5014, F.S.; revising a
56 requirement regarding the location of the principal
57 office of the Office of the Condominium Ombudsman;
58 amending s. 719.103, F.S.; revising the definition of

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59 the term "unit" to specify that an interest in a
60 cooperative unit is an interest in real property;
61 amending s. 719.104, F.S.; prohibiting an association
62 from requiring certain actions relating to the
63 inspection of records; amending s. 719.106, F.S.;
64 revising provisions relating to a quorum and voting
65 rights for members remotely participating in meetings;
66 revising the procedure to challenge a board member
67 recall; authorizing cooperative associations to
68 extinguish discriminatory restrictions; amending s.
69 719.128, F.S.; revising emergency powers for
70 cooperative associations; prohibiting cooperative
71 associations from taking certain actions during a
72 declared state of emergency; amending s. 720.301,
73 F.S.; revising the definition of the term "governing
74 documents"; amending s. 720.303, F.S.; authorizing an
75 association to adopt procedures for electronic meeting
76 notices; revising the documents that constitute the
77 official records of an association; revising the types
78 of records that are not accessible to members or
79 parcel owners; revising the circumstances under which
80 a specified statement must be included in an
81 association's financial report; revising requirements
82 for such statement; revising the circumstances under
83 which an association is deemed to have provided for
84 reserve accounts; authorizing certain developers to
85 include reserves in the budget; specifying that the
86 developers are not obligated to pay for certain
87 expenses; providing applicability; revising the

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88 procedure to challenge a board member recall; amending
89 s. 720.305, F.S.; providing requirements for certain
90 fines levied by a board of administration; amending s.
91 720.306, F.S.; revising requirements for providing
92 certain notices; providing limitations on associations
93 when a parcel owner attempts to rent or lease his or
94 her parcel; defining the term "affiliated entity";
95 amending the procedure for election disputes; amending
96 s. 720.307, F.S.; revising the circumstances under
97 which members other than the developer are entitled to
98 elect members to the board of directors of the
99 homeowners' association; amending s. 720.311, F.S.;
100 revising the dispute resolution requirements for
101 election disputes and recall disputes; amending s.
102 720.3075, F.S.; authorizing homeowners' associations
103 to extinguish discriminatory restrictions; amending s.
104 720.316, F.S.; revising emergency powers of
105 homeowners' associations; prohibiting homeowners'
106 associations from taking certain actions during a
107 declared state of emergency; providing an effective
108 date.

109
110 Be It Enacted by the Legislature of the State of Florida:

111
112 Section 1. Subsection (4) of section 627.714, Florida
113 Statutes, is amended to read:

114 627.714 Residential condominium unit owner coverage; loss
115 assessment coverage required.—

116 (4) Every individual unit owner's residential property

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117 policy must contain a provision stating that the coverage
118 afforded by such policy is excess coverage over the amount
119 recoverable under any other policy covering the same property.
120 If a condominium association's insurance policy does not provide
121 rights for subrogation against the unit owners in the
122 association, an insurance policy issued to an individual unit
123 owner in the association may not provide rights of subrogation
124 against the condominium association.

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

127 718.103 Definitions.—As used in this chapter, the term:

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

131 (21) "Operation" or "operation of the condominium" includes
132 the administration and management of the condominium property
133 and the association.

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

136 718.111 The association.—

137 (12) OFFICIAL RECORDS.—

138 (a) From the inception of the association, the association
139 shall maintain each of the following items, if applicable, which
140 constitutes the official records of the association:

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

143 2. A photocopy of the recorded declaration of condominium
144 of each condominium operated by the association and each
145 amendment to each declaration.

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146 3. A photocopy of the recorded bylaws of the association
147 and each amendment to the bylaws.

148 4. A certified copy of the articles of incorporation of the
149 association, or other documents creating the association, and
150 each amendment thereto.

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

152 6. A book or books that contain the minutes of all meetings
153 of the association, the board of administration, and the unit
154 owners.

155 7. A current roster of all unit owners and their mailing
156 addresses, unit identifications, voting certifications, and, if
157 known, telephone numbers. The association shall also maintain
158 the e-mail addresses and facsimile numbers of unit owners
159 consenting to receive notice by electronic transmission. The e-
160 mail addresses and facsimile numbers are not accessible to unit
161 owners if consent to receive notice by electronic transmission
162 is not provided in accordance with sub-subparagraph (c)3.e.
163 However, the association is not liable for an inadvertent
164 disclosure of the e-mail address or facsimile number for
165 receiving electronic transmission of notices.

166 8. All current insurance policies of the association and
167 condominiums operated by the association.

168 9. A current copy of any management agreement, lease, or
169 other contract to which the association is a party or under
170 which the association or the unit owners have an obligation or
171 responsibility.

172 10. Bills of sale or transfer for all property owned by the
173 association.

174 11. Accounting records for the association and separate

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175 accounting records for each condominium that the association
176 operates. Any person who knowingly or intentionally defaces or
177 destroys such records, or who knowingly or intentionally fails
178 to create or maintain such records, with the intent of causing
179 harm to the association or one or more of its members, is
180 personally subject to a civil penalty pursuant to s.

181 718.501(1)(d). The accounting records must include, but are not
182 limited to:

183 a. Accurate, itemized, and detailed records of all receipts
184 and expenditures.

185 b. A current account and a monthly, bimonthly, or quarterly
186 statement of the account for each unit designating the name of
187 the unit owner, the due date and amount of each assessment, the
188 amount paid on the account, and the balance due.

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

191 d. All contracts for work to be performed. Bids for work to
192 be performed are also considered official records and must be
193 maintained by the association for at least 1 year after receipt
194 of the bid.

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

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

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

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204 ~~15. All other written records of the association not~~
205 ~~specifically included in the foregoing which are related to the~~
206 ~~operation of the association.~~

207 ~~16.~~ A copy of the inspection report as described in s.
208 718.301(4)(p).

209 16.~~17.~~ Bids for materials, equipment, or services.

210 17. All other written records of the association not
211 specified in subparagraphs 1.-16. which are related to the
212 operation of the association.

213 (b) The official records specified in subparagraphs (a)1.-
214 6. must be permanently maintained from the inception of the
215 association. Bids for work to be performed or for materials,
216 equipment, or services must be maintained for at least 1 year
217 after receipt of the bid. All other official records must be
218 maintained within the state for at least 7 years, unless
219 otherwise provided by general law. The records of the
220 association shall be made available to a unit owner within 45
221 miles of the condominium property or within the county in which
222 the condominium property is located within 10 working days after
223 receipt of a written request by the board or its designee.
224 However, such distance requirement does not apply to an
225 association governing a timeshare condominium. This paragraph
226 may be complied with by having a copy of the official records of
227 the association available for inspection or copying on the
228 condominium property or association property, or the association
229 may offer the option of making the records available to a unit
230 owner electronically via the Internet or by allowing the records
231 to be viewed in electronic format on a computer screen and
232 printed upon request. The association is not responsible for the

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233 use or misuse of the information provided to an association
234 member or his or her authorized representative in ~~pursuant to~~
235 ~~the compliance with requirements of~~ this chapter unless the
236 association has an affirmative duty not to disclose such
237 information under ~~pursuant to~~ this chapter.

238 (c)1. The official records of the association are open to
239 inspection by any association member or the authorized
240 representative of such member at all reasonable times. The right
241 to inspect the records includes the right to make or obtain
242 copies, at the reasonable expense, if any, of the member or
243 authorized representative of such member. A renter of a unit has
244 a right to inspect and copy only the declaration of condominium
245 and the association's bylaws and rules. The association may
246 adopt reasonable rules regarding the frequency, time, location,
247 notice, and manner of record inspections and copying, but may
248 not require a member to demonstrate any purpose or state any
249 reason for the inspection. The failure of an association to
250 provide the records within 10 working days after receipt of a
251 written request creates a rebuttable presumption that the
252 association willfully failed to comply with this paragraph. A
253 unit owner who is denied access to official records is entitled
254 to the actual damages or minimum damages for the association's
255 willful failure to comply. Minimum damages are \$50 per calendar
256 day for up to 10 days, beginning on the 11th working day after
257 receipt of the written request. The failure to permit inspection
258 entitles any person prevailing in an enforcement action to
259 recover reasonable attorney fees from the person in control of
260 the records who, directly or indirectly, knowingly denied access
261 to the records.

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262 2. Any person who knowingly or intentionally defaces or
263 destroys accounting records that are required by this chapter to
264 be maintained during the period for which such records are
265 required to be maintained, or who knowingly or intentionally
266 fails to create or maintain accounting records that are required
267 to be created or maintained, with the intent of causing harm to
268 the association or one or more of its members, is personally
269 subject to a civil penalty pursuant to s. 718.501(1)(d).

270 3. The association shall maintain an adequate number of
271 copies of the declaration, articles of incorporation, bylaws,
272 and rules, and all amendments to each of the foregoing, as well
273 as the question and answer sheet as described in s. 718.504 and
274 year-end financial information required under this section, on
275 the condominium property to ensure their availability to unit
276 owners and prospective purchasers, and may charge its actual
277 costs for preparing and furnishing these documents to those
278 requesting the documents. An association shall allow a member or
279 his or her authorized representative to use a portable device,
280 including a smartphone, tablet, portable scanner, or any other
281 technology capable of scanning or taking photographs, to make an
282 electronic copy of the official records in lieu of the
283 association's providing the member or his or her authorized
284 representative with a copy of such records. The association may
285 not charge a member or his or her authorized representative for
286 the use of a portable device. Notwithstanding this paragraph,
287 the following records are not accessible to unit owners:

288 a. Any record protected by the lawyer-client privilege as
289 described in s. 90.502 and any record protected by the work-
290 product privilege, including a record prepared by an association

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291 attorney or prepared at the attorney's express direction, which
292 reflects a mental impression, conclusion, litigation strategy,
293 or legal theory of the attorney or the association, and which
294 was prepared exclusively for civil or criminal litigation or for
295 adversarial administrative proceedings, or which was prepared in
296 anticipation of such litigation or proceedings until the
297 conclusion of the litigation or proceedings.

298 b. Information obtained by an association in connection
299 with the approval of the lease, sale, or other transfer of a
300 unit.

301 c. Personnel records of association or management company
302 employees, including, but not limited to, disciplinary, payroll,
303 health, and insurance records. For purposes of this sub-
304 subparagraph, the term "personnel records" does not include
305 written employment agreements with an association employee or
306 management company, or budgetary or financial records that
307 indicate the compensation paid to an association employee.

308 d. Medical records of unit owners.

309 e. Social security numbers, driver license numbers, credit
310 card numbers, e-mail addresses, telephone numbers, facsimile
311 numbers, emergency contact information, addresses of a unit
312 owner other than as provided to fulfill the association's notice
313 requirements, and other personal identifying information of any
314 person, excluding the person's name, unit designation, mailing
315 address, property address, and any address, e-mail address, or
316 facsimile number provided to the association to fulfill the
317 association's notice requirements. Notwithstanding the
318 restrictions in this sub-subparagraph, an association may print
319 and distribute to unit ~~parcel~~ owners a directory containing the

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320 name, unit ~~parcel~~ address, and all telephone numbers of each
321 unit ~~parcel~~ owner. However, an owner may exclude his or her
322 telephone numbers from the directory by so requesting in writing
323 to the association. An owner may consent in writing to the
324 disclosure of other contact information described in this sub-
325 subparagraph. The association is not liable for the inadvertent
326 disclosure of information that is protected under this sub-
327 subparagraph if the information is included in an official
328 record of the association and is voluntarily provided by an
329 owner and not requested by the association.

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

332 g. The software and operating system used by the
333 association which allow the manipulation of data, even if the
334 owner owns a copy of the same software used by the association.
335 The data is part of the official records of the association.

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

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

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

345 (II) A website, application, or web portal operated by a
346 third-party provider with whom the association owns, leases,
347 rents, or otherwise obtains the right to operate a web page,
348 subpage, web portal, ~~or~~ collection of subpages or web portals,

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349 or an application which is dedicated to the association's
350 activities and on which required notices, records, and documents
351 may be posted or made available by the association.

352 b. The association's website or application must be
353 accessible through the Internet and must contain a subpage, web
354 portal, or other protected electronic location that is
355 inaccessible to the general public and accessible only to unit
356 owners and employees of the association.

357 c. Upon a unit owner's written request, the association
358 must provide the unit owner with a username and password and
359 access to the protected sections of the association's website or
360 application which ~~that~~ contain any notices, records, or
361 documents that must be electronically provided.

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

364 a. The recorded declaration of condominium of each
365 condominium operated by the association and each amendment to
366 each declaration.

367 b. The recorded bylaws of the association and each
368 amendment to the bylaws.

369 c. The articles of incorporation of the association, or
370 other documents creating the association, and each amendment to
371 the articles of incorporation or other documents ~~thereto~~. The
372 copy posted pursuant to this sub-subparagraph must be a copy of
373 the articles of incorporation filed with the Department of
374 State.

375 d. The rules of the association.

376 e. A list of all executory contracts or documents to which
377 the association is a party or under which the association or the

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378 unit owners have an obligation or responsibility and, after
379 bidding for the related materials, equipment, or services has
380 closed, a list of bids received by the association within the
381 past year. Summaries of bids for materials, equipment, or
382 services which exceed \$500 must be maintained on the website or
383 application for 1 year. In lieu of summaries, complete copies of
384 the bids may be posted.

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

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

390 h. The certification of each director required by s.
391 718.112(2)(d)4.b.

392 i. All contracts or transactions between the association
393 and any director, officer, corporation, firm, or association
394 that is not an affiliated condominium association or any other
395 entity in which an association director is also a director or
396 officer and financially interested.

397 j. Any contract or document regarding a conflict of
398 interest or possible conflict of interest as provided in ss.
399 468.436(2)(b)6. and 718.3027(3).

400 k. The notice of any unit owner meeting and the agenda for
401 the meeting, as required by s. 718.112(2)(d)3., no later than 14
402 days before the meeting. The notice must be posted in plain view
403 on the front page of the website or application, or on a
404 separate subpage of the website or application labeled "Notices"
405 which is conspicuously visible and linked from the front page.
406 The association must also post on its website or application any

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407 document to be considered and voted on by the owners during the
408 meeting or any document listed on the agenda at least 7 days
409 before the meeting at which the document or the information
410 within the document will be considered.

411 1. Notice of any board meeting, the agenda, and any other
412 document required for the meeting as required by s.
413 718.112(2)(c), which must be posted no later than the date
414 required for notice under ~~pursuant to~~ s. 718.112(2)(c).

415 3. The association shall ensure that the information and
416 records described in paragraph (c), which are not allowed to be
417 accessible to unit owners, are not posted on the association's
418 website or application. If protected information or information
419 restricted from being accessible to unit owners is included in
420 documents that are required to be posted on the association's
421 website or application, the association shall ensure the
422 information is redacted before posting the documents ~~online~~.
423 Notwithstanding the foregoing, the association or its agent is
424 not liable for disclosing information that is protected or
425 restricted under ~~pursuant to~~ this paragraph unless such
426 disclosure was made with a knowing or intentional disregard of
427 the protected or restricted nature of such information.

428 4. The failure of the association to post information
429 required under subparagraph 2. is not in and of itself
430 sufficient to invalidate any action or decision of the
431 association's board or its committees.

432 Section 4. Paragraphs (d), (i), (j), (k), and (p) of
433 subsection (2) of section 718.112, Florida Statutes, are
434 amended, and paragraph (c) is added to subsection (1) of that
435 section, to read:

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436 718.112 Bylaws.—

437 (1) GENERALLY.—

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

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

443 (d) *Unit owner meetings.*—

444 1. An annual meeting of the unit owners must be held at the
445 location provided in the association bylaws and, if the bylaws
446 are silent as to the location, the meeting must be held within
447 45 miles of the condominium property. However, such distance
448 requirement does not apply to an association governing a
449 timeshare condominium.

