

1 A bill to be entitled
2 An act relating to condominium and cooperative
3 associations; amending s. 468.436, F.S.; providing
4 grounds for disciplinary action; amending ss. 718.103
5 and 719.103, F.S.; providing definitions; amending s.
6 718.111, F.S.; revising documents that constitute
7 official records; requiring certain official records
8 to be maintained for a specified period of time;
9 providing that a renter of a unit has a right to copy
10 and inspect certain written reports; revising
11 documents that must be included online; conforming a
12 cross-reference; amending ss. 718.112 and 719.106,
13 F.S.; specifying the method for determining reserve
14 amounts; prohibiting members and certain associations
15 from waiving or reducing reserves for certain items
16 after a specified date; requiring certain associations
17 to receive approval before waiving or reducing
18 reserves for certain items; prohibiting certain
19 associations from using reserve funds, or interest
20 thereon, for certain purposes after a specified date;
21 requiring certain associations to have a reserve study
22 completed at specified intervals; providing
23 requirements for the reserve study; specifying that
24 certain associations must have a reserve study
25 completed for certain buildings by a specified date;

26 conforming provisions to changes made by the act;
27 amending s. 718.116, F.S.; conforming a cross-
28 reference; amending s. 718.117, F.S.; providing that
29 certain condominiums may be terminated by a majority
30 vote under certain circumstances; specifying the
31 method for determining a condominium's fair market
32 value; conforming a cross-reference; creating ss.
33 718.132 and 719.132, F.S.; providing definitions;
34 requiring the recertification of specified buildings;
35 requiring phase 2 inspections under certain
36 circumstances; providing requirements for such
37 recertifications and inspections; providing notice
38 requirements; providing requirements for certain
39 associations and local building officials; authorizing
40 local building officials to prescribe penalties, which
41 must be posted on the building department's website;
42 amending ss. 718.301 and 719.301, F.S.; requiring
43 developers to deliver certain information to certain
44 associations when transferring control; amending ss.
45 718.501 and 719.501, F.S.; revising matters that the
46 Division of Florida Condominiums, Timeshares, and
47 Mobile Homes has jurisdiction to investigate;
48 requiring certain associations to provide certain
49 information and updates to the division within a
50 specified time and by a specified date; amending ss.

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51 718.503 and 719.503, F.S.; requiring a developer or
52 unit owner, as applicable, to deliver certain
53 documents to a buyer or lessee of a unit; amending ss.
54 718.504 and 719.504, F.S.; requiring certain
55 information to be included in a prospectus or an
56 offering circular; amending s. 719.104, F.S.; revising
57 documents that constitute official records; amending
58 ss. 720.303, 720.311, and 721.15, F.S.; conforming
59 cross-references; providing an effective date.
60

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

63 Section 1. Paragraph (b) of subsection (2) of section
64 468.436, Florida Statutes, is amended to read:

65 468.436 Disciplinary proceedings.—

66 (2) The following acts constitute grounds for which the
67 disciplinary actions in subsection (4) may be taken:

68 (b)1. Violation of any provision of this part.

69 2. Violation of any lawful order or rule rendered or
70 adopted by the department or the council.

71 3. Being convicted of or pleading nolo contendere to a
72 felony in any court in the United States.

73 4. Obtaining a license or certification or any other
74 order, ruling, or authorization by means of fraud,
75 misrepresentation, or concealment of material facts.

76 5. Committing acts of gross misconduct or gross negligence
 77 in connection with the profession.

78 6. Contracting, on behalf of an association, with any
 79 entity in which the licensee has a financial interest that is
 80 not disclosed.

81 7. Violating any provision of chapter 718, chapter 719, or
 82 chapter 720 during the course of performing community
 83 association management services pursuant to a contract with a
 84 community association as defined in s. 468.431(1).

85 8. Failing to provide a written recertification report to
 86 a local building official in accordance with s. 718.132 or s.
 87 719.132 during the course of performing community association
 88 management services pursuant to a contract with a condominium,
 89 as defined in s. 718.103, or a cooperative, as defined in s.
 90 719.103.

91 Section 2. Subsection (22) and subsections (23) through
 92 (30) of section 718.103, Florida Statutes, are renumbered as
 93 subsection (23) and subsections (25) through (32), respectively,
 94 and new subsections (22) and (24) are added to that section to
 95 read:

96 718.103 Definitions.— As used in this chapter, the term:
 97 (22) "Primary structural member" has the same meaning as
 98 in s. 627.706(2).

99 (24) "Reserve study" means a study of the reserve funds
 100 required for future major repairs and replacement of the common

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101 elements based on a visual inspection of the common elements by
102 an engineer licensed under chapter 471 or an architect licensed
103 under chapter 481. At a minimum, a reserve study must identify
104 the common elements being visually inspected, state the
105 estimated remaining useful life and the estimated replacement
106 cost or deferred maintenance expense of the common elements
107 being visually inspected, and provide a recommended annual
108 reserve amount that achieves the estimated replacement cost or
109 deferred maintenance expense of each common element being
110 visually inspected by the end of the estimated remaining useful
111 life of each common element.

112 Section 3. Paragraph (b) of subsection (7) and paragraphs
113 (a), (b), (c), and (g) of subsection (12) of section 718.111,
114 Florida Statutes, are amended to read:

115 718.111 The association.—

116 (7) TITLE TO PROPERTY.—

117 (b) Subject to s. 718.112(2)(n) ~~the provisions of s.~~
118 ~~718.112(2)(m)~~, the association, through its board, has the
119 limited power to convey a portion of the common elements to a
120 condemning authority for the purposes of providing utility
121 easements, right-of-way expansion, or other public purposes,
122 whether negotiated or as a result of eminent domain proceedings.

123 (12) OFFICIAL RECORDS.—

124 (a) From the inception of the association, the association
125 shall maintain each of the following items, if applicable, which

126 | constitutes the official records of the association:

127 | 1. A copy of the plans, permits, warranties, and other
128 | items provided by the developer under s. 718.301(4).

129 | 2. A photocopy of the recorded declaration of condominium
130 | of each condominium operated by the association and each
131 | amendment to each declaration.

132 | 3. A photocopy of the recorded bylaws of the association
133 | and each amendment to the bylaws.

134 | 4. A certified copy of the articles of incorporation of
135 | the association, or other documents creating the association,
136 | and each amendment thereto.

137 | 5. A copy of the current rules of the association.

138 | 6. A book or books that contain the minutes of all
139 | meetings of the association, the board of administration, and
140 | the unit owners.

141 | 7. A current roster of all unit owners and their mailing
142 | addresses, unit identifications, voting certifications, and, if
143 | known, telephone numbers. The association shall also maintain
144 | the e-mail addresses and facsimile numbers of unit owners
145 | consenting to receive notice by electronic transmission. The e-
146 | mail addresses and facsimile numbers are not accessible to unit
147 | owners if consent to receive notice by electronic transmission
148 | is not provided in accordance with sub-subparagraph (c)3.e.
149 | However, the association is not liable for an inadvertent
150 | disclosure of the e-mail address or facsimile number for

151 receiving electronic transmission of notices.

152 8. All current insurance policies of the association and
 153 condominiums operated by the association.

154 9. A current copy of any management agreement, lease, or
 155 other contract to which the association is a party or under
 156 which the association or the unit owners have an obligation or
 157 responsibility.

158 10. Bills of sale or transfer for all property owned by
 159 the association.

160 11. Accounting records for the association and separate
 161 accounting records for each condominium that the association
 162 operates. Any person who knowingly or intentionally defaces or
 163 destroys such records, or who knowingly or intentionally fails
 164 to create or maintain such records, with the intent of causing
 165 harm to the association or one or more of its members, is
 166 personally subject to a civil penalty pursuant to s.
 167 718.501(1)(d). The accounting records must include, but are not
 168 limited to:

169 a. Accurate, itemized, and detailed records of all
 170 receipts and expenditures.

171 b. A current account and a monthly, bimonthly, or
 172 quarterly statement of the account for each unit designating the
 173 name of the unit owner, the due date and amount of each
 174 assessment, the amount paid on the account, and the balance due.

175 c. All audits, reviews, accounting statements, reserve

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176 studies, and financial reports of the association or
177 condominium.

178 d. All contracts for work to be performed. Bids for work
179 to be performed are also considered official records and must be
180 maintained by the association for at least 1 year after receipt
181 of the bid.

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

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

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

191 15. A copy of the inspection report as described in s.
192 718.301(4)(p).

193 16. Bids for materials, equipment, or services.

194 17. All affirmative acknowledgments made pursuant to s.
195 718.121(4)(c).

196 18. All written recertification reports and written phase
197 2 inspection reports if required under s. 718.132.

198 ~~19.18.~~ All other written records of the association not
199 specifically included in the foregoing which are related to the
200 operation of the association.