450 2. Unless the bylaws provide otherwise, a vacancy on the
451 board caused by the expiration of a director's term must be
452 filled by electing a new board member, and the election must be
453 by secret ballot. An election is not required if the number of
454 vacancies equals or exceeds the number of candidates. For
455 purposes of this paragraph, the term "candidate" means an
456 eligible person who has timely submitted the written notice, as
457 described in sub-subparagraph 4.a., of his or her intention to
458 become a candidate. Except in a timeshare or nonresidential
459 condominium, or if the staggered term of a board member does not
460 expire until a later annual meeting, or if all members' terms
461 would otherwise expire but there are no candidates, the terms of
462 all board members expire at the annual meeting, and such members
463 may stand for reelection unless prohibited by the bylaws. Board
464 members may serve terms longer than 1 year if permitted by the

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465 bylaws or articles of incorporation. A board member may not
466 serve more than 8 consecutive years unless approved by an
467 affirmative vote of unit owners representing two-thirds of all
468 votes cast in the election or unless there are not enough
469 eligible candidates to fill the vacancies on the board at the
470 time of the vacancy. Only board service that occurs on or after
471 July 1, 2018, may be used when calculating a board member's term
472 limit. If the number of board members whose terms expire at the
473 annual meeting equals or exceeds the number of candidates, the
474 candidates become members of the board effective upon the
475 adjournment of the annual meeting. Unless the bylaws provide
476 otherwise, any remaining vacancies shall be filled by the
477 affirmative vote of the majority of the directors making up the
478 newly constituted board even if the directors constitute less
479 than a quorum or there is only one director. In a residential
480 condominium association of more than 10 units or in a
481 residential condominium association that does not include
482 timeshare units or timeshare interests, co-owners of a unit may
483 not serve as members of the board of directors at the same time
484 unless they own more than one unit or unless there are not
485 enough eligible candidates to fill the vacancies on the board at
486 the time of the vacancy. A unit owner in a residential
487 condominium desiring to be a candidate for board membership must
488 comply with sub-subparagraph 4.a. and must be eligible to be a
489 candidate to serve on the board of directors at the time of the
490 deadline for submitting a notice of intent to run in order to
491 have his or her name listed as a proper candidate on the ballot
492 or to serve on the board. A person who has been suspended or
493 removed by the division under this chapter, or who is delinquent

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494 in the payment of any monetary obligation due to the
495 association, is not eligible to be a candidate for board
496 membership and may not be listed on the ballot. A person who has
497 been convicted of any felony in this state or in a United States
498 District or Territorial Court, or who has been convicted of any
499 offense in another jurisdiction which would be considered a
500 felony if committed in this state, is not eligible for board
501 membership unless such felon's civil rights have been restored
502 for at least 5 years as of the date such person seeks election
503 to the board. The validity of an action by the board is not
504 affected if it is later determined that a board member is
505 ineligible for board membership due to having been convicted of
506 a felony. This subparagraph does not limit the term of a member
507 of the board of a nonresidential or timeshare condominium.

508 3. The bylaws must provide the method of calling meetings
509 of unit owners, including annual meetings. Written notice of an
510 annual meeting must include an agenda; ~~must~~ be mailed, hand
511 delivered, or electronically transmitted to each unit owner at
512 least 14 days before the annual meeting; ~~and~~ ~~must~~ be posted in
513 a conspicuous place on the condominium property or association
514 property at least 14 continuous days before the annual meeting.
515 Written notice of a meeting other than an annual meeting must
516 include an agenda; be mailed, hand delivered, or electronically
517 transmitted to each unit owner; and be posted in a conspicuous
518 place on the condominium property or association property within
519 the timeframe specified in the bylaws. If the bylaws do not
520 specify a timeframe for written notice of a meeting other than
521 an annual meeting, notice must be provided at least 14
522 continuous days before the meeting. Upon notice to the unit

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523 owners, the board shall, by duly adopted rule, designate a
524 specific location on the condominium property or association
525 property where all notices of unit owner meetings must be
526 posted. This requirement does not apply if there is no
527 condominium property for posting notices. In lieu of, or in
528 addition to, the physical posting of meeting notices, the
529 association may, by reasonable rule, adopt a procedure for
530 conspicuously posting and repeatedly broadcasting the notice and
531 the agenda on a closed-circuit cable television system serving
532 the condominium association. However, if broadcast notice is
533 used in lieu of a notice posted physically on the condominium
534 property, the notice and agenda must be broadcast at least four
535 times every broadcast hour of each day that a posted notice is
536 otherwise required under this section. If broadcast notice is
537 provided, the notice and agenda must be broadcast in a manner
538 and for a sufficient continuous length of time so as to allow an
539 average reader to observe the notice and read and comprehend the
540 entire content of the notice and the agenda. In addition to any
541 of the authorized means of providing notice of a meeting of the
542 board, the association may, by rule, adopt a procedure for
543 conspicuously posting the meeting notice and the agenda on a
544 website serving the condominium association for at least the
545 minimum period of time for which a notice of a meeting is also
546 required to be physically posted on the condominium property.
547 Any rule adopted shall, in addition to other matters, include a
548 requirement that the association send an electronic notice in
549 the same manner as a notice for a meeting of the members, which
550 must include a hyperlink to the website where the notice is
551 posted, to unit owners whose e-mail addresses are included in

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552 the association's official records. Unless a unit owner waives
553 in writing the right to receive notice of the annual meeting,
554 such notice must be hand delivered, mailed, or electronically
555 transmitted to each unit owner. Notice for meetings and notice
556 for all other purposes must be mailed to each unit owner at the
557 address last furnished to the association by the unit owner, or
558 hand delivered to each unit owner. However, if a unit is owned
559 by more than one person, the association must provide notice to
560 the address that the developer identifies for that purpose and
561 thereafter as one or more of the owners of the unit advise the
562 association in writing, or if no address is given or the owners
563 of the unit do not agree, to the address provided on the deed of
564 record. An officer of the association, or the manager or other
565 person providing notice of the association meeting, must provide
566 an affidavit or United States Postal Service certificate of
567 mailing, to be included in the official records of the
568 association affirming that the notice was mailed or hand
569 delivered in accordance with this provision.

570 4. The members of the board of a residential condominium
571 shall be elected by written ballot or voting machine. Proxies
572 may not be used in electing the board in general elections or
573 elections to fill vacancies caused by recall, resignation, or
574 otherwise, unless otherwise provided in this chapter. This
575 subparagraph does not apply to an association governing a
576 timeshare condominium.

577 a. At least 60 days before a scheduled election, the
578 association shall mail, deliver, or electronically transmit, by
579 separate association mailing or included in another association
580 mailing, delivery, or transmission, including regularly

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581 published newsletters, to each unit owner entitled to a vote, a
582 first notice of the date of the election. A unit owner or other
583 eligible person desiring to be a candidate for the board must
584 give written notice of his or her intent to be a candidate to
585 the association at least 40 days before a scheduled election.
586 Together with the written notice and agenda as set forth in
587 subparagraph 3., the association shall mail, deliver, or
588 electronically transmit a second notice of the election to all
589 unit owners entitled to vote, together with a ballot that lists
590 all candidates not less than 14 days or more than 34 days before
591 the date of the election. Upon request of a candidate, an
592 information sheet, no larger than 8 1/2 inches by 11 inches,
593 which must be furnished by the candidate at least 35 days before
594 the election, must be included with the mailing, delivery, or
595 transmission of the ballot, with the costs of mailing, delivery,
596 or electronic transmission and copying to be borne by the
597 association. The association is not liable for the contents of
598 the information sheets prepared by the candidates. In order to
599 reduce costs, the association may print or duplicate the
600 information sheets on both sides of the paper. The division
601 shall by rule establish voting procedures consistent with this
602 sub-subparagraph, including rules establishing procedures for
603 giving notice by electronic transmission and rules providing for
604 the secrecy of ballots. Elections shall be decided by a
605 plurality of ballots cast. There is no quorum requirement;
606 however, at least 20 percent of the eligible voters must cast a
607 ballot in order to have a valid election. A unit owner may not
608 authorize any other person to vote his or her ballot, and any
609 ballots improperly cast are invalid. A unit owner who violates

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610 this provision may be fined by the association in accordance
611 with s. 718.303. A unit owner who needs assistance in casting
612 the ballot for the reasons stated in s. 101.051 may obtain such
613 assistance. The regular election must occur on the date of the
614 annual meeting. Notwithstanding this sub-subparagraph, an
615 election is not required unless more candidates file notices of
616 intent to run or are nominated than board vacancies exist.

617 b. Within 90 days after being elected or appointed to the
618 board of an association of a residential condominium, each newly
619 elected or appointed director shall certify in writing to the
620 secretary of the association that he or she has read the
621 association's declaration of condominium, articles of
622 incorporation, bylaws, and current written policies; that he or
623 she will work to uphold such documents and policies to the best
624 of his or her ability; and that he or she will faithfully
625 discharge his or her fiduciary responsibility to the
626 association's members. In lieu of this written certification,
627 within 90 days after being elected or appointed to the board,
628 the newly elected or appointed director may submit a certificate
629 of having satisfactorily completed the educational curriculum
630 administered by a division-approved condominium education
631 provider within 1 year before or 90 days after the date of
632 election or appointment. The written certification or
633 educational certificate is valid and does not have to be
634 resubmitted as long as the director serves on the board without
635 interruption. A director of an association of a residential
636 condominium who fails to timely file the written certification
637 or educational certificate is suspended from service on the
638 board until he or she complies with this sub-subparagraph. The

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639 board may temporarily fill the vacancy during the period of
640 suspension. The secretary shall cause the association to retain
641 a director's written certification or educational certificate
642 for inspection by the members for 5 years after a director's
643 election or the duration of the director's uninterrupted tenure,
644 whichever is longer. Failure to have such written certification
645 or educational certificate on file does not affect the validity
646 of any board action.

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

649 5. Any approval by unit owners called for by this chapter
650 or the applicable declaration or bylaws, including, but not
651 limited to, the approval requirement in s. 718.111(8), must be
652 made at a duly noticed meeting of unit owners and is subject to
653 all requirements of this chapter or the applicable condominium
654 documents relating to unit owner decisionmaking, except that
655 unit owners may take action by written agreement, without
656 meetings, on matters for which action by written agreement
657 without meetings is expressly allowed by the applicable bylaws
658 or declaration or any law that provides for such action.

659 6. Unit owners may waive notice of specific meetings if
660 allowed by the applicable bylaws or declaration or any law.
661 Notice of meetings of the board of administration, unit owner
662 meetings, except unit owner meetings called to recall board
663 members under paragraph (j), and committee meetings may be given
664 by electronic transmission to unit owners who consent to receive
665 notice by electronic transmission. A unit owner who consents to
666 receiving notices by electronic transmission is solely
667 responsible for removing or bypassing filters that block receipt

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668 of mass e-mails ~~emails~~ sent to members on behalf of the
669 association in the course of giving electronic notices.

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

674 8. A unit owner may tape record or videotape a meeting of
675 the unit owners subject to reasonable rules adopted by the
676 division.

677 9. Unless otherwise provided in the bylaws, any vacancy
678 occurring on the board before the expiration of a term may be
679 filled by the affirmative vote of the majority of the remaining
680 directors, even if the remaining directors constitute less than
681 a quorum, or by the sole remaining director. In the alternative,
682 a board may hold an election to fill the vacancy, in which case
683 the election procedures must conform to sub-subparagraph 4.a.
684 unless the association governs 10 units or fewer and has opted
685 out of the statutory election process, in which case the bylaws
686 of the association control. Unless otherwise provided in the
687 bylaws, a board member appointed or elected under this section
688 shall fill the vacancy for the unexpired term of the seat being
689 filled. Filling vacancies created by recall is governed by
690 paragraph (j) and rules adopted by the division.

691 10. This chapter does not limit the use of general or
692 limited proxies, require the use of general or limited proxies,
693 or require the use of a written ballot or voting machine for any
694 agenda item or election at any meeting of a timeshare
695 condominium association or nonresidential condominium
696 association.

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697
698 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
699 association of 10 or fewer units may, by affirmative vote of a
700 majority of the total voting interests, provide for different
701 voting and election procedures in its bylaws, which may be by a
702 proxy specifically delineating the different voting and election
703 procedures. The different voting and election procedures may
704 provide for elections to be conducted by limited or general
705 proxy.

706 (i) Transfer fees.—An association may not ~~ne~~ charge a fee
707 ~~shall be made by the association or any body thereof in~~
708 connection with the sale, mortgage, lease, sublease, or other
709 transfer of a unit unless the association is required to approve
710 such transfer and a fee for such approval is provided for in the
711 declaration, articles, or bylaws. Any such fee may be preset,
712 but may not ~~in no event may such fee~~ exceed \$150 ~~\$100~~ per
713 applicant. For the purpose of calculating the fee, spouses or a
714 parent or parents and any dependent children ~~other than~~
715 ~~husband/wife or parent/dependent child, which~~ are considered one
716 applicant. However, if the lease or sublease is a renewal of a
717 lease or sublease with the same lessee or sublessee, a charge
718 may not ~~no charge shall~~ be made. Such fees must be adjusted
719 every 5 years in an amount equal to the total of the annual
720 increases occurring in the Consumer Price Index for All Urban
721 Consumers, U.S. City Average, All Items during that 5-year
722 period. The Department of Business and Professional Regulation
723 shall periodically calculate the fees, rounded to the nearest
724 dollar, and publish the amounts, as adjusted, on its website.
725 The foregoing notwithstanding, ~~an association may,~~ if the

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726 authority to do so appears in the declaration, articles, or
727 bylaws, an association may require that a prospective lessee
728 place a security deposit, in an amount not to exceed the
729 equivalent of 1 month's rent, into an escrow account maintained
730 by the association. The security deposit shall protect against
731 damages to the common elements or association property. Payment
732 of interest, claims against the deposit, refunds, and disputes
733 under this paragraph shall be handled in the same fashion as
734 provided in part II of chapter 83.

735 (j) *Recall of board members.*—Subject to s. 718.301, any
736 member of the board of administration may be recalled and
737 removed from office with or without cause by the vote or
738 agreement in writing by a majority of all the voting interests.
739 A special meeting of the unit owners to recall a member or
740 members of the board of administration may be called by 10
741 percent of the voting interests giving notice of the meeting as
742 required for a meeting of unit owners, and the notice shall
743 state the purpose of the meeting. Electronic transmission may
744 not be used as a method of giving notice of a meeting called in
745 whole or in part for this purpose.

746 1. If the recall is approved by a majority of all voting
747 interests by a vote at a meeting, the recall will be effective
748 as provided in this paragraph. The board shall duly notice and
749 hold a board meeting within 5 full business days after the
750 adjournment of the unit owner meeting to recall one or more
751 board members. Such member or members shall be recalled
752 effective immediately upon conclusion of the board meeting,
753 provided that the recall is facially valid. A recalled member
754 must turn over to the board, within 10 full business days after

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755 the vote, any and all records and property of the association in
756 their possession.

757 2. If the proposed recall is by an agreement in writing by
758 a majority of all voting interests, the agreement in writing or
759 a copy thereof shall be served on the association by certified
760 mail or by personal service in the manner authorized by chapter
761 48 and the Florida Rules of Civil Procedure. The board of
762 administration shall duly notice and hold a meeting of the board
763 within 5 full business days after receipt of the agreement in
764 writing. Such member or members shall be recalled effective
765 immediately upon the conclusion of the board meeting, provided
766 that the recall is facially valid. A recalled member must turn
767 over to the board, within 10 full business days, any and all
768 records and property of the association in their possession.

769 3. If the board fails to duly notice and hold a board
770 meeting within 5 full business days after service of an
771 agreement in writing or within 5 full business days after the
772 adjournment of the unit owner recall meeting, the recall is
773 ~~shall be~~ deemed effective and the board members so recalled
774 shall turn over to the board within 10 full business days after
775 the vote any and all records and property of the association.

776 4. If the board fails to duly notice and hold the required
777 meeting or at the conclusion of the meeting determines that the
778 recall is not facially valid, the unit owner representative may
779 file a petition or court action under ~~pursuant to~~ s. 718.1255
780 challenging the board's failure to act or challenging the
781 board's determination on facial validity. The petition or action
782 must be filed within 60 days after the expiration of the
783 applicable 5-full-business-day period. The review of a petition

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784 or action under this subparagraph is limited to the sufficiency
785 of service on the board and the facial validity of the written
786 agreement or ballots filed.

787 5. If a vacancy occurs on the board as a result of a recall
788 or removal and less than a majority of the board members are
789 removed, the vacancy may be filled by the affirmative vote of a
790 majority of the remaining directors, notwithstanding any
791 provision to the contrary contained in this subsection. If
792 vacancies occur on the board as a result of a recall and a
793 majority or more of the board members are removed, the vacancies
794 shall be filled in accordance with procedural rules to be
795 adopted by the division, which rules need not be consistent with
796 this subsection. The rules must provide procedures governing the
797 conduct of the recall election as well as the operation of the
798 association during the period after a recall but before the
799 recall election.

800 6. A board member who has been recalled may file a petition
801 or court action under ~~pursuant to~~ s. 718.1255 challenging the
802 validity of the recall. The petition or action must be filed
803 within 60 days after the recall. The association and the unit
804 owner representative shall be named as the respondents. The
805 petition or action may challenge the facial validity of the
806 written agreement or ballots filed or the substantial compliance
807 with the procedural requirements for the recall. If the
808 arbitrator or court determines the recall was invalid, the
809 petitioning board member shall immediately be reinstated and the
810 recall is null and void. A board member who is successful in
811 challenging a recall is entitled to recover reasonable attorney
812 fees and costs from the respondents. The arbitrator or court may

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813 award reasonable attorney fees and costs to the respondents if
814 they prevail, if the arbitrator or court makes a finding that
815 the petitioner's claim is frivolous.

816 7. The division or a court of competent jurisdiction may
817 not accept for filing a recall petition or court action, whether
818 filed under ~~pursuant to~~ subparagraph 1., subparagraph 2.,
819 subparagraph 4., or subparagraph 6., when there are 60 or fewer
820 days until the scheduled reelection of the board member sought
821 to be recalled or when 60 or fewer days have elapsed since the
822 election of the board member sought to be recalled.

823 (k) Alternative dispute resolution Arbitration.—There must
824 ~~shall~~ be a provision for alternative dispute resolution
825 ~~mandatory nonbinding arbitration~~ as provided for in s. 718.1255
826 for any residential condominium.

827 ~~(p) Service providers; conflicts of interest. An~~
828 ~~association, which is not a timeshare condominium association,~~
829 ~~may not employ or contract with any service provider that is~~
830 ~~owned or operated by a board member or with any person who has a~~
831 ~~financial relationship with a board member or officer, or a~~
832 ~~relative within the third degree of consanguinity by blood or~~
833 ~~marriage of a board member or officer. This paragraph does not~~
834 ~~apply to a service provider in which a board member or officer,~~
835 ~~or a relative within the third degree of consanguinity by blood~~
836 ~~or marriage of a board member or officer, owns less than 1~~
837 ~~percent of the equity shares.~~

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

840 718.113 Maintenance; limitation upon improvement; display
841 of flag; hurricane shutters and protection; display of religious

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842 decorations.—

843 (8) The Legislature finds that the use of electric and
844 natural gas fuel vehicles conserves and protects the state's
845 environmental resources, provides significant economic savings
846 to drivers, and serves an important public interest. The
847 participation of condominium associations is essential to the
848 state's efforts to conserve and protect the state's
849 environmental resources and provide economic savings to drivers.
850 For purposes of this subsection, the term "natural gas fuel" has
851 the same meaning as in s. 206.9951, and the term "natural gas
852 fuel vehicle" means any motor vehicle, as defined in s. 320.01,
853 that is powered by natural gas fuel. Therefore, the installation
854 of an electric vehicle charging station or a natural gas fuel
855 station shall be governed as follows:

856 (a) A declaration of condominium or restrictive covenant
857 may not prohibit or be enforced so as to prohibit any unit owner
858 from installing an electric vehicle charging station or a
859 natural gas fuel station within the boundaries of the unit
860 owner's limited common element or exclusively designated parking
861 area. The board of administration of a condominium association
862 may not prohibit a unit owner from installing an electric
863 vehicle charging station for an electric vehicle, as defined in
864 s. 320.01, or a natural gas fuel station for a natural gas fuel
865 vehicle within the boundaries of his or her limited common
866 element or exclusively designated parking area. The installation
867 of such charging or fuel stations are subject to the provisions
868 of this subsection.

869 (b) The installation may not cause irreparable damage to
870 the condominium property.

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871 (c) The electricity for the electric vehicle charging
872 station or natural gas fuel station must be separately metered
873 or metered by an embedded meter and payable by the unit owner
874 installing such charging or fuel station or by his or her
875 successor.

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

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

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

891 (g) The unit owner installing, maintaining, or removing the
892 electric vehicle charging station or natural gas fuel station is
893 responsible for complying with all federal, state, or local laws
894 and regulations applicable to such installation, maintenance, or
895 removal.

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

897 1. Comply with bona fide safety requirements, consistent
898 with applicable building codes or recognized safety standards,
899 for the protection of persons and property.

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900 2. Comply with reasonable architectural standards adopted
901 by the association that govern the dimensions, placement, or
902 external appearance of the electric vehicle charging station or
903 natural gas fuel station, provided that such standards may not
904 prohibit the installation of such charging or fuel station or
905 substantially increase the cost thereof.

906 3. Engage the services of a licensed and registered firm
907 ~~electrical contractor or engineer~~ familiar with the installation
908 or removal and core requirements of an electric vehicle charging
909 station or a natural gas fuel station.

910 4. Provide a certificate of insurance naming the
911 association as an additional insured on the owner's insurance
912 policy for any claim related to the installation, maintenance,
913 or use of the electric vehicle charging station or natural gas
914 fuel station within 14 days after receiving the association's
915 approval to install such charging or fuel station or notice to
916 provide such a certificate.

917 5. Reimburse the association for the actual cost of any
918 increased insurance premium amount attributable to the electric
919 vehicle charging station or natural gas fuel station within 14
920 days after receiving the association's insurance premium
921 invoice.

922 (i) ~~(g)~~ The association provides an implied easement across
923 the common elements of the condominium property to the unit
924 owner for purposes of ~~the installation of the~~ electric vehicle
925 charging station or natural gas fuel station installation, and
926 the furnishing of electrical power or natural gas fuel supply,
927 including any necessary equipment, to such charging or fuel
928 station, subject to the requirements of this subsection.

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929 Section 6. Subsection (16) of section 718.117, Florida
930 Statutes, is amended to read:

931 718.117 Termination of condominium.—

932 (16) RIGHT TO CONTEST.—A unit owner or lienor may contest a
933 plan of termination by initiating a petition in accordance with
934 ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~
935 within 90 days after the date the plan is recorded. A unit owner
936 or lienor may only contest the fairness and reasonableness of
937 the apportionment of the proceeds from the sale among the unit
938 owners, that the liens of the first mortgages of unit owners
939 other than the bulk owner have not or will not be satisfied to
940 the extent required by subsection (3), or that the required vote
941 to approve the plan was not obtained. A unit owner or lienor who
942 does not contest the plan within the 90-day period is barred
943 from asserting or prosecuting a claim against the association,
944 the termination trustee, any unit owner, or any successor in
945 interest to the condominium property. In an action contesting a
946 plan of termination, the person contesting the plan has the
947 burden of pleading and proving that the apportionment of the
948 proceeds from the sale among the unit owners was not fair and
949 reasonable or that the required vote was not obtained. The
950 apportionment of sale proceeds is presumed fair and reasonable
951 if it was determined pursuant to the methods prescribed in
952 subsection (12). If the petition is filed with the division for
953 arbitration, the arbitrator shall determine the rights and
954 interests of the parties in the apportionment of the sale
955 proceeds. If the arbitrator determines that the apportionment of
956 sales proceeds is not fair and reasonable, the arbitrator may
957 void the plan or may modify the plan to apportion the proceeds

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958 in a fair and reasonable manner pursuant to this section based
959 upon the proceedings and order the modified plan of termination
960 to be implemented. If the arbitrator determines that the plan
961 was not properly approved, or that the procedures to adopt the
962 plan were not properly followed, the arbitrator may void the
963 plan or grant other relief it deems just and proper. The
964 arbitrator shall automatically void the plan upon a finding that
965 any of the disclosures required in subparagraph (3)(c)5. are
966 omitted, misleading, incomplete, or inaccurate. Any challenge to
967 a plan, other than a challenge that the required vote was not
968 obtained, does not affect title to the condominium property or
969 the vesting of the condominium property in the trustee, but
970 shall only be a claim against the proceeds of the plan. In any
971 such action, the prevailing party shall recover reasonable
972 attorney fees and costs.

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

975 718.121 Liens.—

976 (2) Labor performed on or materials furnished to a unit may
977 ~~shall~~ not be the basis for the filing of a lien under ~~pursuant~~
978 ~~to~~ part I of chapter 713, the Construction Lien Law, against the
979 unit or condominium parcel of any unit owner not expressly
980 consenting to or requesting the labor or materials. Labor
981 performed on or materials furnished for the installation of a
982 natural gas fuel station or an electric electronic vehicle
983 charging station under ~~pursuant to~~ s. 718.113(8) may not be the
984 basis for filing a lien under part I of chapter 713 against the
985 association, but such a lien may be filed against the unit
986 owner. Labor performed on or materials furnished to the common

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987 elements are not the basis for a lien on the common elements,
988 but if authorized by the association, the labor or materials are
989 deemed to be performed or furnished with the express consent of
990 each unit owner and may be the basis for the filing of a lien
991 against all condominium parcels in the proportions for which the
992 owners are liable for common expenses.

993 (4) Except as otherwise provided in this chapter, no lien
994 may be filed by the association against a condominium unit until
995 30 days after the date on which a notice of intent to file a
996 lien has been delivered to the owner by registered or certified
997 mail, return receipt requested, and by first-class United States
998 mail to the owner at his or her last address as reflected in the
999 records of the association, if the address is within the United
1000 States, and delivered to the owner at the address of the unit if
1001 the owner's address as reflected in the records of the
1002 association is not the unit address. If the address reflected in
1003 the records is outside the United States, sending the notice to
1004 that address and to the unit address by first-class United
1005 States mail is sufficient. ~~Delivery of the Notice is shall be~~
1006 deemed to have been delivered ~~given~~ upon mailing as required by
1007 this subsection, provided that it is. ~~The notice must be~~ in
1008 substantially the following form:

1009
1010 NOTICE OF INTENT
1011 TO RECORD A CLAIM OF LIEN
1012

1013 RE: Unit of ... (name of association)...

1014
1015 The following amounts are currently due on your

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1016 account to ...(name of association)..., and must be
 1017 paid within 30 days after your receipt of this letter.
 1018 This letter shall serve as the association's notice of
 1019 intent to record a Claim of Lien against your property
 1020 no sooner than 30 days after your receipt of this
 1021 letter, unless you pay in full the amounts set forth
 1022 below:

1024	Maintenance due ...(dates)...	\$.....
1025	Late fee, if applicable	\$.....
1026	Interest through ...(dates)...*	\$.....
1027	Certified mail charges <u>...(dates)...</u>	\$.....
1028	Other costs	\$.....
1029	TOTAL OUTSTANDING	\$.....

1031 *Interest accrues at the rate of percent per annum.
 1032 Section 8. Section 718.1255, Florida Statutes, is amended
 1033 to read:

1034 718.1255 Alternative dispute resolution; ~~voluntary~~
 1035 mediation; ~~mandatory~~ nonbinding arbitration; legislative
 1036 findings.-

1037 (1) DEFINITIONS.-As used in this section, the term
 1038 "dispute" means any disagreement between two or more parties
 1039 that involves:

1040 (a) The authority of the board of directors, under this
 1041 chapter or association document, to:

1042 1. Require any owner to take any action, or not to take any
 1043 action, involving that owner's unit or the appurtenances
 1044 thereto.

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1045 2. Alter or add to a common area or element.

1046 (b) The failure of a governing body, when required by this
1047 chapter or an association document, to:

1048 1. Properly conduct elections.

1049 2. Give adequate notice of meetings or other actions.

1050 3. Properly conduct meetings.

1051 4. Allow inspection of books and records.

1052 (c) A plan of termination pursuant to s. 718.117.

1053
1054 "Dispute" does not include any disagreement that primarily
1055 involves: title to any unit or common element; the
1056 interpretation or enforcement of any warranty; the levy of a fee
1057 or assessment, or the collection of an assessment levied against
1058 a party; the eviction or other removal of a tenant from a unit;
1059 alleged breaches of fiduciary duty by one or more directors; or
1060 claims for damages to a unit based upon the alleged failure of
1061 the association to maintain the common elements or condominium
1062 property.

1063 (2) ~~VOLUNTARY MEDIATION.~~ Voluntary Mediation through
1064 Citizen Dispute Settlement Centers as provided for in s. 44.201
1065 is encouraged.

1066 (3) LEGISLATIVE FINDINGS.—

1067 (a) The Legislature finds that unit owners are frequently
1068 at a disadvantage when litigating against an association.
1069 Specifically, a condominium association, with its statutory
1070 assessment authority, is often more able to bear the costs and
1071 expenses of litigation than the unit owner who must rely on his
1072 or her own financial resources to satisfy the costs of
1073 litigation against the association.

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1074 (b) The Legislature finds that alternative dispute
1075 resolution has been making progress in reducing court dockets
1076 and trials and in offering a more efficient, cost-effective
1077 option to court litigation. However, the Legislature also finds
1078 that alternative dispute resolution should not be used as a
1079 mechanism to encourage the filing of frivolous or nuisance
1080 suits.

1081 (c) There exists a need to develop a flexible means of
1082 alternative dispute resolution that directs disputes to the most
1083 efficient means of resolution.

1084 (d) The high cost and significant delay of circuit court
1085 litigation faced by unit owners in the state can be alleviated
1086 by requiring nonbinding arbitration and mediation in appropriate
1087 cases, thereby reducing delay and attorney ~~attorney's~~ fees while
1088 preserving the right of either party to have its case heard by a
1089 jury, if applicable, in a court of law.

1090 (4) ~~MANDATORY~~ NONBINDING ARBITRATION AND MEDIATION OF
1091 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
1092 Mobile Homes of the Department of Business and Professional
1093 Regulation may employ full-time attorneys to act as arbitrators
1094 to conduct the arbitration hearings provided by this chapter.
1095 The division may also certify attorneys who are not employed by
1096 the division to act as arbitrators to conduct the arbitration
1097 hearings provided by this chapter. A ~~No~~ person may not be
1098 employed by the department as a full-time arbitrator unless he
1099 or she is a member in good standing of The Florida Bar. A person
1100 may only be certified by the division to act as an arbitrator if
1101 he or she has been a member in good standing of The Florida Bar
1102 for at least 5 years and has mediated or arbitrated at least 10

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1103 disputes involving condominiums in this state during the 3 years
1104 immediately preceding the date of application, mediated or
1105 arbitrated at least 30 disputes in any subject area in this
1106 state during the 3 years immediately preceding the date of
1107 application, or attained board certification in real estate law
1108 or condominium and planned development law from The Florida Bar.
1109 Arbitrator certification is valid for 1 year. An arbitrator who
1110 does not maintain the minimum qualifications for initial
1111 certification may not have his or her certification renewed. The
1112 department may not enter into a legal services contract for an
1113 arbitration hearing under this chapter with an attorney who is
1114 not a certified arbitrator unless a certified arbitrator is not
1115 available within 50 miles of the dispute. The department shall
1116 adopt rules of procedure to govern such arbitration hearings
1117 including mediation incident thereto. The decision of an
1118 arbitrator is ~~shall be~~ final; however, a decision is ~~shall~~ not
1119 ~~be~~ deemed final agency action. Nothing in this provision shall
1120 be construed to foreclose parties from proceeding in a trial de
1121 novo unless the parties have agreed that the arbitration is
1122 binding. If judicial proceedings are initiated, the final
1123 decision of the arbitrator is ~~shall be~~ admissible in evidence in
1124 the trial de novo.

1125 (a) Before ~~Prior to~~ the institution of court litigation, a
1126 party to a dispute, other than an election or recall dispute,
1127 shall either petition the division for nonbinding arbitration or
1128 initiate presuit mediation as provided in subsection (5).
1129 Arbitration is binding on the parties if all parties in
1130 arbitration agree to be bound in a writing filed in arbitration.
1131 The petition must be accompanied by a filing fee in the amount

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1132 of \$50. Filing fees collected under this section must be used to
1133 defray the expenses of the alternative dispute resolution
1134 program.

1135 (b) The petition must recite, and have attached thereto,
1136 supporting proof that the petitioner gave the respondents:

1137 1. Advance written notice of the specific nature of the
1138 dispute;

1139 2. A demand for relief, and a reasonable opportunity to
1140 comply or to provide the relief; and

1141 3. Notice of the intention to file an arbitration petition
1142 or other legal action in the absence of a resolution of the
1143 dispute.

1144
1145 Failure to include the allegations or proof of compliance with
1146 these prerequisites requires dismissal of the petition without
1147 prejudice.

1148 (c) Upon receipt, the petition shall be promptly reviewed
1149 by the division to determine the existence of a dispute and
1150 compliance with the requirements of paragraphs (a) and (b). If
1151 emergency relief is required and is not available through
1152 arbitration, a motion to stay the arbitration may be filed. The
1153 motion must be accompanied by a verified petition alleging facts
1154 that, if proven, would support entry of a temporary injunction,
1155 and if an appropriate motion and supporting papers are filed,
1156 the division may abate the arbitration pending a court hearing
1157 and disposition of a motion for temporary injunction.

1158 (d) Upon determination by the division that a dispute
1159 exists and that the petition substantially meets the
1160 requirements of paragraphs (a) and (b) and any other applicable

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1161 rules, the division shall assign or enter into a contract with
1162 an arbitrator and serve a copy of the petition upon all
1163 respondents. The arbitrator shall conduct a hearing within 30
1164 days after being assigned or entering into a contract unless the
1165 petition is withdrawn or a continuance is granted for good cause
1166 shown.

1167 (e) Before or after the filing of the respondents' answer
1168 to the petition, any party may request that the arbitrator refer
1169 the case to mediation under this section and any rules adopted
1170 by the division. Upon receipt of a request for mediation, the
1171 division shall promptly contact the parties to determine if
1172 there is agreement that mediation would be appropriate. If all
1173 parties agree, the dispute must be referred to mediation.
1174 Notwithstanding a lack of an agreement by all parties, the
1175 arbitrator may refer a dispute to mediation at any time.

1176 (f) Upon referral of a case to mediation, the parties must
1177 select a mutually acceptable mediator. To assist in the
1178 selection, the arbitrator shall provide the parties with a list
1179 of both volunteer and paid mediators that have been certified by
1180 the division under s. 718.501. If the parties are unable to
1181 agree on a mediator within the time allowed by the arbitrator,
1182 the arbitrator shall appoint a mediator from the list of
1183 certified mediators. If a case is referred to mediation, the
1184 parties shall attend a mediation conference, as scheduled by the
1185 parties and the mediator. If any party fails to attend a duly
1186 noticed mediation conference, without the permission or approval
1187 of the arbitrator or mediator, the arbitrator must impose
1188 sanctions against the party, including the striking of any
1189 pleadings filed, the entry of an order of dismissal or default

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1190 if appropriate, and the award of costs and attorney fees
1191 incurred by the other parties. Unless otherwise agreed to by the
1192 parties or as provided by order of the arbitrator, a party is
1193 deemed to have appeared at a mediation conference by the
1194 physical presence of the party or its representative having full
1195 authority to settle without further consultation, provided that
1196 an association may comply by having one or more representatives
1197 present with full authority to negotiate a settlement and
1198 recommend that the board of administration ratify and approve
1199 such a settlement within 5 days from the date of the mediation
1200 conference. The parties shall share equally the expense of
1201 mediation, unless they agree otherwise.