201 (b) The official records specified in subparagraphs (a)1.-
202 6. and 18. must be permanently maintained from the inception of
203 the association. Bids for work to be performed or for materials,
204 equipment, or services must be maintained for at least 1 year
205 after receipt of the bid. Reserve studies must be maintained for
206 at least 15 years after the study is completed. All other
207 official records must be maintained within the state for at
208 least 7 years, unless otherwise provided by general law. The
209 records of the association shall be made available to a unit
210 owner within 45 miles of the condominium property or within the
211 county in which the condominium property is located within 10
212 working days after receipt of a written request by the board or
213 its designee. However, such distance requirement does not apply
214 to an association governing a timeshare condominium. This
215 paragraph may be complied with by having a copy of the official
216 records of the association available for inspection or copying
217 on the condominium property or association property, or the
218 association may offer the option of making the records available
219 to a unit owner electronically via the Internet or by allowing
220 the records to be viewed in electronic format on a computer
221 screen and printed upon request. The association is not
222 responsible for the use or misuse of the information provided to
223 an association member or his or her authorized representative in
224 compliance with this chapter unless the association has an
225 affirmative duty not to disclose such information under this

226 chapter.

227 (c)1. The official records of the association are open to
228 inspection by any association member or the authorized
229 representative of such member at all reasonable times. The right
230 to inspect the records includes the right to make or obtain
231 copies, at the reasonable expense, if any, of the member or
232 authorized representative of such member. A renter of a unit has
233 a right to inspect and copy only the declaration of condominium,
234 ~~and the association's bylaws and rules, and, if applicable, the~~
235 association's written recertification reports and written phase
236 2 inspection reports as described in s. 718.132. The association
237 may adopt reasonable rules regarding the frequency, time,
238 location, notice, and manner of record inspections and copying
239 but may not require a member to demonstrate any purpose or state
240 any reason for the inspection. The failure of an association to
241 provide the records within 10 working days after receipt of a
242 written request creates a rebuttable presumption that the
243 association willfully failed to comply with this paragraph. A
244 unit owner who is denied access to official records is entitled
245 to the actual damages or minimum damages for the association's
246 willful failure to comply. Minimum damages are \$50 per calendar
247 day for up to 10 days, beginning on the 11th working day after
248 receipt of the written request. The failure to permit inspection
249 entitles any person prevailing in an enforcement action to
250 recover reasonable attorney fees from the person in control of

251 the records who, directly or indirectly, knowingly denied access
252 to the records.

253 2. Any person who knowingly or intentionally defaces or
254 destroys accounting records that are required by this chapter to
255 be maintained during the period for which such records are
256 required to be maintained, or who knowingly or intentionally
257 fails to create or maintain accounting records that are required
258 to be created or maintained, with the intent of causing harm to
259 the association or one or more of its members, is personally
260 subject to a civil penalty under ~~pursuant to~~ s. 718.501(1)(d).

261 3. The association must ~~shall~~ maintain an adequate number
262 of copies of the declaration, articles of incorporation, bylaws,
263 and rules, and all amendments to each of the foregoing, as well
264 as the question and answer sheet as described in s. 718.504 and
265 year-end financial information required under this section, on
266 the condominium property to ensure their availability to unit
267 owners and prospective purchasers, and may charge its actual
268 costs for preparing and furnishing these documents to those
269 requesting the documents. An association must ~~shall~~ allow a
270 member or his or her authorized representative to use a portable
271 device, including a smartphone, tablet, portable scanner, or any
272 other technology capable of scanning or taking photographs, to
273 make an electronic copy of the official records in lieu of the
274 association's providing the member or his or her authorized
275 representative with a copy of such records. The association may

276 | not charge a member or his or her authorized representative for
 277 | the use of a portable device. Notwithstanding this paragraph,
 278 | the following records are not accessible to unit owners:

279 | a. Any record protected by the lawyer-client privilege as
 280 | described in s. 90.502 and any record protected by the work-
 281 | product privilege, including a record prepared by an association
 282 | attorney or prepared at the attorney's express direction, which
 283 | reflects a mental impression, conclusion, litigation strategy,
 284 | or legal theory of the attorney or the association, and which
 285 | was prepared exclusively for civil or criminal litigation or for
 286 | adversarial administrative proceedings, or which was prepared in
 287 | anticipation of such litigation or proceedings until the
 288 | conclusion of the litigation or proceedings.

289 | b. Information obtained by an association in connection
 290 | with the approval of the lease, sale, or other transfer of a
 291 | unit.

292 | c. Personnel records of association or management company
 293 | employees, including, but not limited to, disciplinary, payroll,
 294 | health, and insurance records. For purposes of this sub-
 295 | subparagraph, the term "personnel records" does not include
 296 | written employment agreements with an association employee or
 297 | management company, or budgetary or financial records that
 298 | indicate the compensation paid to an association employee.

299 | d. Medical records of unit owners.

300 | e. Social security numbers, driver license numbers, credit

301 card numbers, e-mail addresses, telephone numbers, facsimile
302 numbers, emergency contact information, addresses of a unit
303 owner other than as provided to fulfill the association's notice
304 requirements, and other personal identifying information of any
305 person, excluding the person's name, unit designation, mailing
306 address, property address, and any address, e-mail address, or
307 facsimile number provided to the association to fulfill the
308 association's notice requirements. Notwithstanding the
309 restrictions in this sub-subparagraph, an association may print
310 and distribute to unit owners a directory containing the name,
311 unit address, and all telephone numbers of each unit owner.
312 However, an owner may exclude his or her telephone numbers from
313 the directory by so requesting in writing to the association. An
314 owner may consent in writing to the disclosure of other contact
315 information described in this sub-subparagraph. The association
316 is not liable for the inadvertent disclosure of information that
317 is protected under this sub-subparagraph if the information is
318 included in an official record of the association and is
319 voluntarily provided by an owner and not requested by the
320 association.

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

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

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

327 h. All affirmative acknowledgments made pursuant to s.
328 718.121(4)(c).

329 (g)1. ~~By January 1, 2019,~~ An association managing a
330 condominium with 150 or more units which does not contain
331 timeshare units must ~~shall~~ post digital copies of the documents
332 specified in subparagraph 2. on its website or make such
333 documents available through an application that can be
334 downloaded on a mobile device.

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

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

338 (II) A website, application, or web portal operated by a
339 third-party provider with whom the association owns, leases,
340 rents, or otherwise obtains the right to operate a web page,
341 subpage, web portal, collection of subpages or web portals, or
342 an application which is dedicated to the association's
343 activities and on which required notices, records, and documents
344 may be posted or made available by the association.

345 b. The association's website or application must be
346 accessible through the Internet and must contain a subpage, web
347 portal, or other protected electronic location that is
348 inaccessible to the general public and accessible only to unit
349 owners and employees of the association.

350 c. Upon a unit owner's written request, the association

351 must provide the unit owner with a username and password and
 352 access to the protected sections of the association's website or
 353 application which contain any notices, records, or documents
 354 that must be electronically provided.

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

358 a. The recorded declaration of condominium of each
 359 condominium operated by the association and each amendment to
 360 each declaration.

361 b. The recorded bylaws of the association and each
 362 amendment to the bylaws.

363 c. The articles of incorporation of the association, or
 364 other documents creating the association, and each amendment to
 365 the articles of incorporation or other documents. The copy
 366 posted pursuant to this sub-subparagraph must be a copy of the
 367 articles of incorporation filed with the Department of State.

368 d. The rules of the association.

369 e. A list of all executory contracts or documents to which
 370 the association is a party or under which the association or the
 371 unit owners have an obligation or responsibility and, after
 372 bidding for the related materials, equipment, or services has
 373 closed, a list of bids received by the association within the
 374 past year. Summaries of bids for materials, equipment, or
 375 services which exceed \$500 must be maintained on the website or

376 application for 1 year. In lieu of summaries, complete copies of
 377 the bids may be posted.

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

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

383 h. The certification of each director required by s.
 384 718.112(2) (d)4.b.

385 i. All contracts or transactions between the association
 386 and any director, officer, corporation, firm, or association
 387 that is not an affiliated condominium association or any other
 388 entity in which an association director is also a director or
 389 officer and financially interested.

390 j. Any contract or document regarding a conflict of
 391 interest or possible conflict of interest as provided in ss.
 392 468.436(2) (b)6. and 718.3027(3).

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

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401 meeting or any document listed on the agenda at least 7 days
402 before the meeting at which the document or the information
403 within the document will be considered.

404 1. Notice of any board meeting, the agenda, and any other
405 document required for the meeting as required by s.
406 718.112(2)(c), which must be posted no later than the date
407 required for notice under s. 718.112(2)(c).

408 m. The association's most recent reserve study, if
409 applicable.

410 n. The association's most recent written recertification
411 report and written phase 2 inspection report as described in s.
412 718.132, if applicable.