1202 (g) The purpose of mediation as provided for by this
1203 section is to present the parties with an opportunity to resolve
1204 the underlying dispute in good faith, and with a minimum
1205 expenditure of time and resources.

1206 (h) Mediation proceedings must generally be conducted in
1207 accordance with the Florida Rules of Civil Procedure, and these
1208 proceedings are privileged and confidential to the same extent
1209 as court-ordered mediation. Persons who are not parties to the
1210 dispute are not allowed to attend the mediation conference
1211 without the consent of all parties, with the exception of
1212 counsel for the parties and corporate representatives designated
1213 to appear for a party. If the mediator declares an impasse after
1214 a mediation conference has been held, the arbitration proceeding
1215 terminates, unless all parties agree in writing to continue the
1216 arbitration proceeding, in which case the arbitrator's decision
1217 shall be binding or nonbinding, as agreed upon by the parties;
1218 in the arbitration proceeding, the arbitrator shall not consider

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1219 any evidence relating to the unsuccessful mediation except in a
1220 proceeding to impose sanctions for failure to appear at the
1221 mediation conference. If the parties do not agree to continue
1222 arbitration, the arbitrator shall enter an order of dismissal,
1223 and either party may institute a suit in a court of competent
1224 jurisdiction. The parties may seek to recover any costs and
1225 attorney fees incurred in connection with arbitration and
1226 mediation proceedings under this section as part of the costs
1227 and fees that may be recovered by the prevailing party in any
1228 subsequent litigation.

1229 (i) Arbitration shall be conducted according to rules
1230 adopted by the division. The filing of a petition for
1231 arbitration shall toll the applicable statute of limitations.

1232 (j) At the request of any party to the arbitration, the
1233 arbitrator shall issue subpoenas for the attendance of witnesses
1234 and the production of books, records, documents, and other
1235 evidence and any party on whose behalf a subpoena is issued may
1236 apply to the court for orders compelling such attendance and
1237 production. Subpoenas shall be served and shall be enforceable
1238 in the manner provided by the Florida Rules of Civil Procedure.
1239 Discovery may, in the discretion of the arbitrator, be permitted
1240 in the manner provided by the Florida Rules of Civil Procedure.
1241 Rules adopted by the division may authorize any reasonable
1242 sanctions except contempt for a violation of the arbitration
1243 procedural rules of the division or for the failure of a party
1244 to comply with a reasonable nonfinal order issued by an
1245 arbitrator which is not under judicial review.

1246 (k) The arbitration decision shall be rendered within 30
1247 days after the hearing and presented to the parties in writing.

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1248 An arbitration decision is final in those disputes in which the
1249 parties have agreed to be bound. An arbitration decision is also
1250 final if a complaint for a trial de novo is not filed in a court
1251 of competent jurisdiction in which the condominium is located
1252 within 30 days. The right to file for a trial de novo entitles
1253 the parties to file a complaint in the appropriate trial court
1254 for a judicial resolution of the dispute. The prevailing party
1255 in an arbitration proceeding shall be awarded the costs of the
1256 arbitration and reasonable attorney fees in an amount determined
1257 by the arbitrator. Such an award shall include the costs and
1258 reasonable attorney fees incurred in the arbitration proceeding
1259 as well as the costs and reasonable attorney fees incurred in
1260 preparing for and attending any scheduled mediation. An
1261 arbitrator's failure to render a written decision within 30 days
1262 after the hearing may result in the cancellation of his or her
1263 arbitration certification.

1264 (1) The party who files a complaint for a trial de novo
1265 shall be assessed the other party's arbitration costs, court
1266 costs, and other reasonable costs, including attorney fees,
1267 investigation expenses, and expenses for expert or other
1268 testimony or evidence incurred after the arbitration hearing if
1269 the judgment upon the trial de novo is not more favorable than
1270 the arbitration decision. If the judgment is more favorable, the
1271 party who filed a complaint for trial de novo shall be awarded
1272 reasonable court costs and attorney fees.

1273 (m) Any party to an arbitration proceeding may enforce an
1274 arbitration award by filing a petition in a court of competent
1275 jurisdiction in which the condominium is located. A petition may
1276 not be granted unless the time for appeal by the filing of a

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1277 complaint for trial de novo has expired. If a complaint for a
1278 trial de novo has been filed, a petition may not be granted with
1279 respect to an arbitration award that has been stayed. If the
1280 petition for enforcement is granted, the petitioner shall
1281 recover reasonable attorney fees and costs incurred in enforcing
1282 the arbitration award. A mediation settlement may also be
1283 enforced through the county or circuit court, as applicable, and
1284 any costs and fees incurred in the enforcement of a settlement
1285 agreement reached at mediation must be awarded to the prevailing
1286 party in any enforcement action.

1287 (5) PRESUIT MEDIATION.—In lieu of the initiation of
1288 nonbinding arbitration as provided in subsections (1)-(4), a
1289 party may submit a dispute to presuit mediation in accordance
1290 with s. 720.311; however, election and recall disputes are not
1291 eligible for mediation and such disputes must be arbitrated by
1292 the division or filed in a court of competent jurisdiction.

1293 (6) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every
1294 arbitration petition received by the division and required to be
1295 filed under this section challenging the legality of the
1296 election of any director of the board of administration must be
1297 handled on an expedited basis in the manner provided by the
1298 division's rules for recall arbitration disputes.

1299 (7) ~~(6)~~ APPLICABILITY.—This section does not apply to a
1300 nonresidential condominium unless otherwise specifically
1301 provided for in the declaration of the nonresidential
1302 condominium.

1303 Section 9. Section 718.1265, Florida Statutes, is amended
1304 to read:

1305 718.1265 Association emergency powers.—

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1306 (1) To the extent allowed by law, ~~and~~ unless specifically
1307 prohibited by the declaration of condominium, the articles, or
1308 the bylaws of an association, and consistent with ~~the provisions~~
1309 ~~of~~ s. 617.0830, the board of administration, in response to
1310 damage or injury caused by or anticipated in connection with an
1311 emergency, as defined in s. 252.34(4), ~~event~~ for which a state
1312 of emergency is declared pursuant to s. 252.36 in the locale in
1313 which the condominium is located, ~~may, but is not required to,~~
1314 exercise the following powers:

1315 (a) Conduct board meetings, committee meetings, elections,
1316 and membership meetings, in whole or in part, by telephone,
1317 real-time videoconferencing, or similar real-time electronic or
1318 video communication with notice given as is practicable. Such
1319 notice may be given in any practicable manner, including
1320 publication, radio, United States mail, the Internet, electronic
1321 transmission, public service announcements, and conspicuous
1322 posting on the condominium property or association property or
1323 any other means the board deems reasonable under the
1324 circumstances. Notice of ~~board~~ decisions also may be
1325 communicated as provided in this paragraph.

1326 (b) Cancel and reschedule any association meeting.

1327 (c) Name as assistant officers persons who are not
1328 directors, which assistant officers shall have the same
1329 authority as the executive officers to whom they are assistants
1330 during the state of emergency to accommodate the incapacity or
1331 unavailability of any officer of the association.

1332 (d) Relocate the association's principal office or
1333 designate alternative principal offices.

1334 (e) Enter into agreements with local counties and

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1335 municipalities to assist counties and municipalities with debris
1336 removal.

1337 (f) Implement a disaster plan or an emergency plan before,
1338 during, or ~~immediately~~ following the event for which a state of
1339 emergency is declared which may include, but is not limited to,
1340 shutting down or off elevators; electricity; water, sewer, or
1341 security systems; or air conditioners.

1342 (g) Based upon advice of emergency management officials or
1343 public health officials, or upon the advice of licensed
1344 professionals retained by or otherwise available to the board,
1345 determine any portion of the condominium property or association
1346 property unavailable for entry or occupancy by unit owners,
1347 family members, tenants, guests, agents, or invitees to protect
1348 the health, safety, or welfare of such persons.

1349 (h) Require the evacuation of the condominium property in
1350 the event of a mandatory evacuation order in the locale in which
1351 the condominium is located. Should any unit owner or other
1352 occupant of a condominium fail or refuse to evacuate the
1353 condominium property or association property where the board has
1354 required evacuation, the association shall be immune from
1355 liability or injury to persons or property arising from such
1356 failure or refusal.

1357 (i) Based upon advice of emergency management officials or
1358 public health officials, or upon the advice of licensed
1359 professionals retained by or otherwise available to the board,
1360 determine whether the condominium property, association
1361 property, or any portion thereof can be safely inhabited,
1362 accessed, or occupied. However, such determination is not
1363 conclusive as to any determination of habitability pursuant to

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1364 the declaration.

1365 (j) Mitigate further damage, injury, or contagion,
1366 including taking action to contract for the removal of debris
1367 and to prevent or mitigate the spread of fungus or contagion,
1368 including, but not limited to, mold or mildew, by removing and
1369 disposing of wet drywall, insulation, carpet, cabinetry, or
1370 other fixtures on or within the condominium property, even if
1371 the unit owner is obligated by the declaration or law to insure
1372 or replace those fixtures and to remove personal property from a
1373 unit.

1374 (k) Contract, on behalf of any unit owner or owners, for
1375 items or services for which the owners are otherwise
1376 individually responsible, but which are necessary to prevent
1377 further injury, contagion, or damage to the condominium property
1378 or association property. In such event, the unit owner or owners
1379 on whose behalf the board has contracted are responsible for
1380 reimbursing the association for the actual costs of the items or
1381 services, and the association may use its lien authority
1382 provided by s. 718.116 to enforce collection of the charges.
1383 Without limitation, such items or services may include the
1384 drying of units, the boarding of broken windows or doors, ~~and~~
1385 the replacement of damaged air conditioners or air handlers to
1386 provide climate control in the units or other portions of the
1387 property, and the sanitizing of the condominium property or
1388 association property, as applicable.

1389 (l) Regardless of any provision to the contrary and even if
1390 such authority does not specifically appear in the declaration
1391 of condominium, articles, or bylaws of the association, levy
1392 special assessments without a vote of the owners.

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1393 (m) Without unit owners' approval, borrow money and pledge
1394 association assets as collateral to fund emergency repairs and
1395 carry out the duties of the association when operating funds are
1396 insufficient. This paragraph does not limit the general
1397 authority of the association to borrow money, subject to such
1398 restrictions as are contained in the declaration of condominium,
1399 articles, or bylaws of the association.

1400 (2) The special powers authorized under subsection (1)
1401 shall be limited to that time reasonably necessary to protect
1402 the health, safety, and welfare of the association and the unit
1403 owners and the unit owners' family members, tenants, guests,
1404 agents, or invitees and shall be reasonably necessary to
1405 mitigate further damage, injury, or contagion and make emergency
1406 repairs.

1407 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
1408 of emergency declared by executive order or proclamation of the
1409 Governor pursuant to s. 252.36, an association may not prohibit
1410 unit owners, tenants, guests, agents, or invitees of a unit
1411 owner from accessing the unit and the common elements and
1412 limited common elements appurtenant thereto for the purposes of
1413 ingress to and egress from the unit and when access is necessary
1414 in connection with:

1415 (a) The sale, lease, or other transfer of title of a unit;

1416 or

1417 (b) The habitability of the unit or for the health and
1418 safety of such person unless a governmental order or
1419 determination, or a public health directive from the Centers for
1420 Disease Control and Prevention, has been issued prohibiting such
1421 access to the unit. Any such access is subject to reasonable

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1422 restrictions adopted by the association.

1423 Section 10. Subsection (3) of section 718.202, Florida
1424 Statutes, is amended to read:

1425 718.202 Sales or reservation deposits prior to closing.—

1426 (3) If the contract for sale of the condominium unit so
1427 provides, the developer may withdraw escrow funds in excess of
1428 10 percent of the purchase price from the special account
1429 required by subsection (2) when the construction of improvements
1430 has begun. He or she may use the funds for the actual costs
1431 incurred by the developer in the ~~actual~~ construction and
1432 development of the condominium property in which the unit to be
1433 sold is located. For purposes of this subsection, the term
1434 “actual costs” includes, but is not limited to, expenditures for
1435 demolition, site clearing, permit fees, impact fees, and utility
1436 reservation fees, as well as architectural, engineering, and
1437 surveying fees that directly relate to construction and
1438 development of the condominium property. However, no part of
1439 these funds may be used for salaries, commissions, or expenses
1440 of salespersons; ~~or~~ for advertising, marketing, or promotional
1441 purposes; or for loan fees and costs, principal and interest on
1442 loans, attorney fees, accounting fees, or insurance costs. A
1443 contract which permits use of the advance payments for these
1444 purposes shall include the following legend conspicuously
1445 printed or stamped in boldfaced type on the first page of the
1446 contract and immediately above the place for the signature of
1447 the buyer: ANY PAYMENT IN EXCESS OF 10 PERCENT OF THE PURCHASE
1448 PRICE MADE TO DEVELOPER PRIOR TO CLOSING PURSUANT TO THIS
1449 CONTRACT MAY BE USED FOR CONSTRUCTION PURPOSES BY THE DEVELOPER.
1450 Section 11. Subsection (1) and paragraph (b) of subsection

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1451 (3) of section 718.303, Florida Statutes, are amended to read:

1452 718.303 Obligations of owners and occupants; remedies.—

1453 (1) Each unit owner, ~~each~~ tenant and other invitee, and
1454 ~~each~~ association is governed by, and must comply with the
1455 provisions of, this chapter, the declaration, the documents
1456 creating the association, and the association bylaws which are
1457 ~~shall be deemed~~ expressly incorporated into any lease of a unit.
1458 Actions at law or in equity ~~for damages or for injunctive~~
1459 ~~relief~~, or both, for failure to comply with these provisions may
1460 be brought by the association or by a unit owner against:

1461 (a) The association.

1462 (b) A unit owner.

1463 (c) Directors designated by the developer, for actions
1464 taken by them before control of the association is assumed by
1465 unit owners other than the developer.

1466 (d) Any director who willfully and knowingly fails to
1467 comply with these provisions.

1468 (e) Any tenant leasing a unit, and any other invitee
1469 occupying a unit.

1470

1471 The prevailing party in any such action or in any action in
1472 which the purchaser claims a right of voidability based upon
1473 contractual provisions as required in s. 718.503(1)(a) is
1474 entitled to recover reasonable attorney ~~attorney's~~ fees. A unit
1475 owner prevailing in an action between the association and the
1476 unit owner under this subsection ~~section~~, in addition to
1477 recovering his or her reasonable attorney ~~attorney's~~ fees, may
1478 recover additional amounts as determined by the court to be
1479 necessary to reimburse the unit owner for his or her share of

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1480 assessments levied by the association to fund its expenses of
1481 the litigation. This relief does not exclude other remedies
1482 provided by law. Actions arising under this subsection are not
1483 considered ~~may not be deemed to be~~ actions for specific
1484 performance.

1485 (3) The association may levy reasonable fines for the
1486 failure of the owner of the unit or its occupant, licensee, or
1487 invitee to comply with any provision of the declaration, the
1488 association bylaws, or reasonable rules of the association. A
1489 fine may not become a lien against a unit. A fine may be levied
1490 by the board on the basis of each day of a continuing violation,
1491 with a single notice and opportunity for hearing before a
1492 committee as provided in paragraph (b). However, the fine may
1493 not exceed \$100 per violation, or \$1,000 in the aggregate.

1494 (b) A fine or suspension levied by the board of
1495 administration may not be imposed unless the board first
1496 provides at least 14 days' written notice to the unit owner and,
1497 if applicable, any tenant ~~occupant~~, licensee, or invitee of the
1498 unit owner sought to be fined or suspended, and an opportunity
1499 for a hearing before a committee of at least three members
1500 appointed by the board who are not officers, directors, or
1501 employees of the association, or the spouse, parent, child,
1502 brother, or sister of an officer, director, or employee. The
1503 role of the committee is limited to determining whether to
1504 confirm or reject the fine or suspension levied by the board. If
1505 the committee does not approve the proposed fine or suspension
1506 by majority vote, the fine or suspension may not be imposed. If
1507 the proposed fine or suspension is approved by the committee,
1508 the fine payment is due 5 days after notice of the approved fine

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1509 is provided to the unit owner and, if applicable, to any tenant,
1510 licensee, or invitee of the unit owner ~~the date of the committee~~
1511 ~~meeting at which the fine is approved.~~ The association must
1512 provide written notice of such fine or suspension by mail or
1513 hand delivery to the unit owner and, if applicable, to any
1514 tenant, licensee, or invitee of the unit owner.

1515 Section 12. Subsection (5) is added to section 718.405,
1516 Florida Statutes, to read:

1517 718.405 Multicondominiums; multicondominium associations.—

1518 (5) This section does not prevent or restrict a
1519 multicondominium association from adopting a consolidated or
1520 combined declaration of condominium if such declaration complies
1521 with s. 718.104 and does not serve to merge the condominiums or
1522 change the legal descriptions of the condominium parcels as set
1523 forth in s. 718.109, unless accomplished in accordance with law.
1524 This section is intended to clarify existing law and applies to
1525 associations existing on July 1, 2021.

1526 Section 13. Section 718.501, Florida Statutes, is amended
1527 to read:

1528 718.501 Authority, responsibility, and duties of Division
1529 of Florida Condominiums, Timeshares, and Mobile Homes.—

1530 (1) The division may enforce and ensure compliance with ~~the~~
1531 ~~provisions of~~ this chapter and rules relating to the
1532 development, construction, sale, lease, ownership, operation,
1533 and management of residential condominium units. In performing
1534 its duties, the division has complete jurisdiction to
1535 investigate complaints and enforce compliance with respect to
1536 associations that are still under developer control or the
1537 control of a bulk assignee or bulk buyer pursuant to part VII of

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1538 this chapter and complaints against developers, bulk assignees,
1539 or bulk buyers involving improper turnover or failure to
1540 turnover, pursuant to s. 718.301. However, after turnover has
1541 occurred, the division has jurisdiction to investigate
1542 complaints related only to financial issues, elections, and the
1543 maintenance of and unit owner access to association records
1544 under ~~pursuant to~~ s. 718.111(12).

1545 (a)1. The division may make necessary public or private
1546 investigations within or outside this state to determine whether
1547 any person has violated this chapter or any rule or order
1548 hereunder, to aid in the enforcement of this chapter, or to aid
1549 in the adoption of rules or forms.

1550 2. The division may submit any official written report,
1551 worksheet, or other related paper, or a duly certified copy
1552 thereof, compiled, prepared, drafted, or otherwise made by and
1553 duly authenticated by a financial examiner or analyst to be
1554 admitted as competent evidence in any hearing in which the
1555 financial examiner or analyst is available for cross-examination
1556 and attests under oath that such documents were prepared as a
1557 result of an examination or inspection conducted pursuant to
1558 this chapter.

1559 (b) The division may require or permit any person to file a
1560 statement in writing, under oath or otherwise, as the division
1561 determines, as to the facts and circumstances concerning a
1562 matter to be investigated.

1563 (c) For the purpose of any investigation under this
1564 chapter, the division director or any officer or employee
1565 designated by the division director may administer oaths or
1566 affirmations, subpoena witnesses and compel their attendance,

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1567 take evidence, and require the production of any matter which is
1568 relevant to the investigation, including the existence,
1569 description, nature, custody, condition, and location of any
1570 books, documents, or other tangible things and the identity and
1571 location of persons having knowledge of relevant facts or any
1572 other matter reasonably calculated to lead to the discovery of
1573 material evidence. Upon the failure by a person to obey a
1574 subpoena or to answer questions propounded by the investigating
1575 officer and upon reasonable notice to all affected persons, the
1576 division may apply to the circuit court for an order compelling
1577 compliance.

1578 (d) Notwithstanding any remedies available to unit owners
1579 and associations, if the division has reasonable cause to
1580 believe that a violation of any provision of this chapter or
1581 related rule has occurred, the division may institute
1582 enforcement proceedings in its own name against any developer,
1583 bulk assignee, bulk buyer, association, officer, or member of
1584 the board of administration, or its assignees or agents, as
1585 follows:

1586 1. The division may permit a person whose conduct or
1587 actions may be under investigation to waive formal proceedings
1588 and enter into a consent proceeding whereby orders, rules, or
1589 letters of censure or warning, whether formal or informal, may
1590 be entered against the person.

1591 2. The division may issue an order requiring the developer,
1592 bulk assignee, bulk buyer, association, developer-designated
1593 officer, or developer-designated member of the board of
1594 administration, developer-designated assignees or agents, bulk
1595 assignee-designated assignees or agents, bulk buyer-designated

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1596 assignees or agents, community association manager, or community
1597 association management firm to cease and desist from the
1598 unlawful practice and take such affirmative action as in the
1599 judgment of the division carry out the purposes of this chapter.
1600 If the division finds that a developer, bulk assignee, bulk
1601 buyer, association, officer, or member of the board of
1602 administration, or its assignees or agents, is violating or is
1603 about to violate any provision of this chapter, any rule adopted
1604 or order issued by the division, or any written agreement
1605 entered into with the division, and presents an immediate danger
1606 to the public requiring an immediate final order, it may issue
1607 an emergency cease and desist order reciting with particularity
1608 the facts underlying such findings. The emergency cease and
1609 desist order is effective for 90 days. If the division begins
1610 nonemergency cease and desist proceedings, the emergency cease
1611 and desist order remains effective until the conclusion of the
1612 proceedings under ss. 120.569 and 120.57.

1613 3. If a developer, bulk assignee, or bulk buyer, fails to
1614 pay any restitution determined by the division to be owed, plus
1615 any accrued interest at the highest rate permitted by law,
1616 within 30 days after expiration of any appellate time period of
1617 a final order requiring payment of restitution or the conclusion
1618 of any appeal thereof, whichever is later, the division must
1619 bring an action in circuit or county court on behalf of any
1620 association, class of unit owners, lessees, or purchasers for
1621 restitution, declaratory relief, injunctive relief, or any other
1622 available remedy. The division may also temporarily revoke its
1623 acceptance of the filing for the developer to which the
1624 restitution relates until payment of restitution is made.

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1625 4. The division may petition the court for appointment of a
1626 receiver or conservator. If appointed, the receiver or
1627 conservator may take action to implement the court order to
1628 ensure the performance of the order and to remedy any breach
1629 thereof. In addition to all other means provided by law for the
1630 enforcement of an injunction or temporary restraining order, the
1631 circuit court may impound or sequester the property of a party
1632 defendant, including books, papers, documents, and related
1633 records, and allow the examination and use of the property by
1634 the division and a court-appointed receiver or conservator.

1635 5. The division may apply to the circuit court for an order
1636 of restitution whereby the defendant in an action brought under
1637 ~~pursuant to~~ subparagraph 4. is ordered to make restitution of
1638 those sums shown by the division to have been obtained by the
1639 defendant in violation of this chapter. At the option of the
1640 court, such restitution is payable to the conservator or
1641 receiver appointed under ~~pursuant to~~ subparagraph 4. or directly
1642 to the persons whose funds or assets were obtained in violation
1643 of this chapter.

1644 6. The division may impose a civil penalty against a
1645 developer, bulk assignee, or bulk buyer, or association, or its
1646 assignee or agent, for any violation of this chapter or related
1647 rule. The division may impose a civil penalty individually
1648 against an officer or board member who willfully and knowingly
1649 violates ~~a provision of~~ this chapter, adopted rule, or a final
1650 order of the division; may order the removal of such individual
1651 as an officer or from the board of administration or as an
1652 officer of the association; and may prohibit such individual
1653 from serving as an officer or on the board of a community

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1654 association for a period of time. The term "willfully and
1655 knowingly" means that the division informed the officer or board
1656 member that his or her action or intended action violates this
1657 chapter, a rule adopted under this chapter, or a final order of
1658 the division and that the officer or board member refused to
1659 comply with the requirements of this chapter, a rule adopted
1660 under this chapter, or a final order of the division. The
1661 division, before initiating formal agency action under chapter
1662 120, must afford the officer or board member an opportunity to
1663 voluntarily comply, and an officer or board member who complies
1664 within 10 days is not subject to a civil penalty. A penalty may
1665 be imposed on the basis of each day of continuing violation, but
1666 the penalty for any offense may not exceed \$5,000. ~~By January 1,~~
1667 ~~1998,~~ The division shall adopt, by rule, penalty guidelines
1668 applicable to possible violations or to categories of violations
1669 of this chapter or rules adopted by the division. The guidelines
1670 must specify a meaningful range of civil penalties for each such
1671 violation of the statute and rules and must be based upon the
1672 harm caused by the violation, the repetition of the violation,
1673 and upon such other factors deemed relevant by the division. For
1674 example, the division may consider whether the violations were
1675 committed by a developer, bulk assignee, or bulk buyer, or
1676 owner-controlled association, the size of the association, and
1677 other factors. The guidelines must designate the possible
1678 mitigating or aggravating circumstances that justify a departure
1679 from the range of penalties provided by the rules. It is the
1680 legislative intent that minor violations be distinguished from
1681 those which endanger the health, safety, or welfare of the
1682 condominium residents or other persons and that such guidelines

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1683 provide reasonable and meaningful notice to the public of likely
1684 penalties that may be imposed for proscribed conduct. This
1685 subsection does not limit the ability of the division to
1686 informally dispose of administrative actions or complaints by
1687 stipulation, agreed settlement, or consent order. All amounts
1688 collected shall be deposited with the Chief Financial Officer to
1689 the credit of the Division of Florida Condominiums, Timeshares,
1690 and Mobile Homes Trust Fund. If a developer, bulk assignee, or
1691 bulk buyer fails to pay the civil penalty and the amount deemed
1692 to be owed to the association, the division shall issue an order
1693 directing that such developer, bulk assignee, or bulk buyer
1694 cease and desist from further operation until such time as the
1695 civil penalty is paid or may pursue enforcement of the penalty
1696 in a court of competent jurisdiction. If an association fails to
1697 pay the civil penalty, the division shall pursue enforcement in
1698 a court of competent jurisdiction, and the order imposing the
1699 civil penalty or the cease and desist order is not effective
1700 until 20 days after the date of such order. Any action commenced
1701 by the division shall be brought in the county in which the
1702 division has its executive offices or in the county where the
1703 violation occurred.

1704 7. If a unit owner presents the division with proof that
1705 the unit owner has requested access to official records in
1706 writing by certified mail, and that after 10 days the unit owner
1707 again made the same request for access to official records in
1708 writing by certified mail, and that more than 10 days has
1709 elapsed since the second request and the association has still
1710 failed or refused to provide access to official records as
1711 required by this chapter, the division shall issue a subpoena

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1712 requiring production of the requested records where the records
1713 are kept pursuant to s. 718.112.

1714 8. In addition to subparagraph 6., the division may seek
1715 the imposition of a civil penalty through the circuit court for
1716 any violation for which the division may issue a notice to show
1717 cause under paragraph (r). The civil penalty shall be at least
1718 \$500 but no more than \$5,000 for each violation. The court may
1719 also award to the prevailing party court costs and reasonable
1720 attorney ~~attorney's~~ fees and, if the division prevails, may also
1721 award reasonable costs of investigation.

1722 (e) The division may prepare and disseminate a prospectus
1723 and other information to assist prospective owners, purchasers,
1724 lessees, and developers of residential condominiums in assessing
1725 the rights, privileges, and duties pertaining thereto.

1726 (f) The division may adopt rules to administer and enforce
1727 ~~the provisions of~~ this chapter.

1728 (g) The division shall establish procedures for providing
1729 notice to an association and the developer, bulk assignee, or
1730 bulk buyer during the period in which the developer, bulk
1731 assignee, or bulk buyer controls the association if the division
1732 is considering the issuance of a declaratory statement with
1733 respect to the declaration of condominium or any related
1734 document governing such condominium community.

1735 (h) The division shall furnish each association that pays
1736 the fees required by paragraph (2) (a) a copy of this chapter, as
1737 amended, and the rules adopted thereto on an annual basis.

1738 (i) The division shall annually provide each association
1739 with a summary of declaratory statements and formal legal
1740 opinions relating to the operations of condominiums which were

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1741 rendered by the division during the previous year.

1742 (j) The division shall provide training and educational
1743 programs for condominium association board members and unit
1744 owners. The training may, in the division's discretion, include
1745 web-based electronic media, and live training and seminars in
1746 various locations throughout the state. The division may review
1747 and approve education and training programs for board members
1748 and unit owners offered by providers and shall maintain a
1749 current list of approved programs and providers and make such
1750 list available to board members and unit owners in a reasonable
1751 and cost-effective manner.

1752 (k) The division shall maintain a toll-free telephone
1753 number accessible to condominium unit owners.

1754 (l) The division shall develop a program to certify both
1755 volunteer and paid mediators to provide mediation of condominium
1756 disputes. The division shall provide, upon request, a list of
1757 such mediators to any association, unit owner, or other
1758 participant in alternative dispute resolution ~~arbitration~~
1759 proceedings under s. 718.1255 requesting a copy of the list. The
1760 division shall include on the list of volunteer mediators only
1761 the names of persons who have received at least 20 hours of
1762 training in mediation techniques or who have mediated at least
1763 20 disputes. In order to become initially certified by the
1764 division, paid mediators must be certified by the Supreme Court
1765 to mediate court cases in county or circuit courts. However, the
1766 division may adopt, by rule, additional factors for the
1767 certification of paid mediators, which must be related to
1768 experience, education, or background. Any person initially
1769 certified as a paid mediator by the division must, in order to

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1770 continue to be certified, comply with the factors or
1771 requirements adopted by rule.

1772 (m) If a complaint is made, the division must conduct its
1773 inquiry with due regard for the interests of the affected
1774 parties. Within 30 days after receipt of a complaint, the
1775 division shall acknowledge the complaint in writing and notify
1776 the complainant whether the complaint is within the jurisdiction
1777 of the division and whether additional information is needed by
1778 the division from the complainant. The division shall conduct
1779 its investigation and, within 90 days after receipt of the
1780 original complaint or of timely requested additional
1781 information, take action upon the complaint. However, the
1782 failure to complete the investigation within 90 days does not
1783 prevent the division from continuing the investigation,
1784 accepting or considering evidence obtained or received after 90
1785 days, or taking administrative action if reasonable cause exists
1786 to believe that a violation of this chapter or a rule has
1787 occurred. If an investigation is not completed within the time
1788 limits established in this paragraph, the division shall, on a
1789 monthly basis, notify the complainant in writing of the status
1790 of the investigation. When reporting its action to the
1791 complainant, the division shall inform the complainant of any
1792 right to a hearing under ~~pursuant to~~ ss. 120.569 and 120.57.

1793 (n) Condominium association directors, officers, and
1794 employees; condominium developers; bulk assignees, bulk buyers,
1795 and community association managers; and community association
1796 management firms have an ongoing duty to reasonably cooperate
1797 with the division in any investigation under ~~pursuant to~~ this
1798 section. The division shall refer to local law enforcement

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1799 authorities any person whom the division believes has altered,
1800 destroyed, concealed, or removed any record, document, or thing
1801 required to be kept or maintained by this chapter with the
1802 purpose to impair its verity or availability in the department's
1803 investigation.

1804 (o) The division may:

- 1805 1. Contract with agencies in this state or other
1806 jurisdictions to perform investigative functions; or
1807 2. Accept grants-in-aid from any source.

1808 (p) The division shall cooperate with similar agencies in
1809 other jurisdictions to establish uniform filing procedures and
1810 forms, public offering statements, advertising standards, and
1811 rules and common administrative practices.

1812 (q) The division shall consider notice to a developer, bulk
1813 assignee, or bulk buyer to be complete when it is delivered to
1814 the address of the developer, bulk assignee, or bulk buyer
1815 currently on file with the division.

1816 (r) In addition to its enforcement authority, the division
1817 may issue a notice to show cause, which must provide for a
1818 hearing, upon written request, in accordance with chapter 120.

1819 (s) The division shall submit to the Governor, the
1820 President of the Senate, the Speaker of the House of
1821 Representatives, and the chairs of the legislative
1822 appropriations committees an annual report that includes, but
1823 need not be limited to, the number of training programs provided
1824 for condominium association board members and unit owners, the
1825 number of complaints received by type, the number and percent of
1826 complaints acknowledged in writing within 30 days and the number
1827 and percent of investigations acted upon within 90 days in

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1828 accordance with paragraph (m), and the number of investigations
1829 exceeding the 90-day requirement. The annual report must also
1830 include an evaluation of the division's core business processes
1831 and make recommendations for improvements, including statutory
1832 changes. The report shall be submitted by September 30 following
1833 the end of the fiscal year.

1834 (2) (a) Each condominium association which operates more
1835 than two units shall pay to the division an annual fee in the
1836 amount of \$4 for each residential unit in condominiums operated
1837 by the association. If the fee is not paid by March 1, the
1838 association shall be assessed a penalty of 10 percent of the
1839 amount due, and the association will not have standing to
1840 maintain or defend any action in the courts of this state until
1841 the amount due, plus any penalty, is paid.

1842 (b) All fees shall be deposited in the Division of Florida
1843 Condominiums, Timeshares, and Mobile Homes Trust Fund as
1844 provided by law.

1845 Section 14. Section 718.5014, Florida Statutes, is amended
1846 to read:

1847 718.5014 Ombudsman location.—The ombudsman shall maintain
1848 his or her principal office in a Leon County ~~on the premises of~~
1849 ~~the division or, if suitable space cannot be provided there, at~~
1850 ~~another~~ place convenient to the offices of the division which
1851 will enable the ombudsman to expeditiously carry out the duties
1852 and functions of his or her office. The ombudsman may establish
1853 branch offices elsewhere in the state upon the concurrence of
1854 the Governor.

1855 Section 15. Subsection (25) of section 719.103, Florida
1856 Statutes, is amended to read:

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1857 719.103 Definitions.—As used in this chapter:

1858 (25) "Unit" means a part of the cooperative property which
1859 is subject to exclusive use and possession. A unit may be
1860 improvements, land, or land and improvements together, as
1861 specified in the cooperative documents. An interest in a unit is
1862 an interest in real property.