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

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

430 Section 4. Paragraphs (g) through (o) of subsection (2) of
431 section 718.112, Florida Statutes, are redesignated as
432 paragraphs (h) through (p), respectively, paragraphs (d) and (f)
433 of that subsection are amended, and a new paragraph (g) is added
434 to that subsection, to read:

435 718.112 Bylaws.—

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

439 (d) Unit owner meetings.—

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

446 2. Unless the bylaws provide otherwise, a vacancy on the
447 board caused by the expiration of a director's term must be
448 filled by electing a new board member, and the election must be
449 by secret ballot. An election is not required if the number of
450 vacancies equals or exceeds the number of candidates. For

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451 purposes of this paragraph, the term "candidate" means an
452 eligible person who has timely submitted the written notice, as
453 described in sub-subparagraph 4.a., of his or her intention to
454 become a candidate. Except in a timeshare or nonresidential
455 condominium, or if the staggered term of a board member does not
456 expire until a later annual meeting, or if all members' terms
457 would otherwise expire but there are no candidates, the terms of
458 all board members expire at the annual meeting, and such members
459 may stand for reelection unless prohibited by the bylaws. Board
460 members may serve terms longer than 1 year if permitted by the
461 bylaws or articles of incorporation. A board member may not
462 serve more than 8 consecutive years unless approved by an
463 affirmative vote of unit owners representing two-thirds of all
464 votes cast in the election or unless there are not enough
465 eligible candidates to fill the vacancies on the board at the
466 time of the vacancy. Only board service that occurs on or after
467 July 1, 2018, may be used when calculating a board member's term
468 limit. If the number of board members whose terms expire at the
469 annual meeting equals or exceeds the number of candidates, the
470 candidates become members of the board effective upon the
471 adjournment of the annual meeting. Unless the bylaws provide
472 otherwise, any remaining vacancies shall be filled by the
473 affirmative vote of the majority of the directors making up the
474 newly constituted board even if the directors constitute less
475 than a quorum or there is only one director. In a residential

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476 condominium association of more than 10 units or in a
477 residential condominium association that does not include
478 timeshare units or timeshare interests, co-owners of a unit may
479 not serve as members of the board of directors at the same time
480 unless they own more than one unit or unless there are not
481 enough eligible candidates to fill the vacancies on the board at
482 the time of the vacancy. A unit owner in a residential
483 condominium desiring to be a candidate for board membership must
484 comply with sub-subparagraph 4.a. and must be eligible to be a
485 candidate to serve on the board of directors at the time of the
486 deadline for submitting a notice of intent to run in order to
487 have his or her name listed as a proper candidate on the ballot
488 or to serve on the board. A person who has been suspended or
489 removed by the division under this chapter, or who is delinquent
490 in the payment of any assessment due to the association, is not
491 eligible to be a candidate for board membership and may not be
492 listed on the ballot. For purposes of this paragraph, a person
493 is delinquent if a payment is not made by the due date as
494 specifically identified in the declaration of condominium,
495 bylaws, or articles of incorporation. If a due date is not
496 specifically identified in the declaration of condominium,
497 bylaws, or articles of incorporation, the due date is the first
498 day of the assessment period. A person who has been convicted of
499 any felony in this state or in a United States District or
500 Territorial Court, or who has been convicted of any offense in

501 another jurisdiction which would be considered a felony if
502 committed in this state, is not eligible for board membership
503 unless such felon's civil rights have been restored for at least
504 5 years as of the date such person seeks election to the board.
505 The validity of an action by the board is not affected if it is
506 later determined that a board member is ineligible for board
507 membership due to having been convicted of a felony. This
508 subparagraph does not limit the term of a member of the board of
509 a nonresidential or timeshare condominium.

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

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

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

572 4. The members of the board of a residential condominium
573 shall be elected by written ballot or voting machine. Proxies
574 may not be used in electing the board in general elections or
575 elections to fill vacancies caused by recall, resignation, or

576 otherwise, unless otherwise provided in this chapter. This
577 subparagraph does not apply to an association governing a
578 timeshare condominium.

579 a. At least 60 days before a scheduled election, the
580 association shall mail, deliver, or electronically transmit, by
581 separate association mailing or included in another association
582 mailing, delivery, or transmission, including regularly
583 published newsletters, to each unit owner entitled to a vote, a
584 first notice of the date of the election. A unit owner or other
585 eligible person desiring to be a candidate for the board must
586 give written notice of his or her intent to be a candidate to
587 the association at least 40 days before a scheduled election.
588 Together with the written notice and agenda as set forth in
589 subparagraph 3., the association shall mail, deliver, or
590 electronically transmit a second notice of the election to all
591 unit owners entitled to vote, together with a ballot that lists
592 all candidates not less than 14 days or more than 34 days before
593 the date of the election. Upon request of a candidate, an
594 information sheet, no larger than 8 1/2 inches by 11 inches,
595 which must be furnished by the candidate at least 35 days before
596 the election, must be included with the mailing, delivery, or
597 transmission of the ballot, with the costs of mailing, delivery,
598 or electronic transmission and copying to be borne by the
599 association. The association is not liable for the contents of
600 the information sheets prepared by the candidates. In order to

601 reduce costs, the association may print or duplicate the
602 information sheets on both sides of the paper. The division
603 shall by rule establish voting procedures consistent with this
604 sub-subparagraph, including rules establishing procedures for
605 giving notice by electronic transmission and rules providing for
606 the secrecy of ballots. Elections shall be decided by a
607 plurality of ballots cast. There is no quorum requirement;
608 however, at least 20 percent of the eligible voters must cast a
609 ballot in order to have a valid election. A unit owner may not
610 authorize any other person to vote his or her ballot, and any
611 ballots improperly cast are invalid. A unit owner who violates
612 this provision may be fined by the association in accordance
613 with s. 718.303. A unit owner who needs assistance in casting
614 the ballot for the reasons stated in s. 101.051 may obtain such
615 assistance. The regular election must occur on the date of the
616 annual meeting. Notwithstanding this sub-subparagraph, an
617 election is not required unless more candidates file notices of
618 intent to run or are nominated than board vacancies exist.

619 b. Within 90 days after being elected or appointed to the
620 board of an association of a residential condominium, each newly
621 elected or appointed director shall certify in writing to the
622 secretary of the association that he or she has read the
623 association's declaration of condominium, articles of
624 incorporation, bylaws, and current written policies; that he or
625 she will work to uphold such documents and policies to the best

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626 | of his or her ability; and that he or she will faithfully
627 | discharge his or her fiduciary responsibility to the
628 | association's members. In lieu of this written certification,
629 | within 90 days after being elected or appointed to the board,
630 | the newly elected or appointed director may submit a certificate
631 | of having satisfactorily completed the educational curriculum
632 | administered by a division-approved condominium education
633 | provider within 1 year before or 90 days after the date of
634 | election or appointment. The written certification or
635 | educational certificate is valid and does not have to be
636 | resubmitted as long as the director serves on the board without
637 | interruption. A director of an association of a residential
638 | condominium who fails to timely file the written certification
639 | or educational certificate is suspended from service on the
640 | board until he or she complies with this sub-subparagraph. The
641 | board may temporarily fill the vacancy during the period of
642 | suspension. The secretary shall cause the association to retain
643 | a director's written certification or educational certificate
644 | for inspection by the members for 5 years after a director's
645 | election or the duration of the director's uninterrupted tenure,
646 | whichever is longer. Failure to have such written certification
647 | or educational certificate on file does not affect the validity
648 | of any board action.

649 | c. Any challenge to the election process must be commenced
650 | within 60 days after the election results are announced.

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

661 6. Unit owners may waive notice of specific meetings if
662 allowed by the applicable bylaws or declaration or any law.
663 Notice of meetings of the board of administration, unit owner
664 meetings, except unit owner meetings called to recall board
665 members under paragraph (k) ~~(j)~~, and committee meetings may be
666 given by electronic transmission to unit owners who consent to
667 receive notice by electronic transmission. A unit owner who
668 consents to receiving notices by electronic transmission is
669 solely responsible for removing or bypassing filters that block
670 receipt of mass e-mails sent to members on behalf of the
671 association in the course of giving electronic notices.

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

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

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

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

699
700 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an

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701 association of 10 or fewer units may, by affirmative vote of a
702 majority of the total voting interests, provide for different
703 voting and election procedures in its bylaws, which may be by a
704 proxy specifically delineating the different voting and election
705 procedures. The different voting and election procedures may
706 provide for elections to be conducted by limited or general
707 proxy.

708 (f) Annual budget.—

709 1. The proposed annual budget of estimated revenues and
710 expenses must be detailed and must show the amounts budgeted by
711 accounts and expense classifications, including, at a minimum,
712 any applicable expenses listed in s. 718.504(21). The board
713 shall adopt the annual budget at least 14 days before ~~prior to~~
714 the start of the association's fiscal year. In the event that
715 the board fails to timely adopt the annual budget a second time,
716 it is ~~shall be~~ deemed a minor violation and the prior year's
717 budget shall continue in effect until a new budget is adopted. A
718 multicondominium association must ~~shall~~ adopt a separate budget
719 of common expenses for each condominium the association operates
720 and must ~~shall~~ adopt a separate budget of common expenses for
721 the association. In addition, if the association maintains
722 limited common elements with the cost to be shared only by those
723 entitled to use the limited common elements as provided for in
724 s. 718.113(1), the budget or a schedule attached to it must show
725 the amount budgeted for this maintenance. If, after turnover of

726 control of the association to the unit owners, any of the
727 expenses listed in s. 718.504(21) are not applicable, they do
728 ~~need~~ not need to be listed.

729 2.a. In addition to annual operating expenses, the budget
730 must include reserve accounts for capital expenditures and
731 deferred maintenance. These accounts must include, but are not
732 limited to, roof replacement, building painting, and pavement
733 resurfacing, regardless of the amount of deferred maintenance
734 expense or replacement cost, and any other item that has a
735 deferred maintenance expense or replacement cost that exceeds
736 \$10,000. The amount to be reserved for an item is determined by
737 the association's most recent reserve study. If the amount to be
738 reserved for an item is not in the association's most recent
739 reserve study or the association has not completed a reserve
740 study, the amount must be computed using a formula based upon
741 estimated remaining useful life and estimated replacement cost
742 or deferred maintenance expense of the each reserve item. The
743 association may adjust replacement reserve assessments annually
744 to take into account any changes in estimates or extension of
745 the useful life of a reserve item caused by deferred
746 maintenance. ~~This subsection does not apply to an adopted budget~~
747 ~~in which~~ The members of an association may determine ~~have~~
748 ~~determined~~, by a majority vote at a duly called meeting of the
749 association, to provide no reserves or less reserves than
750 required by this subsection. Effective July 1, 2024, the members

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751 of an association may not determine to provide no reserves or
752 less reserves than required by this subsection for items listed
753 in paragraph (g) which are for a building on the condominium
754 property that is three stories or higher in height.

755 b. Before turnover of control of an association by a
756 developer to unit owners other than a developer under ~~pursuant~~
757 ~~to~~ s. 718.301, the developer-controlled association ~~developer~~
758 may not vote ~~the voting interests allocated to its units to~~
759 waive the reserves or reduce ~~the~~ funding of the reserves without
760 the approval ~~through the period expiring at the end of the~~
761 ~~second fiscal year after the fiscal year in which the~~
762 ~~certificate of a surveyor and mapper is recorded pursuant to s.~~
763 ~~718.104(4)(c) or an instrument that transfers title to a unit in~~
764 ~~the condominium which is not accompanied by a recorded~~
765 ~~assignment of developer rights in favor of the grantee of such~~
766 ~~unit is recorded, whichever occurs first, after which time~~
767 ~~reserves may be waived or reduced only upon the vote of a~~
768 majority of all nondeveloper voting interests voting in person
769 or by limited proxy at a duly called meeting of the association.
770 Effective July 1, 2024, a developer-controlled association may
771 not vote to waive the reserves or reduce the funding of reserves
772 for items listed in paragraph (g) which are for a building on
773 the condominium property that is three stories or higher in
774 height. If a meeting of the unit owners has been called to
775 determine whether to waive or reduce the funding of reserves and

776 no such result is achieved or a quorum is not attained, the
777 reserves included in the budget shall go into effect. After the
778 turnover, the developer may vote its voting interest to waive or
779 reduce the funding of reserves.

780 3. Reserve funds and any interest accruing thereon shall
781 remain in the reserve account or accounts, and may be used only
782 for authorized reserve expenditures unless their use for other
783 purposes is approved in advance by a majority vote at a duly
784 called meeting of the association. Before turnover of control of
785 an association by a developer to unit owners other than the
786 developer pursuant to s. 718.301, the developer-controlled
787 association may not vote to use reserves for purposes other than
788 those for which they were intended without the approval of a
789 majority of all nondeveloper voting interests, voting in person
790 or by limited proxy at a duly called meeting of the association.
791 Effective July 1, 2024, members of an association may not vote
792 to use reserve funds, or any interest accruing thereon, for
793 items listed in paragraph (g) which are for a building on the
794 condominium property that is three stories or higher in height
795 for purposes other than their intended purpose.

796 4. The only voting interests that are eligible to vote on
797 questions that involve waiving or reducing the funding of
798 reserves, or using existing reserve funds for purposes other
799 than purposes for which the reserves were intended, are the
800 voting interests of the units subject to assessment to fund the

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801 reserves in question. Proxy questions relating to waiving or
802 reducing the funding of reserves or using existing reserve funds
803 for purposes other than purposes for which the reserves were
804 intended must contain the following statement in capitalized,
805 bold letters in a font size larger than any other used on the
806 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
807 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
808 RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED
809 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

810 (g) Reserve study.-

811 1. An association must have a reserve study completed at
812 least every 10 years after the condominium's creation for, at a
813 minimum, the following items for each building on the
814 condominium property that is three stories or higher in height:

815 a. Roof.

816 b. Load-bearing walls or other primary structural members.

817 c. Floor.

818 d. Foundation.

819 e. Fireproofing and fire protection systems.

820 f. Plumbing.

821 g. Electrical systems.

822 h. Waterproofing and exterior painting.

823 i. Windows.

824 j. Any other item that has a deferred maintenance expense
825 or replacement cost that exceeds \$10,000 and the failure to

826 replace or maintain such item negatively affects the items
 827 listed in subparagraphs a.-i., as determined by the licensed
 828 engineer or architect performing the visual inspection.

829 2. Before a developer turns over control of an association
 830 to unit owners other than the developer, the developer must have
 831 a reserve study completed for each building on the condominium
 832 property that is three stories or higher in height.

833 3. Associations existing on or before July 1, 2022, which
 834 are controlled by unit owners other than the developer, must
 835 have a reserve study completed by July 1, 2024, for each
 836 building on the condominium property that is three stories or
 837 higher in height.

838 Section 5. Paragraph (f) of subsection (8) of section
 839 718.116, Florida Statutes, is amended to read:

840 718.116 Assessments; liability; lien and priority;
 841 interest; collection.-

842 (8) Within 10 business days after receiving a written or
 843 electronic request therefor from a unit owner or the unit
 844 owner's designee, or a unit mortgagee or the unit mortgagee's
 845 designee, the association shall issue the estoppel certificate.
 846 Each association shall designate on its website a person or
 847 entity with a street or e-mail address for receipt of a request
 848 for an estoppel certificate issued pursuant to this section. The
 849 estoppel certificate must be provided by hand delivery, regular
 850 mail, or e-mail to the requestor on the date of issuance of the

851 estoppel certificate.

852 (f) Notwithstanding any limitation on transfer fees
 853 contained in s. 718.112(2)(j) ~~s. 718.112(2)(i)~~, an association
 854 or its authorized agent may charge a reasonable fee for the
 855 preparation and delivery of an estoppel certificate, which may
 856 not exceed \$250, if, on the date the certificate is issued, no
 857 delinquent amounts are owed to the association for the
 858 applicable unit. If an estoppel certificate is requested on an
 859 expedited basis and delivered within 3 business days after the
 860 request, the association may charge an additional fee of \$100.
 861 If a delinquent amount is owed to the association for the
 862 applicable unit, an additional fee for the estoppel certificate
 863 may not exceed \$150.

864 Section 6. Paragraph (c) of subsection (2) of section
 865 718.117, Florida Statutes, is redesignated as paragraph (d),
 866 paragraph (b) of subsection (8) is amended, and a new paragraph
 867 (c) is added to subsection (2) of that section, to read:

868 718.117 Termination of condominium.—

869 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
 870 IMPOSSIBILITY.—

871 (c)1. Notwithstanding paragraph (a), a condominium that
 872 has a building that has received a phase 2 inspection under s.
 873 718.132 with recommended repairs for damage to the items listed
 874 in s. 718.112(2)(g) that exceed 65 percent of the combined fair
 875 market value of the units in the condominium after completion of

876 the construction or repairs may be terminated pursuant to a plan
 877 of termination approved by a majority of the voting unit owners
 878 present at a properly called meeting of the association. A bulk
 879 owner is considered a single unit owner and only has one vote
 880 under this paragraph. For purposes of this paragraph, the term
 881 "bulk owner" has the same meaning as in paragraph (3) (c).

882 2. The fair market value of the units in the condominium
 883 must be determined by an independent appraiser selected by the
 884 termination trustee no earlier than 90 days before the date on
 885 which the plan of termination is recorded.

886 (8) REPORTS AND REPLACEMENT OF RECEIVER.—

887 (b) The unit owners of an association in termination may
 888 recall or remove members of the board of administration with or
 889 without cause at any time as provided in s. 718.112(2)(k) ~~s.~~
 890 ~~718.112(2)(j)~~.

891 Section 7. Section 718.132, Florida Statutes, is created
 892 to read:

893 718.132 Building recertification.—

894 (1) As used in this section, the term:

895 (a) "Coastline" has the same meaning as in the Submerged
 896 Lands Act, 43 U.S.C. s. 1301(c).

897 (b) "Phase 2 inspection" means an inspection that includes
 898 destructive and nondestructive testing at the discretion of the
 899 person performing the inspection and a written report of such
 900 inspection. A phase 2 inspection must be performed by an

901 engineer licensed under chapter 471 or an architect licensed
902 under chapter 481.

903 (c) "Recertification" or "recertify" means a visual
904 inspection of a building's general structural condition and the
905 general condition of its electrical system, including a written
906 report of such inspection, performed by an engineer licensed
907 under chapter 471 or an architect licensed under chapter 481.

908 (d) "Visual inspection" means a visual examination of the
909 items listed s. 718.112(2)(g).