1863 Section 16. Paragraph (c) of subsection (2) of section
1864 719.104, Florida Statutes, is amended to read:

1865 719.104 Cooperatives; access to units; records; financial
1866 reports; assessments; purchase of leases.—

1867 (2) OFFICIAL RECORDS.—

1868 (c) The official records of the association are open to
1869 inspection by any association member or the authorized
1870 representative of such member at all reasonable times. The right
1871 to inspect the records includes the right to make or obtain
1872 copies, at the reasonable expense, if any, of the association
1873 member. The association may adopt reasonable rules regarding the
1874 frequency, time, location, notice, and manner of record
1875 inspections and copying, but may not require a member to
1876 demonstrate any purpose or state any reason for the inspection.

1877 The failure of an association to provide the records within 10
1878 working days after receipt of a written request creates a
1879 rebuttable presumption that the association willfully failed to
1880 comply with this paragraph. A member ~~unit owner~~ who is denied
1881 access to official records is entitled to the actual damages or
1882 minimum damages for the association's willful failure to comply.
1883 The minimum damages are \$50 per calendar day for up to 10 days,
1884 beginning on the 11th working day after receipt of the written
1885 request. The failure to permit inspection entitles any person

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1886 prevailing in an enforcement action to recover reasonable
1887 attorney fees from the person in control of the records who,
1888 directly or indirectly, knowingly denied access to the records.
1889 Any person who knowingly or intentionally defaces or destroys
1890 accounting records that are required by this chapter to be
1891 maintained during the period for which such records are required
1892 to be maintained, or who knowingly or intentionally fails to
1893 create or maintain accounting records that are required to be
1894 created or maintained, with the intent of causing harm to the
1895 association or one or more of its members, is personally subject
1896 to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The
1897 association shall maintain an adequate number of copies of the
1898 declaration, articles of incorporation, bylaws, and rules, and
1899 all amendments to each of the foregoing, as well as the question
1900 and answer sheet as described in s. 719.504 and year-end
1901 financial information required by the department, on the
1902 cooperative property to ensure their availability to members
1903 ~~unit owners~~ and prospective purchasers, and may charge its
1904 actual costs for preparing and furnishing these documents to
1905 those requesting the same. An association shall allow a member
1906 or his or her authorized representative to use a portable
1907 device, including a smartphone, tablet, portable scanner, or any
1908 other technology capable of scanning or taking photographs, to
1909 make an electronic copy of the official records in lieu of the
1910 association providing the member or his or her authorized
1911 representative with a copy of such records. The association may
1912 not charge a member or his or her authorized representative for
1913 the use of a portable device. Notwithstanding this paragraph,
1914 the following records shall not be accessible to members ~~unit~~

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1915 owners:

1916 1. Any record protected by the lawyer-client privilege as
1917 described in s. 90.502 and any record protected by the work-
1918 product privilege, including any record prepared by an
1919 association attorney or prepared at the attorney's express
1920 direction which reflects a mental impression, conclusion,
1921 litigation strategy, or legal theory of the attorney or the
1922 association, and which was prepared exclusively for civil or
1923 criminal litigation or for adversarial administrative
1924 proceedings, or which was prepared in anticipation of such
1925 litigation or proceedings until the conclusion of the litigation
1926 or proceedings.

1927 2. Information obtained by an association in connection
1928 with the approval of the lease, sale, or other transfer of a
1929 unit.

1930 3. Personnel records of association or management company
1931 employees, including, but not limited to, disciplinary, payroll,
1932 health, and insurance records. For purposes of this
1933 subparagraph, the term "personnel records" does not include
1934 written employment agreements with an association employee or
1935 management company, or budgetary or financial records that
1936 indicate the compensation paid to an association employee.

1937 4. Medical records of unit owners.

1938 5. Social security numbers, driver license numbers, credit
1939 card numbers, e-mail addresses, telephone numbers, facsimile
1940 numbers, emergency contact information, addresses of a unit
1941 owner other than as provided to fulfill the association's notice
1942 requirements, and other personal identifying information of any
1943 person, excluding the person's name, unit designation, mailing

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1944 address, property address, and any address, e-mail address, or
1945 facsimile number provided to the association to fulfill the
1946 association's notice requirements. Notwithstanding the
1947 restrictions in this subparagraph, an association may print and
1948 distribute to unit ~~parcel~~ owners a directory containing the
1949 name, unit ~~parcel~~ address, and all telephone numbers of each
1950 unit ~~parcel~~ owner. However, an owner may exclude his or her
1951 telephone numbers from the directory by so requesting in writing
1952 to the association. An owner may consent in writing to the
1953 disclosure of other contact information described in this
1954 subparagraph. The association is not liable for the inadvertent
1955 disclosure of information that is protected under this
1956 subparagraph if the information is included in an official
1957 record of the association and is voluntarily provided by an
1958 owner and not requested by the association.

1959 6. Electronic security measures that are used by the
1960 association to safeguard data, including passwords.

1961 7. The software and operating system used by the
1962 association which allow the manipulation of data, even if the
1963 owner owns a copy of the same software used by the association.
1964 The data is part of the official records of the association.

1965 Section 17. Paragraphs (b), (f), and (l) of subsection (1)
1966 of section 719.106, Florida Statutes, are amended, and
1967 subsection (3) is added to that section, to read:

1968 719.106 Bylaws; cooperative ownership.—

1969 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1970 documents shall provide for the following, and if they do not,
1971 they shall be deemed to include the following:

1972 (b) *Quorum; voting requirements; proxies.*—

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1973 1. Unless otherwise provided in the bylaws, the percentage
1974 of voting interests required to constitute a quorum at a meeting
1975 of the members shall be a majority of voting interests, and
1976 decisions shall be made by owners of a majority of the voting
1977 interests. Unless otherwise provided in this chapter, or in the
1978 articles of incorporation, bylaws, or other cooperative
1979 documents, and except as provided in subparagraph (d)1.,
1980 decisions shall be made by owners of a majority of the voting
1981 interests represented at a meeting at which a quorum is present.

1982 2. Except as specifically otherwise provided herein, after
1983 January 1, 1992, unit owners may not vote by general proxy, but
1984 may vote by limited proxies substantially conforming to a
1985 limited proxy form adopted by the division. Limited proxies and
1986 general proxies may be used to establish a quorum. Limited
1987 proxies shall be used for votes taken to waive or reduce
1988 reserves in accordance with subparagraph (j)2., for votes taken
1989 to waive the financial reporting requirements of s.

1990 719.104(4)(b), for votes taken to amend the articles of
1991 incorporation or bylaws pursuant to this section, and for any
1992 other matter for which this chapter requires or permits a vote
1993 of the unit owners. Except as provided in paragraph (d), after
1994 January 1, 1992, no proxy, limited or general, shall be used in
1995 the election of board members. General proxies may be used for
1996 other matters for which limited proxies are not required, and
1997 may also be used in voting for nonsubstantive changes to items
1998 for which a limited proxy is required and given. Notwithstanding
1999 the provisions of this section, unit owners may vote in person
2000 at unit owner meetings. Nothing contained herein shall limit the
2001 use of general proxies or require the use of limited proxies or

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2002 require the use of limited proxies for any agenda item or
2003 election at any meeting of a timeshare cooperative.

2004 3. Any proxy given shall be effective only for the specific
2005 meeting for which originally given and any lawfully adjourned
2006 meetings thereof. In no event shall any proxy be valid for a
2007 period longer than 90 days after the date of the first meeting
2008 for which it was given. Every proxy shall be revocable at any
2009 time at the pleasure of the unit owner executing it.

2010 4. A member of the board of administration or a committee
2011 may submit in writing his or her agreement or disagreement with
2012 any action taken at a meeting that the member did not attend.
2013 This agreement or disagreement may not be used as a vote for or
2014 against the action taken and may not be used for the purposes of
2015 creating a quorum.

2016 5. A board member or committee member participating in a
2017 meeting via telephone, real-time videoconferencing, or similar
2018 real-time electronic or video communication counts toward a
2019 quorum, and such member may vote as if physically present ~~When~~
2020 ~~some or all of the board or committee members meet by telephone~~
2021 ~~conference, those board or committee members attending by~~
2022 ~~telephone conference may be counted toward obtaining a quorum~~
2023 ~~and may vote by telephone.~~ A telephone speaker must ~~shall~~ be
2024 used ~~utilized~~ so that the conversation of such ~~those board or~~
2025 ~~committee members attending by telephone~~ may be heard by the
2026 board or committee members attending in person, as well as by
2027 any unit owners present at a meeting.

2028 (f) *Recall of board members.*—Subject to s. 719.301, any
2029 member of the board of administration may be recalled and
2030 removed from office with or without cause by the vote or

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2031 agreement in writing by a majority of all the voting interests.
2032 A special meeting of the voting interests to recall any member
2033 of the board of administration may be called by 10 percent of
2034 the unit owners giving notice of the meeting as required for a
2035 meeting of unit owners, and the notice shall state the purpose
2036 of the meeting. Electronic transmission may not be used as a
2037 method of giving notice of a meeting called in whole or in part
2038 for this purpose.

2039 1. If the recall is approved by a majority of all voting
2040 interests by a vote at a meeting, the recall shall be effective
2041 as provided in this paragraph. The board shall duly notice and
2042 hold a board meeting within 5 full business days after the
2043 adjournment of the unit owner meeting to recall one or more
2044 board members. At the meeting, the board shall either certify
2045 the recall, in which case such member or members shall be
2046 recalled effective immediately and shall turn over to the board
2047 within 5 full business days any and all records and property of
2048 the association in their possession, or shall proceed as set
2049 forth in subparagraph 3.

2050 2. If the proposed recall is by an agreement in writing by
2051 a majority of all voting interests, the agreement in writing or
2052 a copy thereof shall be served on the association by certified
2053 mail or by personal service in the manner authorized by chapter
2054 48 and the Florida Rules of Civil Procedure. The board of
2055 administration shall duly notice and hold a meeting of the board
2056 within 5 full business days after receipt of the agreement in
2057 writing. At the meeting, the board shall either certify the
2058 written agreement to recall members of the board, in which case
2059 such members shall be recalled effective immediately and shall

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2060 turn over to the board, within 5 full business days, any and all
2061 records and property of the association in their possession, or
2062 proceed as described in subparagraph 3.

2063 3. If the board determines not to certify the written
2064 agreement to recall members of the board, or does not certify
2065 the recall by a vote at a meeting, the board shall, within 5
2066 full business days after the board meeting, file with the
2067 division a petition for binding arbitration under ~~pursuant to~~
2068 ~~the procedures of~~ s. 719.1255 or file an action with a court of
2069 competent jurisdiction. For purposes of this paragraph, the unit
2070 owners who voted at the meeting or who executed the agreement in
2071 writing shall constitute one party under the petition for
2072 arbitration or in a court action. If the arbitrator or court
2073 certifies the recall as to any member of the board, the recall
2074 is ~~shall be~~ effective upon the mailing of the final order of
2075 arbitration to the association or the final order of the court.
2076 If the association fails to comply with the order of the court
2077 or the arbitrator, the division may take action under ~~pursuant~~
2078 ~~to~~ s. 719.501. Any member so recalled shall deliver to the board
2079 any and all records and property of the association in the
2080 member's possession within 5 full business days after the
2081 effective date of the recall.

2082 4. If the board fails to duly notice and hold a board
2083 meeting within 5 full business days after service of an
2084 agreement in writing or within 5 full business days after the
2085 adjournment of the unit owner recall meeting, the recall is
2086 ~~shall be~~ deemed effective and the board members so recalled
2087 shall immediately turn over to the board any and all records and
2088 property of the association.

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2089 5. If the board fails to duly notice and hold the required
2090 meeting or fails to file the required petition or action, the
2091 unit owner representative may file a petition under ~~pursuant to~~
2092 s. 719.1255 or file an action in a court of competent
2093 jurisdiction challenging the board's failure to act. The
2094 petition or action must be filed within 60 days after the
2095 expiration of the applicable 5-full-business-day period. The
2096 review of a petition or action under this subparagraph is
2097 limited to the sufficiency of service on the board and the
2098 facial validity of the written agreement or ballots filed.

2099 6. If a vacancy occurs on the board as a result of a recall
2100 and less than a majority of the board members are removed, the
2101 vacancy may be filled by the affirmative vote of a majority of
2102 the remaining directors, notwithstanding any provision to the
2103 contrary contained in this chapter. If vacancies occur on the
2104 board as a result of a recall and a majority or more of the
2105 board members are removed, the vacancies shall be filled in
2106 accordance with procedural rules to be adopted by the division,
2107 which rules need not be consistent with this chapter. The rules
2108 must provide procedures governing the conduct of the recall
2109 election as well as the operation of the association during the
2110 period after a recall but before the recall election.

2111 7. A board member who has been recalled may file a petition
2112 under ~~pursuant to~~ s. 719.1255 or file an action in a court of
2113 competent jurisdiction challenging the validity of the recall.
2114 The petition or action must be filed within 60 days after the
2115 recall is deemed certified. The association and the unit owner
2116 representative shall be named as the respondents.

2117 8. The division or court may not accept for filing a recall

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2118 petition or action, whether filed under ~~pursuant to~~ subparagraph
2119 1., subparagraph 2., subparagraph 5., or subparagraph 7. and
2120 regardless of whether the recall was certified, when there are
2121 60 or fewer days until the scheduled reelection of the board
2122 member sought to be recalled or when 60 or fewer days have not
2123 elapsed since the election of the board member sought to be
2124 recalled.

2125 (1) Alternative dispute resolution ~~Arbitration~~.—There shall
2126 be a provision for alternative dispute resolution ~~mandatory~~
2127 ~~nonbinding arbitration~~ of internal disputes arising from the
2128 operation of the cooperative in accordance with s. 719.1255.

2129 (3) GENERALLY.—The association may extinguish a
2130 discriminatory restriction as provided under s. 712.065.

2131 Section 18. Section 719.128, Florida Statutes, is amended
2132 to read:

2133 719.128 Association emergency powers.—

2134 (1) To the extent allowed by law, unless specifically
2135 prohibited by the cooperative documents, and consistent with s.
2136 617.0830, the board of administration, in response to damage or
2137 injury caused by or anticipated in connection with an emergency,
2138 as defined in s. 252.34(4), ~~event~~ for which a state of emergency
2139 is declared pursuant to s. 252.36 in the area encompassed by the
2140 cooperative, may exercise the following powers:

2141 (a) Conduct board meetings, committee meetings, elections,
2142 or membership meetings, in whole or in part, by telephone, real-
2143 time videoconferencing, or similar real-time electronic or video
2144 communication after notice of the meetings and board decisions
2145 is provided in as practicable a manner as possible, including
2146 via publication, radio, United States mail, the Internet,

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2147 electronic transmission, public service announcements,
2148 conspicuous posting on the cooperative property, or any other
2149 means the board deems appropriate under the circumstances.
2150 Notice of decisions may also be communicated as provided in this
2151 paragraph.

2152 (b) Cancel and reschedule an association meeting.

2153 (c) Designate assistant officers who are not directors. If
2154 the executive officer is incapacitated or unavailable, the
2155 assistant officer has the same authority during the state of
2156 emergency as the executive officer he or she assists.

2157 (d) Relocate the association's principal office or
2158 designate an alternative principal office.

2159 (e) Enter into agreements with counties and municipalities
2160 to assist counties and municipalities with debris removal.

2161 (f) Implement a disaster or an emergency plan before,
2162 during, or ~~immediately~~ following the event for which a state of
2163 emergency is declared, which may include turning on or shutting
2164 off elevators; electricity; water, sewer, or security systems;
2165 or air conditioners for association buildings.

2166 (g) Based upon the advice of emergency management officials
2167 or public health officials, or upon the advice of licensed
2168 professionals retained by or otherwise available to the board of
2169 administration, determine any portion of the cooperative
2170 property unavailable for entry or occupancy by unit owners or
2171 their family members, tenants, guests, agents, or invitees to
2172 protect their health, safety, or welfare.

2173 (h) Based upon the advice of emergency management officials
2174 or public health officials, or upon the advice of licensed
2175 professionals retained by or otherwise available to the board of

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2176 administration, determine whether the cooperative property or
2177 any portion thereof can be safely inhabited or occupied.
2178 However, such determination is not conclusive as to any
2179 determination of habitability pursuant to the cooperative
2180 documents ~~declaration~~.

2181 (i) Require the evacuation of the cooperative property in
2182 the event of a mandatory evacuation order in the area where the
2183 cooperative is located or prohibit or restrict access to the
2184 cooperative property in the event of a public health threat. If
2185 a unit owner or other occupant of a cooperative fails to
2186 evacuate the cooperative property for which the board has
2187 required evacuation, the association is immune from liability
2188 for injury to persons or property arising from such failure.

2189 (j) Mitigate further damage, injury, or contagion,
2190 including taking action to contract for the removal of debris
2191 and to prevent or mitigate the spread of fungus, including mold
2192 or mildew, by removing and disposing of wet drywall, insulation,
2193 carpet, cabinetry, or other fixtures on or within the
2194 cooperative property, regardless of whether the unit owner is
2195 obligated by the cooperative documents ~~declaration~~ or law to
2196 insure or replace those fixtures and to remove personal property
2197 from a unit or to sanitize the cooperative property.