910 (2)(a) An association must have any building on
911 condominium property that is three stories or higher in height
912 and that has been occupied for at least 30 years, or 25 years if
913 the building is within 3 miles of the coastline of the state,
914 recertified as determined by the local building official.

915 (b) An association must have any building on condominium
916 property that is required to be recertified under paragraph (a)
917 recertified at least every 10 years after its first
918 recertification.

919 (3) Upon determining that a building on condominium
920 property must be recertified, the local building official must
921 provide written notice of such required recertification to the
922 association by certified mail, return receipt requested.

923 (4)(a) Within 90 days after receiving the written notice
924 under subsection (3), or within 180 days if the association
925 receives the written notice before July 1, 2023, the association

926 or the association's manager must provide the written
927 recertification report by e-mail or United States Postal Service
928 to the local building official and state the date on which the
929 association received such report from the licensed engineer or
930 architect who performed the recertification.

931 (b) Within 14 days after receiving the written
932 recertification report from the licensed engineer or architect
933 who performed the recertification, the association must provide
934 the written recertification report by e-mail or United States
935 Postal Service to each unit owner.

936 (5) Upon completing a recertification, the licensed
937 engineer or architect who performed the recertification must
938 provide a written recertification report by e-mail or United
939 States Postal Service to the association. The written
940 recertification report must, at a minimum:

941 (a) Bear the impressed seal and signature of the licensed
942 engineer or architect who performed the inspection.

943 (b) Indicate the manner and type of inspection forming the
944 basis for the written recertification report and a description
945 of any items identified as requiring further inspection or
946 remedial action.

947 (c) Indicate whether there is damage to the items listed
948 in s. 718.112(2)(g), within a reasonable professional
949 probability based on the scope of the inspection, and list any
950 recommended repairs for such damage.

951 (d) Indicate whether there is substantial damage to the
952 items listed in s. 718.112(2)(g) within a reasonable
953 professional probability based on the scope of the inspection.

954 (e) State whether the building is structurally and
955 electrically safe for its intended use within a reasonable
956 professional probability based on the scope of the inspection.

957 (6)(a) If a written recertification report indicates that
958 there is substantial damage to the items listed in s.
959 718.112(2)(g), within a reasonable professional probability
960 based on the scope of the inspection, the local building
961 official must provide written notice to the association by
962 certified mail, return receipt requested, that the association
963 must have a phase 2 inspection performed.

964 (b) Within 60 days after receiving the written notice
965 under paragraph (a), the association must provide written notice
966 to the local building official by e-mail or United States Postal
967 Service that includes the start date of the phase 2 inspection
968 and the name and contact information of the licensed engineer or
969 architect who will perform the phase 2 inspection.

970 (c) The written phase 2 inspection report must, at a
971 minimum:

972 1. Bear the impressed seal and signature of the licensed
973 engineer or architect who performed the inspection.

974 2. Indicate the manner and type of inspection forming the
975 basis for the written report.

976 3. State whether there is substantial damage to the items
977 listed in s. 718.112(2)(g), within a reasonable professional
978 probability based on the scope of the inspection, and the extent
979 of such damage and list any recommended repairs for such damage.

980 4. State whether the building is structurally and
981 electrically safe for its intended use within a reasonable
982 professional probability based on the scope of the inspection.

983 (d) The licensed engineer or architect performing the
984 phase 2 inspection must provide the written phase 2 inspection
985 report by e-mail or United States Postal Service to the local
986 building official and the association upon completion.

987 (e) Within 14 days after receiving the written phase 2
988 inspection report from the licensed engineer or architect who
989 performed the phase 2 inspection, the association must provide
990 the written phase 2 inspection report by e-mail or United States
991 Postal Service to each unit owner.

992 (7)(a) A local building official may prescribe penalties,
993 which must be posted on the building department's website, for
994 failure to comply with this section.

995 (b) If an association fails to schedule or begin repairs
996 to the items listed in s. 718.112(2)(g) that are identified in
997 the written phase 2 inspection report within a time period to be
998 determined by the county commissioners of the county where the
999 building is located, which time period may not exceed 365 days
1000 after the local building official receives the written phase 2

1001 inspection report, the local building official must determine
 1002 that the building is unsafe for human occupancy until such
 1003 repairs are scheduled or begin.

1004 Section 8. Paragraphs (r), (s), and (t) are added to
 1005 subsection (4) of section 718.301, Florida Statutes, to read:

1006 718.301 Transfer of association control; claims of defect
 1007 by association.—

1008 (4) At the time that unit owners other than the developer
 1009 elect a majority of the members of the board of administration
 1010 of an association, the developer shall relinquish control of the
 1011 association, and the unit owners shall accept control.

1012 Simultaneously, or for the purposes of paragraph (c) not more
 1013 than 90 days thereafter, the developer shall deliver to the
 1014 association, at the developer's expense, all property of the
 1015 unit owners and of the association which is held or controlled
 1016 by the developer, including, but not limited to, the following
 1017 items, if applicable, as to each condominium operated by the
 1018 association:

1019 (r) A copy of the association's most recent reserve study.

1020 (s) If a building on the condominium property must be
 1021 recertified under s. 718.132, a copy of the association's most
 1022 recent written recertification report.

1023 (t) If a building on the condominium property must have a
 1024 phase 2 inspection performed under s. 718.132, a copy of the
 1025 association's most recent written phase 2 inspection report.

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1026 Section 9. Subsection (1) of section 718.501, Florida
1027 Statutes, is amended, and subsection (3) is added to that
1028 section, to read:

1029 718.501 Authority, responsibility, and duties of Division
1030 of Florida Condominiums, Timeshares, and Mobile Homes.—

1031 (1) The division may enforce and ensure compliance with
1032 this chapter and rules relating to the development,
1033 construction, sale, lease, ownership, operation, and management
1034 of residential condominium units. In performing its duties, the
1035 division has complete jurisdiction to investigate complaints and
1036 enforce compliance with respect to associations that are still
1037 under developer control or the control of a bulk assignee or
1038 bulk buyer pursuant to part VII of this chapter and complaints
1039 against developers, bulk assignees, or bulk buyers involving
1040 improper turnover or failure to turnover, pursuant to s.

1041 718.301. However, after turnover has occurred, the division has
1042 jurisdiction to investigate complaints related only to financial
1043 issues, reserve studies required under s. 718.112(2)(g),
1044 recertifications and phase 2 inspections required under s.
1045 718.132, elections, and the maintenance of and unit owner access
1046 to association records under s. 718.111(12).

1047 (a)1. The division may make necessary public or private
1048 investigations within or outside this state to determine whether
1049 any person has violated this chapter or any rule or order
1050 hereunder, to aid in the enforcement of this chapter, or to aid

1051 in the adoption of rules or forms.

1052 2. The division may submit any official written report,
1053 worksheet, or other related paper, or a duly certified copy
1054 thereof, compiled, prepared, drafted, or otherwise made by and
1055 duly authenticated by a financial examiner or analyst to be
1056 admitted as competent evidence in any hearing in which the
1057 financial examiner or analyst is available for cross-examination
1058 and attests under oath that such documents were prepared as a
1059 result of an examination or inspection conducted pursuant to
1060 this chapter.

1061 (b) The division may require or permit any person to file
1062 a statement in writing, under oath or otherwise, as the division
1063 determines, as to the facts and circumstances concerning a
1064 matter to be investigated.

1065 (c) For the purpose of any investigation under this
1066 chapter, the division director or any officer or employee
1067 designated by the division director may administer oaths or
1068 affirmations, subpoena witnesses and compel their attendance,
1069 take evidence, and require the production of any matter which is
1070 relevant to the investigation, including the existence,
1071 description, nature, custody, condition, and location of any
1072 books, documents, or other tangible things and the identity and
1073 location of persons having knowledge of relevant facts or any
1074 other matter reasonably calculated to lead to the discovery of
1075 material evidence. Upon the failure by a person to obey a

1076 subpoena or to answer questions propounded by the investigating
1077 officer and upon reasonable notice to all affected persons, the
1078 division may apply to the circuit court for an order compelling
1079 compliance.

1080 (d) Notwithstanding any remedies available to unit owners
1081 and associations, if the division has reasonable cause to
1082 believe that a violation of any provision of this chapter or
1083 related rule has occurred, the division may institute
1084 enforcement proceedings in its own name against any developer,
1085 bulk assignee, bulk buyer, association, officer, or member of
1086 the board of administration, or its assignees or agents, as
1087 follows:

1088 1. The division may permit a person whose conduct or
1089 actions may be under investigation to waive formal proceedings
1090 and enter into a consent proceeding whereby orders, rules, or
1091 letters of censure or warning, whether formal or informal, may
1092 be entered against the person.