2198 (k) Contract, on behalf of a unit owner, for items or
2199 services for which the owner is otherwise individually
2200 responsible, but which are necessary to prevent further injury,
2201 contagion, or damage to the cooperative property. In such event,
2202 the unit owner on whose behalf the board has contracted is
2203 responsible for reimbursing the association for the actual costs
2204 of the items or services, and the association may use its lien

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2205 authority provided by s. 719.108 to enforce collection of the
2206 charges. Such items or services may include the drying of the
2207 unit, the boarding of broken windows or doors, ~~and~~ the
2208 replacement of a damaged air conditioner or air handler to
2209 provide climate control in the unit or other portions of the
2210 property, and the sanitizing of the cooperative property.

2211 (l) Notwithstanding a provision to the contrary, and
2212 regardless of whether such authority does not specifically
2213 appear in the cooperative documents, levy special assessments
2214 without a vote of the owners.

2215 (m) Without unit owners' approval, borrow money and pledge
2216 association assets as collateral to fund emergency repairs and
2217 carry out the duties of the association if operating funds are
2218 insufficient. This paragraph does not limit the general
2219 authority of the association to borrow money, subject to such
2220 restrictions contained in the cooperative documents.

2221 (2) The authority granted under subsection (1) is limited
2222 to that time reasonably necessary to protect the health, safety,
2223 and welfare of the association and the unit owners and their
2224 family members, tenants, guests, agents, or invitees, and to
2225 mitigate further damage, injury, or contagion and make emergency
2226 repairs.

2227 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2228 of emergency declared by executive order or proclamation of the
2229 Governor pursuant to s. 252.36, an association may not prohibit
2230 unit owners, tenants, guests, agents, or invitees of a unit
2231 owner from accessing the common elements and limited common
2232 elements appurtenant thereto for the purposes of ingress to and
2233 egress from the unit when access is necessary in connection

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2234 with:

2235 (a) The sale, lease, or other transfer of title of a unit;

2236 or

2237 (b) The habitability of the unit or for the health and
2238 safety of such person unless a governmental order or
2239 determination, or a public health directive from the Centers for
2240 Disease Control and Prevention, has been issued prohibiting such
2241 access to the unit. Any such access is subject to reasonable
2242 restrictions adopted by the association.

2243 Section 19. Subsection (8) of section 720.301, Florida
2244 Statutes, is amended to read:

2245 720.301 Definitions.—As used in this chapter, the term:

2246 (8) "Governing documents" means:

2247 (a) The recorded declaration of covenants for a community
2248 and all duly adopted and recorded amendments, supplements, and
2249 recorded exhibits thereto; and

2250 (b) The articles of incorporation and bylaws of the
2251 homeowners' association and any duly adopted amendments thereto;
2252 and

2253 ~~(c) Rules and regulations adopted under the authority of~~
2254 ~~the recorded declaration, articles of incorporation, or bylaws~~
2255 ~~and duly adopted amendments thereto.~~

2256 Section 20. Present paragraph (1) of subsection (4) of
2257 section 720.303, Florida Statutes, is redesignated as paragraph
2258 (m) and amended, a new paragraph (1) is added to that
2259 subsection, paragraph (i) is added to subsection (6) of that
2260 section, and paragraph (c) of subsection (2), paragraph (c) of
2261 subsection (5), paragraphs (c) and (d) of subsection (6), and
2262 paragraphs (b), (d), (g), (k), and (l) of subsection (10) of

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2263 that section are amended, to read:

2264 720.303 Association powers and duties; meetings of board;
2265 official records; budgets; financial reporting; association
2266 funds; recalls.—

2267 (2) BOARD MEETINGS.—

2268 (c) The bylaws shall provide the following for giving
2269 notice to parcel owners and members of all board meetings and,
2270 if they do not do so, shall be deemed to include the following:

2271 1. Notices of all board meetings must be posted in a
2272 conspicuous place in the community at least 48 hours in advance
2273 of a meeting, except in an emergency. In the alternative, if
2274 notice is not posted in a conspicuous place in the community,
2275 notice of each board meeting must be mailed or delivered to each
2276 member at least 7 days before the meeting, except in an
2277 emergency. Notwithstanding this general notice requirement, for
2278 communities with more than 100 members, the association bylaws
2279 may provide for a reasonable alternative to posting or mailing
2280 of notice for each board meeting, including publication of
2281 notice, provision of a schedule of board meetings, or the
2282 conspicuous posting and repeated broadcasting of the notice on a
2283 closed-circuit cable television system serving the homeowners'
2284 association. However, if broadcast notice is used in lieu of a
2285 notice posted physically in the community, the notice must be
2286 broadcast at least four times every broadcast hour of each day
2287 that a posted notice is otherwise required. When broadcast
2288 notice is provided, the notice and agenda must be broadcast in a
2289 manner and for a sufficient continuous length of time so as to
2290 allow an average reader to observe the notice and read and
2291 comprehend the entire content of the notice and the agenda. In

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2292 addition to any of the authorized means of providing notice of a
2293 meeting of the board, the association may, by rule, adopt a
2294 procedure for conspicuously posting the meeting notice and the
2295 agenda on the association's website or an application that can
2296 be downloaded on a mobile device for at least the minimum period
2297 of time for which a notice of a meeting is also required to be
2298 physically posted on the association property. Any rule adopted
2299 must, in addition to other matters, include a requirement that
2300 the association send an electronic notice to members whose e-
2301 mail addresses are included in the association's official
2302 records in the same manner as is required for a notice of a
2303 meeting of the members. Such notice must include a hyperlink to
2304 the website or such mobile application on which the meeting
2305 notice is posted. The association may provide notice by
2306 electronic transmission in a manner authorized by law for
2307 meetings of the board of directors, committee meetings requiring
2308 notice under this section, and annual and special meetings of
2309 the members to any member who has provided a facsimile number or
2310 e-mail address to the association to be used for such purposes;
2311 however, a member must consent in writing to receiving notice by
2312 electronic transmission.

2313 2. An assessment may not be levied at a board meeting
2314 unless the notice of the meeting includes a statement that
2315 assessments will be considered and the nature of the
2316 assessments. Written notice of any meeting at which special
2317 assessments will be considered or at which amendments to rules
2318 regarding parcel use will be considered must be mailed,
2319 delivered, or electronically transmitted to the members and
2320 parcel owners and posted conspicuously on the property or

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2321 broadcast on closed-circuit cable television not less than 14
2322 days before the meeting.

2323 3. Directors may not vote by proxy or by secret ballot at
2324 board meetings, except that secret ballots may be used in the
2325 election of officers. This subsection also applies to the
2326 meetings of any committee or other similar body, when a final
2327 decision will be made regarding the expenditure of association
2328 funds, and to any body vested with the power to approve or
2329 disapprove architectural decisions with respect to a specific
2330 parcel of residential property owned by a member of the
2331 community.

2332 (4) OFFICIAL RECORDS.—The association shall maintain each
2333 of the following items, when applicable, which constitute the
2334 official records of the association:

2335 (1) Ballots, sign-in sheets, voting proxies, and all other
2336 papers and electronic records relating to voting by parcel
2337 owners, which must be maintained for at least 1 year after the
2338 date of the election, vote, or meeting.

2339 (m) ~~(l)~~ All other written records of the association not
2340 specifically included in this subsection ~~the foregoing~~ which are
2341 related to the operation of the association.

2342 (5) INSPECTION AND COPYING OF RECORDS.—The official records
2343 shall be maintained within the state for at least 7 years and
2344 shall be made available to a parcel owner for inspection or
2345 photocopying within 45 miles of the community or within the
2346 county in which the association is located within 10 business
2347 days after receipt by the board or its designee of a written
2348 request. This subsection may be complied with by having a copy
2349 of the official records available for inspection or copying in

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2350 the community or, at the option of the association, by making
2351 the records available to a parcel owner electronically via the
2352 Internet or by allowing the records to be viewed in electronic
2353 format on a computer screen and printed upon request. If the
2354 association has a photocopy machine available where the records
2355 are maintained, it must provide parcel owners with copies on
2356 request during the inspection if the entire request is limited
2357 to no more than 25 pages. An association shall allow a member or
2358 his or her authorized representative to use a portable device,
2359 including a smartphone, tablet, portable scanner, or any other
2360 technology capable of scanning or taking photographs, to make an
2361 electronic copy of the official records in lieu of the
2362 association's providing the member or his or her authorized
2363 representative with a copy of such records. The association may
2364 not charge a fee to a member or his or her authorized
2365 representative for the use of a portable device.

2366 (c) The association may adopt reasonable written rules
2367 governing the frequency, time, location, notice, records to be
2368 inspected, and manner of inspections, but may not require a
2369 parcel owner to demonstrate any proper purpose for the
2370 inspection, state any reason for the inspection, or limit a
2371 parcel owner's right to inspect records to less than one 8-hour
2372 business day per month. The association may impose fees to cover
2373 the costs of providing copies of the official records, including
2374 the costs of copying and the costs required for personnel to
2375 retrieve and copy the records if the time spent retrieving and
2376 copying the records exceeds one-half hour and if the personnel
2377 costs do not exceed \$20 per hour. Personnel costs may not be
2378 charged for records requests that result in the copying of 25 or

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2379 fewer pages. The association may charge up to 25 cents per page
2380 for copies made on the association's photocopier. If the
2381 association does not have a photocopy machine available where
2382 the records are kept, or if the records requested to be copied
2383 exceed 25 pages in length, the association may have copies made
2384 by an outside duplicating service and may charge the actual cost
2385 of copying, as supported by the vendor invoice. The association
2386 shall maintain an adequate number of copies of the recorded
2387 governing documents, to ensure their availability to members and
2388 prospective members. Notwithstanding this paragraph, the
2389 following records are not accessible to members or parcel
2390 owners:

2391 1. Any record protected by the lawyer-client privilege as
2392 described in s. 90.502 and any record protected by the work-
2393 product privilege, including, but not limited to, a record
2394 prepared by an association attorney or prepared at the
2395 attorney's express direction which reflects a mental impression,
2396 conclusion, litigation strategy, or legal theory of the attorney
2397 or the association and which was prepared exclusively for civil
2398 or criminal litigation or for adversarial administrative
2399 proceedings or which was prepared in anticipation of such
2400 litigation or proceedings until the conclusion of the litigation
2401 or proceedings.

2402 2. Information obtained by an association in connection
2403 with the approval of the lease, sale, or other transfer of a
2404 parcel.

2405 3. Information an association obtains in a gated community
2406 in connection with guests' visits to parcel owners or community
2407 residents.

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2408 4. Personnel records of association or management company
2409 employees, including, but not limited to, disciplinary, payroll,
2410 health, and insurance records. For purposes of this
2411 subparagraph, the term "personnel records" does not include
2412 written employment agreements with an association or management
2413 company employee or budgetary or financial records that indicate
2414 the compensation paid to an association or management company
2415 employee.

2416 ~~5.4.~~ Medical records of parcel owners or community
2417 residents.

2418 ~~6.5.~~ Social security numbers, driver license numbers,
2419 credit card numbers, electronic mailing addresses, telephone
2420 numbers, facsimile numbers, emergency contact information, any
2421 addresses for a parcel owner other than as provided for
2422 association notice requirements, and other personal identifying
2423 information of any person, excluding the person's name, parcel
2424 designation, mailing address, and property address.
2425 Notwithstanding the restrictions in this subparagraph, an
2426 association may print and distribute to parcel owners a
2427 directory containing the name, parcel address, and all telephone
2428 numbers of each parcel owner. However, an owner may exclude his
2429 or her telephone numbers from the directory by so requesting in
2430 writing to the association. An owner may consent in writing to
2431 the disclosure of other contact information described in this
2432 subparagraph. The association is not liable for the disclosure
2433 of information that is protected under this subparagraph if the
2434 information is included in an official record of the association
2435 and is voluntarily provided by an owner and not requested by the
2436 association.

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2437 ~~7.6.~~ Any electronic security measure that is used by the
2438 association to safeguard data, including passwords.

2439 ~~8.7.~~ The software and operating system used by the
2440 association which allows the manipulation of data, even if the
2441 owner owns a copy of the same software used by the association.
2442 The data is part of the official records of the association.

2443 (6) BUDGETS.—

2444 (c)1. If the budget of the association does not provide for
2445 reserve accounts under ~~pursuant to~~ paragraph (d), or the
2446 declaration of covenants, articles, or bylaws do not obligate
2447 the developer to create reserves, and the association is
2448 responsible for the repair and maintenance of capital
2449 improvements that may result in a special assessment if reserves
2450 are not provided or not fully funded, each financial report for
2451 the preceding fiscal year required by subsection (7) must
2452 contain the following statement in conspicuous type:

2453
2454 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR FULLY FUNDED
2455 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
2456 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS REGARDING
2457 THOSE ITEMS. OWNERS MAY ELECT TO PROVIDE FOR FULLY FUNDED
2458 RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION 720.303(6), FLORIDA
2459 STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL
2460 VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A
2461 MEETING OR BY WRITTEN CONSENT.

2462 2. If the budget of the association does provide for
2463 funding accounts for deferred expenditures, including, but not
2464 limited to, funds for capital expenditures and deferred
2465 maintenance, but such accounts are not created or established

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2466 ~~under pursuant to~~ paragraph (d), each financial report for the
2467 preceding fiscal year required under subsection (7) must also
2468 contain the following statement in conspicuous type:

2469 THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
2470 DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
2471 AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
2472 IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
2473 TO PROVIDE FOR RESERVE ACCOUNTS UNDER ~~PURSUANT TO~~ SECTION
2474 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
2475 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
2476 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

2477 (d) An association is deemed to have provided for reserve
2478 accounts ~~if reserve accounts have been initially established by~~
2479 ~~the developer or if the membership of the association~~
2480 ~~affirmatively elects to provide for reserves. If reserve~~
2481 ~~accounts are established by the developer, the budget must~~
2482 ~~designate the components for which the reserve accounts may be~~
2483 ~~used. If reserve accounts are not initially provided by the~~
2484 ~~developer, the membership of the association may elect to do so~~
2485 upon the affirmative approval of a majority of the total voting
2486 interests of the association. Such approval may be obtained by
2487 vote of the members at a duly called meeting of the membership
2488 or by the written consent of a majority of the total voting
2489 interests of the association. The approval action of the
2490 membership must state that reserve accounts shall be provided
2491 for in the budget and must designate the components for which
2492 the reserve accounts are to be established. Upon approval by the
2493 membership, the board of directors shall include the required
2494 reserve accounts in the budget in the next fiscal year following

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2495 the approval and each year thereafter. Once established as
2496 provided in this subsection, the reserve accounts must be funded
2497 or maintained or have their funding waived in the manner
2498 provided in paragraph (f).

2499 (i)1. While a developer is in control of a homeowners'
2500 association, the developer may, but is not required to, include
2501 reserves in the budget. If the developer includes reserves in
2502 the budget, the developer may determine the amount of reserves
2503 included. The developer is not obligated to pay for:

2504 a. Contributions to reserve accounts for capital
2505 expenditures and deferred maintenance, as well as any other
2506 reserves that the homeowners' association or the developer may
2507 be required to fund pursuant to any state, municipal, county, or
2508 other governmental statute or ordinance;

2509 b. Operating expenses; or

2510 c. Any other assessments related to the developer's parcels
2511 for any period of time for which the developer has provided in
2512 the declaration that in lieu of paying any assessments imposed
2513 on any parcel owned by the developer, the developer need only
2514 pay the deficit, if any, in any fiscal year of the association,
2515 between the total amount of the assessments receivable from
2516 other members plus any other association income and the lesser
2517 of the budgeted or actual expenses incurred by the association
2518 during such fiscal year.

2519 2. This paragraph applies to all homeowners' associations
2520 existing on or created after July 1, 2021.

2521 (10) RECALL OF DIRECTORS.—

2522 (b)1. Board directors may be recalled by an agreement in
2523 writing or by written ballot without a membership meeting. The

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2524 agreement in writing or the written ballots, or a copy thereof,
2525 shall be served on the association by certified mail or by
2526 personal service in the manner authorized by chapter 48 and the
2527 Florida Rules of Civil Procedure.

2528 2. The board shall duly notice and hold a meeting of the
2529 board within 5 full business days after receipt of the agreement
2530 in writing or written ballots. At the meeting, the board shall
2531 either certify the written ballots or written agreement to
2532 recall a director or directors of the board, in which case such
2533 director or directors shall be recalled effective immediately
2534 and shall turn over to the board within 5 full business days any
2535 and all records and property of the association in their
2536 possession, or proceed as described in paragraph (d).

2537 3. When it is determined by the department pursuant to
2538 binding arbitration proceedings or the court in an action filed
2539 in a court of competent jurisdiction that an initial recall
2540 effort was defective, written recall agreements or written
2541 ballots used in the first recall effort and not found to be
2542 defective may be reused in one subsequent recall effort.
2543 However, in no event is a written agreement or written ballot
2544 valid for more than 120 days after it has been signed by the
2545 member.

2546 4. Any rescission or revocation of a member's written
2547 recall ballot or agreement must be in writing and, in order to
2548 be effective, must be delivered to the association before the
2549 association is served with the written recall agreements or
2550 ballots.

2551 5. The agreement in writing or ballot shall list at least
2552 as many possible replacement directors as there are directors

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2553 subject to the recall, when at least a majority of the board is
2554 sought to be recalled; the person executing the recall
2555 instrument may vote for as many replacement candidates as there
2556 are directors subject to the recall.