1093 2. The division may issue an order requiring the
1094 developer, bulk assignee, bulk buyer, association, developer-
1095 designated officer, or developer-designated member of the board
1096 of administration, developer-designated assignees or agents,
1097 bulk assignee-designated assignees or agents, bulk buyer-
1098 designated assignees or agents, community association manager,
1099 or community association management firm to cease and desist
1100 from the unlawful practice and take such affirmative action as

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1101 in the judgment of the division carry out the purposes of this
1102 chapter. If the division finds that a developer, bulk assignee,
1103 bulk buyer, association, officer, or member of the board of
1104 administration, or its assignees or agents, is violating or is
1105 about to violate ~~any provision of~~ this chapter, any rule adopted
1106 or order issued by the division, or any written agreement
1107 entered into with the division, and presents an immediate danger
1108 to the public requiring an immediate final order, it may issue
1109 an emergency cease and desist order reciting with particularity
1110 the facts underlying such findings. The emergency cease and
1111 desist order is effective for 90 days. If the division begins
1112 nonemergency cease and desist proceedings, the emergency cease
1113 and desist order remains effective until the conclusion of the
1114 proceedings under ss. 120.569 and 120.57.

1115 3. If a developer, bulk assignee, or bulk buyer fails to
1116 pay any restitution determined by the division to be owed, plus
1117 any accrued interest at the highest rate permitted by law,
1118 within 30 days after expiration of any appellate time period of
1119 a final order requiring payment of restitution or the conclusion
1120 of any appeal thereof, whichever is later, the division must
1121 bring an action in circuit or county court on behalf of any
1122 association, class of unit owners, lessees, or purchasers for
1123 restitution, declaratory relief, injunctive relief, or any other
1124 available remedy. The division may also temporarily revoke its
1125 acceptance of the filing for the developer to which the

1126 restitution relates until payment of restitution is made.

1127 4. The division may petition the court for appointment of
1128 a receiver or conservator. If appointed, the receiver or
1129 conservator may take action to implement the court order to
1130 ensure the performance of the order and to remedy any breach
1131 thereof. In addition to all other means provided by law for the
1132 enforcement of an injunction or temporary restraining order, the
1133 circuit court may impound or sequester the property of a party
1134 defendant, including books, papers, documents, and related
1135 records, and allow the examination and use of the property by
1136 the division and a court-appointed receiver or conservator.

1137 5. The division may apply to the circuit court for an
1138 order of restitution whereby the defendant in an action brought
1139 under subparagraph 4. is ordered to make restitution of those
1140 sums shown by the division to have been obtained by the
1141 defendant in violation of this chapter. At the option of the
1142 court, such restitution is payable to the conservator or
1143 receiver appointed under subparagraph 4. or directly to the
1144 persons whose funds or assets were obtained in violation of this
1145 chapter.

1146 6. The division may impose a civil penalty against a
1147 developer, bulk assignee, or bulk buyer, or association, or its
1148 assignee or agent, for any violation of this chapter or related
1149 rule. The division may impose a civil penalty individually
1150 against an officer or board member who willfully and knowingly

1151 violates this chapter, an adopted rule, or a final order of the
1152 division; may order the removal of such individual as an officer
1153 or from the board of administration or as an officer of the
1154 association; and may prohibit such individual from serving as an
1155 officer or on the board of a community association for a period
1156 of time. The term "willfully and knowingly" means that the
1157 division informed the officer or board member that his or her
1158 action or intended action violates this chapter, a rule adopted
1159 under this chapter, or a final order of the division and that
1160 the officer or board member refused to comply with the
1161 requirements of this chapter, a rule adopted under this chapter,
1162 or a final order of the division. The division, before
1163 initiating formal agency action under chapter 120, must afford
1164 the officer or board member an opportunity to voluntarily
1165 comply, and an officer or board member who complies within 10
1166 days is not subject to a civil penalty. A penalty may be imposed
1167 on the basis of each day of continuing violation, but the
1168 penalty for any offense may not exceed \$5,000. The division
1169 shall adopt, by rule, penalty guidelines applicable to possible
1170 violations or to categories of violations of this chapter or
1171 rules adopted by the division. The guidelines must specify a
1172 meaningful range of civil penalties for each such violation of
1173 the statute and rules and must be based upon the harm caused by
1174 the violation, the repetition of the violation, and upon such
1175 other factors deemed relevant by the division. For example, the

1176 | division may consider whether the violations were committed by a
1177 | developer, bulk assignee, or bulk buyer, or owner-controlled
1178 | association, the size of the association, and other factors. The
1179 | guidelines must designate the possible mitigating or aggravating
1180 | circumstances that justify a departure from the range of
1181 | penalties provided by the rules. It is the legislative intent
1182 | that minor violations be distinguished from those which endanger
1183 | the health, safety, or welfare of the condominium residents or
1184 | other persons and that such guidelines provide reasonable and
1185 | meaningful notice to the public of likely penalties that may be
1186 | imposed for proscribed conduct. This subsection does not limit
1187 | the ability of the division to informally dispose of
1188 | administrative actions or complaints by stipulation, agreed
1189 | settlement, or consent order. All amounts collected shall be
1190 | deposited with the Chief Financial Officer to the credit of the
1191 | Division of Florida Condominiums, Timeshares, and Mobile Homes
1192 | Trust Fund. If a developer, bulk assignee, or bulk buyer fails
1193 | to pay the civil penalty and the amount deemed to be owed to the
1194 | association, the division shall issue an order directing that
1195 | such developer, bulk assignee, or bulk buyer cease and desist
1196 | from further operation until such time as the civil penalty is
1197 | paid or may pursue enforcement of the penalty in a court of
1198 | competent jurisdiction. If an association fails to pay the civil
1199 | penalty, the division shall pursue enforcement in a court of
1200 | competent jurisdiction, and the order imposing the civil penalty

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1201 or the cease and desist order is not effective until 20 days
1202 after the date of such order. Any action commenced by the
1203 division shall be brought in the county in which the division
1204 has its executive offices or in the county where the violation
1205 occurred.

1206 7. If a unit owner presents the division with proof that
1207 the unit owner has requested access to official records in
1208 writing by certified mail, and that after 10 days the unit owner
1209 again made the same request for access to official records in
1210 writing by certified mail, and that more than 10 days has
1211 elapsed since the second request and the association has still
1212 failed or refused to provide access to official records as
1213 required by this chapter, the division shall issue a subpoena
1214 requiring production of the requested records where the records
1215 are kept pursuant to s. 718.112.

1216 8. In addition to subparagraph 6., the division may seek
1217 the imposition of a civil penalty through the circuit court for
1218 any violation for which the division may issue a notice to show
1219 cause under paragraph (r). The civil penalty shall be at least
1220 \$500 but no more than \$5,000 for each violation. The court may
1221 also award to the prevailing party court costs and reasonable
1222 attorney fees and, if the division prevails, may also award
1223 reasonable costs of investigation.

1224 (e) The division may prepare and disseminate a prospectus
1225 and other information to assist prospective owners, purchasers,

1226 lessees, and developers of residential condominiums in assessing
1227 the rights, privileges, and duties pertaining thereto.

1228 (f) The division may adopt rules to administer and enforce
1229 this chapter.

1230 (g) The division shall establish procedures for providing
1231 notice to an association and the developer, bulk assignee, or
1232 bulk buyer during the period in which the developer, bulk
1233 assignee, or bulk buyer controls the association if the division
1234 is considering the issuance of a declaratory statement with
1235 respect to the declaration of condominium or any related
1236 document governing such condominium community.

1237 (h) The division shall furnish each association that pays
1238 the fees required by paragraph (2)(a) a copy of this chapter, as
1239 amended, and the rules adopted thereto on an annual basis.

1240 (i) The division shall annually provide each association
1241 with a summary of declaratory statements and formal legal
1242 opinions relating to the operations of condominiums which were
1243 rendered by the division during the previous year.

1244 (j) The division shall provide training and educational
1245 programs for condominium association board members and unit
1246 owners. The training may, in the division's discretion, include
1247 web-based electronic media, and live training and seminars in
1248 various locations throughout the state. The division may review
1249 and approve education and training programs for board members
1250 and unit owners offered by providers and shall maintain a

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1251 current list of approved programs and providers and make such
1252 list available to board members and unit owners in a reasonable
1253 and cost-effective manner.

1254 (k) The division shall maintain a toll-free telephone
1255 number accessible to condominium unit owners.

1256 (l) The division shall develop a program to certify both
1257 volunteer and paid mediators to provide mediation of condominium
1258 disputes. The division shall provide, upon request, a list of
1259 such mediators to any association, unit owner, or other
1260 participant in alternative dispute resolution proceedings under
1261 s. 718.1255 requesting a copy of the list. The division shall
1262 include on the list of volunteer mediators only the names of
1263 persons who have received at least 20 hours of training in
1264 mediation techniques or who have mediated at least 20 disputes.
1265 In order to become initially certified by the division, paid
1266 mediators must be certified by the Supreme Court to mediate
1267 court cases in county or circuit courts. However, the division
1268 may adopt, by rule, additional factors for the certification of
1269 paid mediators, which must be related to experience, education,
1270 or background. Any person initially certified as a paid mediator
1271 by the division must, in order to continue to be certified,
1272 comply with the factors or requirements adopted by rule.

1273 (m) If a complaint is made, the division must conduct its
1274 inquiry with due regard for the interests of the affected
1275 parties. Within 30 days after receipt of a complaint, the

1276 | division shall acknowledge the complaint in writing and notify
1277 | the complainant whether the complaint is within the jurisdiction
1278 | of the division and whether additional information is needed by
1279 | the division from the complainant. The division shall conduct
1280 | its investigation and, within 90 days after receipt of the
1281 | original complaint or of timely requested additional
1282 | information, take action upon the complaint. However, the
1283 | failure to complete the investigation within 90 days does not
1284 | prevent the division from continuing the investigation,
1285 | accepting or considering evidence obtained or received after 90
1286 | days, or taking administrative action if reasonable cause exists
1287 | to believe that a violation of this chapter or a rule has
1288 | occurred. If an investigation is not completed within the time
1289 | limits established in this paragraph, the division shall, on a
1290 | monthly basis, notify the complainant in writing of the status
1291 | of the investigation. When reporting its action to the
1292 | complainant, the division shall inform the complainant of any
1293 | right to a hearing under ss. 120.569 and 120.57. The division
1294 | may adopt rules regarding the submission of a complaint against
1295 | an association.

1296 | (n) Condominium association directors, officers, and
1297 | employees; condominium developers; bulk assignees, bulk buyers,
1298 | and community association managers; and community association
1299 | management firms have an ongoing duty to reasonably cooperate
1300 | with the division in any investigation under this section. The

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1301 division shall refer to local law enforcement authorities any
1302 person whom the division believes has altered, destroyed,
1303 concealed, or removed any record, document, or thing required to
1304 be kept or maintained by this chapter with the purpose to impair
1305 its verity or availability in the department's investigation.

1306 (o) The division may:

1307 1. Contract with agencies in this state or other
1308 jurisdictions to perform investigative functions; or

1309 2. Accept grants-in-aid from any source.

1310 (p) The division shall cooperate with similar agencies in
1311 other jurisdictions to establish uniform filing procedures and
1312 forms, public offering statements, advertising standards, and
1313 rules and common administrative practices.

1314 (q) The division shall consider notice to a developer,
1315 bulk assignee, or bulk buyer to be complete when it is delivered
1316 to the address of the developer, bulk assignee, or bulk buyer
1317 currently on file with the division.

1318 (r) In addition to its enforcement authority, the division
1319 may issue a notice to show cause, which must provide for a
1320 hearing, upon written request, in accordance with chapter 120.

1321 (s) The division shall submit to the Governor, the
1322 President of the Senate, the Speaker of the House of
1323 Representatives, and the chairs of the legislative
1324 appropriations committees an annual report that includes, but
1325 need not be limited to, the number of training programs provided

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1326 for condominium association board members and unit owners, the
1327 number of complaints received by type, the number and percent of
1328 complaints acknowledged in writing within 30 days and the number
1329 and percent of investigations acted upon within 90 days in
1330 accordance with paragraph (m), and the number of investigations
1331 exceeding the 90-day requirement. The annual report must also
1332 include an evaluation of the division's core business processes
1333 and make recommendations for improvements, including statutory
1334 changes. The report shall be submitted by September 30 following
1335 the end of the fiscal year.

1336 (3)(a) Within 1 year after being created, each condominium
1337 association must provide to the division in writing, by e-mail
1338 or United States Postal Service, the number of buildings on the
1339 condominium property that are three stories or higher in height,
1340 the total number of units in all such buildings, and the
1341 addresses of all such buildings. Each condominium association
1342 must provide an update to the division if there is any change in
1343 the number of buildings on the condominium property that are
1344 three stories or higher in height or the total number of units
1345 in all such buildings. An association must provide the update in
1346 writing, by e-mail or United States Postal Service, to the
1347 division within 6 months after the change.

1348 (b) Condominium associations existing on or before July 1,
1349 2022, must provide the required information in paragraph (a) to
1350 the division no later than January 1, 2023.

1351 Section 10. Paragraphs (b) and (c) of subsection (2)
 1352 section 718.503, Florida Statutes, are redesignated as
 1353 paragraphs (c) and (d), respectively, and paragraph (b) of
 1354 subsection (1) and paragraph (a) of subsection (2) are amended
 1355 to read:

1356 718.503 Developer disclosure before ~~prior to~~ sale;
 1357 nondeveloper unit owner disclosure before ~~prior to~~ sale;
 1358 voidability.—

1359 (1) DEVELOPER DISCLOSURE.—

1360 (b) Copies of documents to be furnished to prospective
 1361 buyer or lessee.—Until such time as the developer has furnished
 1362 the documents listed below to a person who has entered into a
 1363 contract to purchase a residential unit or lease it for more
 1364 than 5 years, the contract may be voided by that person,
 1365 entitling the person to a refund of any deposit together with
 1366 interest thereon as provided in s. 718.202. The contract may be
 1367 terminated by written notice from the proposed buyer or lessee
 1368 delivered to the developer within 15 days after the buyer or
 1369 lessee receives all of the documents required by this section.
 1370 The developer may not close for 15 days after ~~following~~ the
 1371 execution of the agreement and delivery of the documents to the
 1372 buyer as evidenced by a signed receipt for documents unless the
 1373 buyer is informed in the 15-day voidability period and agrees to
 1374 close before ~~prior to~~ the expiration of the 15 days. The
 1375 developer shall retain in his or her records a separate

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1376 agreement signed by the buyer as proof of the buyer's agreement
1377 to close before ~~prior to~~ the expiration of the ~~said~~ voidability
1378 period. Such ~~Said~~ proof must ~~shall~~ be retained for ~~a period of~~ 5
1379 years after the date of the closing of the transaction. The
1380 documents to be delivered to the prospective buyer are the
1381 prospectus or disclosure statement with all exhibits, if the
1382 development is subject to ~~the provisions of~~ s. 718.504, or, if
1383 not, then copies of the following which are applicable:

1384 1. The question and answer sheet described in s. 718.504,
1385 and declaration of condominium, or the proposed declaration if
1386 the declaration has not been recorded, which shall include the
1387 certificate of a surveyor approximately representing the
1388 locations required by s. 718.104.

1389 2. The documents creating the association.

1390 3. The bylaws.

1391 4. The ground lease or other underlying lease of the
1392 condominium.

1393 5. The management contract, maintenance contract, and
1394 other contracts for management of the association and operation
1395 of the condominium and facilities used by the unit owners having
1396 a service term in excess of 1 year, and any management contracts
1397 that are renewable.

1398 6. The estimated operating budget for the condominium and
1399 a schedule of expenses for each type of unit, including fees
1400 assessed under ~~pursuant to~~ s. 718.113(1) for the maintenance of

1401 limited common elements where such costs are shared only by
 1402 those entitled to use the limited common elements.

1403 7. The lease of recreational and other facilities that
 1404 will be used only by unit owners of the subject condominium.

1405 8. The lease of recreational and other common facilities
 1406 that will be used by unit owners in common with unit owners of
 1407 other condominiums.

1408 9. The form of unit lease if the offer is of a leasehold.

1409 10. Any declaration of servitude of properties serving the
 1410 condominium but not owned by unit owners or leased to them or
 1411 the association.

1412 11. If the development is to be built in phases or if the
 1413 association is to manage more than one condominium, a
 1414 description of the plan of phase development or the arrangements
 1415 for the association to manage two or more condominiums.

1416 12. If the condominium is a conversion of existing
 1417 improvements, the statements and disclosure required by s.
 1418 718.616.

1419 13. The form of agreement for sale or lease of units.

1420 14. A copy of the floor plan of the unit and the plot plan
 1421 showing the location of the residential buildings and the
 1422 recreation and other common areas.

1423 15. A copy of all covenants and restrictions that ~~which~~
 1424 ~~will~~ affect the use of the property and ~~which~~ are not contained
 1425 in the foregoing.

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1426 16. If the developer is required by state or local
1427 authorities to obtain acceptance or approval of any dock or
1428 marina facilities intended to serve the condominium, a copy of
1429 any such acceptance or approval acquired by the time of filing
1430 with the division under s. 718.502(1), or a statement that such
1431 acceptance or approval has not been acquired or received.

1432 17. Evidence demonstrating that the developer has an
1433 ownership, leasehold, or contractual interest in the land upon
1434 which the condominium is to be developed.

1435 18. A copy of the association's most recent reserve study
1436 or a statement that the association has not completed a reserve
1437 study.

1438 19. If the unit is located in a building on the
1439 condominium property that must be recertified under s. 718.132,
1440 a copy of the association's most recent written recertification
1441 report or a statement that the association has not completed the
1442 required recertification.

1443 20. If the unit is located in a building on the
1444 condominium property that must have a phase 2 inspection
1445 performed under s. 718.132, a copy of the association's most
1446 recent written phase 2 inspection report or a statement that the
1447 association has not completed the required phase 2 inspection.