2557 (d) If the board determines not to certify the written
2558 agreement or written ballots to recall a director or directors
2559 of the board or does not certify the recall by a vote at a
2560 meeting, the board shall, within 5 full business days after the
2561 meeting, file an action with a court of competent jurisdiction
2562 or file with the department a petition for binding arbitration
2563 under ~~pursuant to~~ the applicable procedures in ss. 718.112(2)(j)
2564 and 718.1255 and the rules adopted thereunder. For the purposes
2565 of this section, the members who voted at the meeting or who
2566 executed the agreement in writing shall constitute one party
2567 under the petition for arbitration or in a court action. If the
2568 arbitrator or court certifies the recall as to any director or
2569 directors of the board, the recall will be effective upon the
2570 final order of the court or the mailing of the final order of
2571 arbitration to the association. The director or directors so
2572 recalled shall deliver to the board any and all records of the
2573 association in their possession within 5 full business days
2574 after the effective date of the recall.

2575 (g) If the board fails to duly notice and hold the required
2576 meeting or fails to file the required petition or action, the
2577 parcel unit owner representative may file a petition or a court
2578 action under ~~pursuant to~~ s. 718.1255 challenging the board's
2579 failure to act. The petition or action must be filed within 60
2580 days after the expiration of the applicable 5-full-business-day
2581 period. The review of a petition or action under this paragraph

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2582 is limited to the sufficiency of service on the board and the
2583 facial validity of the written agreement or ballots filed.

2584 (k) A board member who has been recalled may file an action
2585 with a court of competent jurisdiction or a petition under
2586 ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and the rules adopted
2587 challenging the validity of the recall. The petition or action
2588 must be filed within 60 days after the recall is deemed
2589 certified. The association and the parcel unit owner
2590 representative shall be named as respondents.

2591 (l) The division or a court of competent jurisdiction may
2592 not accept for filing a recall petition or action, whether filed
2593 under ~~pursuant to~~ paragraph (b), paragraph (c), paragraph (g),
2594 or paragraph (k) and regardless of whether the recall was
2595 certified, when there are 60 or fewer days until the scheduled
2596 reelection of the board member sought to be recalled or when 60
2597 or fewer days have not elapsed since the election of the board
2598 member sought to be recalled.

2599 Section 21. Subsection (2) of section 720.305, Florida
2600 Statutes, is amended to read:

2601 720.305 Obligations of members; remedies at law or in
2602 equity; levy of fines and suspension of use rights.—

2603 (2) An ~~The~~ association may levy reasonable fines. A fine
2604 may not exceed \$100 per violation against any member or any
2605 member's tenant, guest, or invitee for the failure of the owner
2606 of the parcel or its occupant, licensee, or invitee to comply
2607 with any provision of the declaration, the association bylaws,
2608 or reasonable rules of the association unless otherwise provided
2609 in the governing documents. A fine may be levied by the board
2610 for each day of a continuing violation, with a single notice and

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2611 opportunity for hearing, except that the fine may not exceed
2612 \$1,000 in the aggregate unless otherwise provided in the
2613 governing documents. A fine of less than \$1,000 may not become a
2614 lien against a parcel. In any action to recover a fine, the
2615 prevailing party is entitled to reasonable attorney fees and
2616 costs from the nonprevailing party as determined by the court.

2617 (a) An association may suspend, for a reasonable period of
2618 time, the right of a member, or a member's tenant, guest, or
2619 invitee, to use common areas and facilities for the failure of
2620 the owner of the parcel or its occupant, licensee, or invitee to
2621 comply with any provision of the declaration, the association
2622 bylaws, or reasonable rules of the association. This paragraph
2623 does not apply to that portion of common areas used to provide
2624 access or utility services to the parcel. A suspension may not
2625 prohibit an owner or tenant of a parcel from having vehicular
2626 and pedestrian ingress to and egress from the parcel, including,
2627 but not limited to, the right to park.

2628 (b) A fine or suspension levied by the board of
2629 administration may not be imposed unless the board first
2630 provides at least 14 days' notice to the parcel owner and, if
2631 applicable, any occupant, licensee, or invitee of the parcel
2632 owner, sought to be fined or suspended and an opportunity for a
2633 hearing before a committee of at least three members appointed
2634 by the board who are not officers, directors, or employees of
2635 the association, or the spouse, parent, child, brother, or
2636 sister of an officer, director, or employee. If the committee,
2637 by majority vote, does not approve a proposed fine or
2638 suspension, the proposed fine or suspension may not be imposed.
2639 The role of the committee is limited to determining whether to

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2640 confirm or reject the fine or suspension levied by the board. If
 2641 the proposed fine or suspension levied by the board is approved
 2642 by the committee, the fine payment is due 5 days after notice of
 2643 the approved fine is provided to the parcel owner and, if
 2644 applicable, to any occupant, licensee, or invitee of the parcel
 2645 owner ~~the date of the committee meeting at which the fine is~~
 2646 ~~approved.~~ The association must provide written notice of such
 2647 fine or suspension by mail or hand delivery to the parcel owner
 2648 and, if applicable, to any occupant ~~tenant~~, licensee, or invitee
 2649 of the parcel owner.

2650 Section 22. Paragraph (g) of subsection (1) and paragraph
 2651 (c) of subsection (9) of section 720.306, Florida Statutes, are
 2652 amended, and paragraph (h) is added to subsection (1) of that
 2653 section, to read:

2654 720.306 Meetings of members; voting and election
 2655 procedures; amendments.—

2656 (1) QUORUM; AMENDMENTS.—

2657 (g) A notice required under this section must be mailed or
 2658 delivered to the address identified as the parcel owner's
 2659 mailing address in the official records of the association as
 2660 required under s. 720.303(4) ~~on the property appraiser's website~~
 2661 ~~for the county in which the parcel is located~~, or electronically
 2662 transmitted in a manner authorized by the association if the
 2663 parcel owner has consented, in writing, to receive notice by
 2664 electronic transmission.

2665 (h)1. Except as provided herein, an amendment to a
 2666 governing document, rule, or regulation enacted after July 1,
 2667 2021, which prohibits a parcel owner from renting his or her
 2668 parcel, alters the authorized duration of a rental term, or

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2669 specifies or limits the number of times that a parcel owner may
2670 rent his or her parcel during a specified period, applies only
2671 to a parcel owner who consents, individually or through a
2672 representative, to the amendment, and to parcel owners who
2673 acquire title to a parcel after the effective date of the
2674 amendment.

2675 2. Notwithstanding subparagraph 1., an association may
2676 amend its governing documents to prohibit or regulate rental
2677 durations that are for terms of less than 6 months and to
2678 prohibit a parcel owner from renting his or parcel more than
2679 three times in a calendar year. Such amendments apply to all
2680 parcel owners.

2681 3. This paragraph does not affect the amendment
2682 restrictions for associations of 15 or fewer parcel owners as
2683 provided in s. 720.303(1).

2684 4. For purposes of this paragraph, a change of ownership
2685 does not occur when a parcel owner conveys the parcel to an
2686 affiliated entity, when beneficial ownership of the parcel does
2687 not change, or when an heir becomes a parcel owner. For purposes
2688 of this paragraph, the term "affiliated entity" means an entity
2689 that controls, is controlled by, or is under common control with
2690 the parcel owner or that becomes a parent or successor entity by
2691 reason of transfer, merger, consolidation, public offering,
2692 reorganization, dissolution or sale of stock, or transfer of
2693 membership partnership interests. For a conveyance to be
2694 recognized as one made to an affiliated entity, the entity must
2695 furnish the association a document certifying that this
2696 paragraph applies, as well as providing any organizational
2697 documents for the parcel owner and the affiliated entity that

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2698 support the representations in the certificate, as requested by
2699 the association.

2700 (9) ELECTIONS AND BOARD VACANCIES.—

2701 (c) Any election dispute between a member and an
2702 association must be submitted to ~~mandatory~~ binding arbitration
2703 with the division or filed with a court of competent
2704 jurisdiction. Such proceedings that are submitted to binding
2705 arbitration with the division must be conducted in the manner
2706 provided by s. 718.1255 and the procedural rules adopted by the
2707 division. Unless otherwise provided in the bylaws, any vacancy
2708 occurring on the board before the expiration of a term may be
2709 filled by an affirmative vote of the majority of the remaining
2710 directors, even if the remaining directors constitute less than
2711 a quorum, or by the sole remaining director. In the alternative,
2712 a board may hold an election to fill the vacancy, in which case
2713 the election procedures must conform to the requirements of the
2714 governing documents. Unless otherwise provided in the bylaws, a
2715 board member appointed or elected under this section is
2716 appointed for the unexpired term of the seat being filled.
2717 Filling vacancies created by recall is governed by s.
2718 720.303(10) and rules adopted by the division.

2719 Section 23. Subsections (1) and (2) of section 720.307,
2720 Florida Statutes, are amended to read:

2721 720.307 Transition of association control in a community.—
2722 With respect to homeowners' associations:

2723 (1) Members other than the developer are entitled to elect
2724 at least a majority of the members of the board of directors of
2725 the homeowners' association when the earlier of the following
2726 events occurs:

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2727 (a) Three months after 90 percent of the parcels in all
2728 phases of the community that will ultimately be operated by the
2729 homeowners' association have been conveyed to members other than
2730 the developer;

2731 (b) Such other percentage of the parcels has been conveyed
2732 to members, or such other date or event has occurred, as is set
2733 forth in the governing documents in order to comply with the
2734 requirements of any governmentally chartered entity with regard
2735 to the mortgage financing of parcels;

2736 (c) Upon the developer abandoning or deserting its
2737 responsibility to maintain and complete the amenities or
2738 infrastructure as disclosed in the governing documents. There is
2739 a rebuttable presumption that the developer has abandoned and
2740 deserted the property if the developer has unpaid assessments or
2741 guaranteed amounts under s. 720.308 for a period of more than 2
2742 years;

2743 (d) Upon the developer filing a petition seeking protection
2744 under chapter 7 of the federal Bankruptcy Code;

2745 (e) Upon the developer losing title to the property through
2746 a foreclosure action or the transfer of a deed in lieu of
2747 foreclosure, unless the successor owner has accepted an
2748 assignment of developer rights and responsibilities first
2749 arising after the date of such assignment; or

2750 (f) Upon a receiver for the developer being appointed by a
2751 circuit court and not being discharged within 30 days after such
2752 appointment, unless the court determines within 30 days after
2753 such appointment that transfer of control would be detrimental
2754 to the association or its members.

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2756 For purposes of this section, the term "members other than the
2757 developer" shall not include builders, contractors, or others
2758 who purchase a parcel for the purpose of constructing
2759 improvements thereon for resale.

2760 (2) Members other than the developer are entitled to elect
2761 at least one member of the board of directors of the homeowners'
2762 association if 50 percent of the parcels in all phases of the
2763 community which will ultimately be operated by the association
2764 have been conveyed to members other than the developer.

2765 Section 24. Subsection (1) of section 720.311, Florida
2766 Statutes, is amended to read:

2767 720.311 Dispute resolution.—

2768 (1) The Legislature finds that alternative dispute
2769 resolution has made progress in reducing court dockets and
2770 trials and in offering a more efficient, cost-effective option
2771 to litigation. The filing of any petition for arbitration or the
2772 serving of a demand for presuit mediation as provided for in
2773 this section shall toll the applicable statute of limitations.
2774 Any recall dispute filed with the department under ~~pursuant to~~
2775 s. 720.303(10) shall be conducted by the department in
2776 accordance with the provisions of ss. 718.112(2)(j) and 718.1255
2777 and the rules adopted by the division. In addition, the
2778 department shall conduct ~~mandatory~~ binding arbitration of
2779 election disputes between a member and an association in
2780 accordance with ~~pursuant to~~ s. 718.1255 and rules adopted by the
2781 division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are
2782 not eligible for presuit mediation; these disputes must ~~shall~~ be
2783 arbitrated by the department or filed in a court of competent
2784 jurisdiction. At the conclusion of an arbitration ~~the~~

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2785 proceeding, the department shall charge the parties a fee in an
2786 amount adequate to cover all costs and expenses incurred by the
2787 department in conducting the proceeding. Initially, the
2788 petitioner shall remit a filing fee of at least \$200 to the
2789 department. The fees paid to the department shall become a
2790 recoverable cost in the arbitration proceeding, and the
2791 prevailing party in an arbitration proceeding shall recover its
2792 reasonable costs and attorney ~~attorney's~~ fees in an amount found
2793 reasonable by the arbitrator. The department shall adopt rules
2794 to effectuate the purposes of this section.

2795 Section 25. Subsection (6) is added to section 720.3075,
2796 Florida Statutes, to read:

2797 720.3075 Prohibited clauses in association documents.—

2798 (6) An association may extinguish a discriminatory
2799 restriction as provided in s. 712.065.

2800 Section 26. Section 720.316, Florida Statutes, is amended
2801 to read:

2802 720.316 Association emergency powers.—

2803 (1) To the extent allowed by law, unless specifically
2804 prohibited by the declaration or other recorded governing
2805 documents, and consistent with s. 617.0830, the board of
2806 directors, in response to damage or injury caused by or
2807 anticipated in connection with an emergency, as defined in s.
2808 252.34(4), ~~event~~ for which a state of emergency is declared
2809 pursuant to s. 252.36 in the area encompassed by the
2810 association, may exercise the following powers:

2811 (a) Conduct board meetings, committee meetings, elections,
2812 or membership meetings, in whole or in part, by telephone, real-
2813 time videoconferencing, or similar real-time electronic or video

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2814 communication after notice of the meetings and board decisions
2815 is provided in as practicable a manner as possible, including
2816 via publication, radio, United States mail, the Internet,
2817 electronic transmission, public service announcements,
2818 conspicuous posting on the common area ~~association property~~, or
2819 any other means the board deems appropriate under the
2820 circumstances. Notice of decisions may also be communicated as
2821 provided in this paragraph.

2822 (b) Cancel and reschedule an association meeting.

2823 (c) Designate assistant officers who are not directors. If
2824 the executive officer is incapacitated or unavailable, the
2825 assistant officer has the same authority during the state of
2826 emergency as the executive officer he or she assists.

2827 (d) Relocate the association's principal office or
2828 designate an alternative principal office.

2829 (e) Enter into agreements with counties and municipalities
2830 to assist counties and municipalities with debris removal.

2831 (f) Implement a disaster or an emergency plan before,
2832 during, or ~~immediately~~ following the event for which a state of
2833 emergency is declared, which may include, but is not limited to,
2834 turning on or shutting off elevators; electricity; water, sewer,
2835 or security systems; or air conditioners for association
2836 buildings.

2837 (g) Based upon the advice of emergency management officials
2838 or public health officials, or upon the advice of licensed
2839 professionals retained by or otherwise available to the board,
2840 determine any portion of the common areas or facilities
2841 ~~association property~~ unavailable for entry or occupancy by
2842 owners or their family members, tenants, guests, agents, or

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2843 invitees to protect their health, safety, or welfare.

2844 (h) Based upon the advice of emergency management officials
2845 or public health officials or upon the advice of licensed
2846 professionals retained by or otherwise available to the board,
2847 determine whether the common areas or facilities ~~association~~
2848 ~~property~~ can be safely inhabited, accessed, or occupied.
2849 However, such determination is not conclusive as to any
2850 determination of habitability pursuant to the declaration.

2851 (i) Mitigate further damage, injury, or contagion,
2852 including taking action to contract for the removal of debris
2853 and to prevent or mitigate the spread of fungus, including mold
2854 or mildew, by removing and disposing of wet drywall, insulation,
2855 carpet, cabinetry, or other fixtures on or within the common
2856 areas or facilities or sanitizing the common areas or facilities
2857 ~~association property~~.

2858 (j) Notwithstanding a provision to the contrary, and
2859 regardless of whether such authority does not specifically
2860 appear in the declaration or other recorded governing documents,
2861 levy special assessments without a vote of the owners.

2862 (k) Without owners' approval, borrow money and pledge
2863 association assets as collateral to fund emergency repairs and
2864 carry out the duties of the association if operating funds are
2865 insufficient. This paragraph does not limit the general
2866 authority of the association to borrow money, subject to such
2867 restrictions contained in the declaration or other recorded
2868 governing documents.

2869 (2) The authority granted under subsection (1) is limited
2870 to that time reasonably necessary to protect the health, safety,
2871 and welfare of the association and the parcel owners and their

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2872 family members, tenants, guests, agents, or invitees, and to
2873 mitigate further damage, injury, or contagion and make emergency
2874 repairs.

2875 (3) Notwithstanding paragraphs (1)(f)-(i), during a state
2876 of emergency declared by executive order or proclamation of the
2877 Governor pursuant to s. 252.36, an association may not prohibit
2878 parcel owners, tenants, guests, agents, or invitees of a parcel
2879 owner from accessing the common areas and facilities for the
2880 purposes of ingress to and egress from the parcel when access is
2881 necessary in connection with:

2882 (a) The sale, lease, or other transfer of title of a
2883 parcel; or

2884 (b) The habitability of the parcel or for the health and
2885 safety of such person unless a governmental order or
2886 determination, or a public health directive from the Centers for
2887 Disease Control and Prevention, has been issued prohibiting such
2888 access to the parcel. Any such access is subject to reasonable
2889 restrictions adopted by the association.

2890 Section 27. This act shall take effect July 1, 2021.