1448 (2) NONDEVELOPER DISCLOSURE.—

1449 (a) Each unit owner who is not a developer as defined by
1450 this chapter must ~~shall~~ comply with ~~the provisions of~~ this

1451 subsection before ~~prior~~ to the sale of his or her unit. Each
1452 prospective purchaser who has entered into a contract for the
1453 purchase of a condominium unit is entitled, at the seller's
1454 expense, to a current copy of all of the following:

1455 1. The declaration of condominium.7

1456 2. Articles of incorporation of the association.7

1457 3. Bylaws and rules of the association.7

1458 4. Financial information required by s. 718.111.7

1459 5. The association's most recent reserve study or a
1460 statement that the association has not completed a reserve
1461 study.

1462 6. If the unit is located in a building on the condominium
1463 property that must be recertified under s. 718.132, the
1464 association's most recent written recertification report or a
1465 statement that the association has not completed the required
1466 recertification.

1467 7. If the unit is located in a building on the condominium
1468 property that must have a phase 2 inspection performed under s.
1469 718.132, the association's most recent written phase 2
1470 inspection report or a statement that the association has not
1471 completed the required phase 2 inspection. ~~and~~

1472 8. The document entitled "Frequently Asked Questions and
1473 Answers" required by s. 718.504.

1474 (b) On and after January 1, 2009, The prospective
1475 purchaser is ~~shall~~ also ~~be~~ entitled to receive from the seller a

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1476 copy of a governance form. Such form shall be provided by the
1477 division summarizing governance of condominium associations. In
1478 addition to such other information as the division considers
1479 helpful to a prospective purchaser in understanding association
1480 governance, the governance form shall address the following
1481 subjects:

1482 1. The role of the board in conducting the day-to-day
1483 affairs of the association on behalf of, and in the best
1484 interests of, the owners.

1485 2. The board's responsibility to provide advance notice of
1486 board and membership meetings.

1487 3. The rights of owners to attend and speak at board and
1488 membership meetings.

1489 4. The responsibility of the board and of owners with
1490 respect to maintenance of the condominium property.

1491 5. The responsibility of the board and owners to abide by
1492 the condominium documents, this chapter, rules adopted by the
1493 division, and reasonable rules adopted by the board.

1494 6. Owners' rights to inspect and copy association records
1495 and the limitations on such rights.

1496 7. Remedies available to owners with respect to actions by
1497 the board which may be abusive or beyond the board's power and
1498 authority.

1499 8. The right of the board to hire a property management
1500 firm, subject to its own primary responsibility for such

1501 management.

1502 9. The responsibility of owners with regard to payment of
 1503 regular or special assessments necessary for the operation of
 1504 the property and the potential consequences of failure to pay
 1505 such assessments.

1506 10. The voting rights of owners.

1507 11. Rights and obligations of the board in enforcement of
 1508 rules in the condominium documents and rules adopted by the
 1509 board.

1510
 1511 The governance form must ~~shall~~ also include the following
 1512 statement in conspicuous type: "This publication is intended as
 1513 an informal educational overview of condominium governance. In
 1514 the event of a conflict, the provisions of chapter 718, Florida
 1515 Statutes, rules adopted by the Division of Florida Condominiums,
 1516 Timeshares, and Mobile Homes of the Department of Business and
 1517 Professional Regulation, the provisions of the condominium
 1518 documents, and reasonable rules adopted by the condominium
 1519 association's board of administration prevail over the contents
 1520 of this publication."

1521 Section 11. Paragraph (f) of subsection (24) of section
 1522 718.504, Florida Statutes, is amended, and paragraphs (q) and
 1523 (r) are added to that subsection, to read:

1524 718.504 Prospectus or offering circular.—Every developer
 1525 of a residential condominium which contains more than 20

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1526 residential units, or which is part of a group of residential
1527 condominiums which will be served by property to be used in
1528 common by unit owners of more than 20 residential units, shall
1529 prepare a prospectus or offering circular and file it with the
1530 Division of Florida Condominiums, Timeshares, and Mobile Homes
1531 prior to entering into an enforceable contract of purchase and
1532 sale of any unit or lease of a unit for more than 5 years and
1533 shall furnish a copy of the prospectus or offering circular to
1534 each buyer. In addition to the prospectus or offering circular,
1535 each buyer shall be furnished a separate page entitled
1536 "Frequently Asked Questions and Answers," which shall be in
1537 accordance with a format approved by the division and a copy of
1538 the financial information required by s. 718.111. This page
1539 shall, in readable language, inform prospective purchasers
1540 regarding their voting rights and unit use restrictions,
1541 including restrictions on the leasing of a unit; shall indicate
1542 whether and in what amount the unit owners or the association is
1543 obligated to pay rent or land use fees for recreational or other
1544 commonly used facilities; shall contain a statement identifying
1545 that amount of assessment which, pursuant to the budget, would
1546 be levied upon each unit type, exclusive of any special
1547 assessments, and which shall further identify the basis upon
1548 which assessments are levied, whether monthly, quarterly, or
1549 otherwise; shall state and identify any court cases in which the
1550 association is currently a party of record in which the

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1551 association may face liability in excess of \$100,000; and which
1552 shall further state whether membership in a recreational
1553 facilities association is mandatory, and if so, shall identify
1554 the fees currently charged per unit type. The division shall by
1555 rule require such other disclosure as in its judgment will
1556 assist prospective purchasers. The prospectus or offering
1557 circular may include more than one condominium, although not all
1558 such units are being offered for sale as of the date of the
1559 prospectus or offering circular. The prospectus or offering
1560 circular must contain the following information:

1561 (24) Copies of the following, to the extent they are
1562 applicable, shall be included as exhibits:

1563 (f) The estimated operating budget for the condominium,
1564 ~~and the required schedule of unit owners' expenses,~~ and the
1565 association's most recent reserve study or a statement that the
1566 association has not completed a reserve study.

1567 (g) If the unit is located in a building on the
1568 condominium property that must be recertified under s. 718.132,
1569 the association's most recent written recertification report or
1570 a statement that the association has not completed the required
1571 recertification.

1572 (r) If the unit is located in a building on the
1573 condominium property that must have a phase 2 inspection
1574 performed under s. 718.132, the association's most recent
1575 written phase 2 inspection report or a statement that the

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1576 association has not completed the required phase 2 inspection.

1577 Section 12. Subsection (21) and subsections (22) through
1578 (28) of section 719.103, Florida Statutes, are renumbered as
1579 subsection (22) and subsections (24) through (30), respectively,
1580 and new subsections (21) and (23) are added to that section to
1581 read:

1582 719.103 Definitions.— As used in this chapter:

1583 (21) "Primary structural member" has the same meaning as
1584 in s. 627.706(2).

1585 (23) "Reserve study" means a study of the reserve funds
1586 required for future major repairs and replacement of the common
1587 areas based on a visual inspection of the common areas by an
1588 engineer licensed under chapter 471 or an architect licensed
1589 under chapter 481. At a minimum, a reserve study must identify
1590 the common areas being visually inspected, state the estimated
1591 remaining useful life and the estimated replacement cost or
1592 deferred maintenance expense of the common areas being visually
1593 inspected, and provide a recommended annual reserve amount that
1594 achieves the estimated replacement cost or deferred maintenance
1595 expense of each common area being visually inspected by the end
1596 of the estimated remaining useful life of each common area.

1597 Section 13. Paragraph (a) of subsection (2) of section
1598 719.104, Florida Statutes, is amended to read:

1599 719.104 Cooperatives; access to units; records; financial
1600 reports; assessments; purchase of leases.—

- 1601 (2) OFFICIAL RECORDS.—
- 1602 (a) From the inception of the association, the association
- 1603 shall maintain a copy of each of the following, if ~~where~~
- 1604 applicable, which shall constitute the official records of the
- 1605 association:
- 1606 1. The plans, permits, warranties, and other items
 - 1607 provided by the developer pursuant to s. 719.301(4).
 - 1608 2. A photocopy of the cooperative documents.
 - 1609 3. A copy of the current rules of the association.
 - 1610 4. A book or books containing the minutes of all meetings
 - 1611 of the association, of the board of directors, and of the unit
 - 1612 owners.
 - 1613 5. A current roster of all unit owners and their mailing
 - 1614 addresses, unit identifications, voting certifications, and, if
 - 1615 known, telephone numbers. The association shall also maintain
 - 1616 the e-mail addresses and the numbers designated by unit owners
 - 1617 for receiving notice sent by electronic transmission of those
 - 1618 unit owners consenting to receive notice by electronic
 - 1619 transmission. The e-mail addresses and numbers provided by unit
 - 1620 owners to receive notice by electronic transmission shall be
 - 1621 removed from association records when consent to receive notice
 - 1622 by electronic transmission is revoked. However, the association
 - 1623 is not liable for an erroneous disclosure of the e-mail address
 - 1624 or the number for receiving electronic transmission of notices.
 - 1625 6. All current insurance policies of the association.

1626 7. A current copy of any management agreement, lease, or
 1627 other contract to which the association is a party or under
 1628 which the association or the unit owners have an obligation or
 1629 responsibility.

1630 8. Bills of sale or transfer for all property owned by the
 1631 association.

1632 9. Accounting records for the association and separate
 1633 accounting records for each unit it operates, according to good
 1634 accounting practices. The accounting records shall include, but
 1635 not be limited to:

1636 a. Accurate, itemized, and detailed records of all
 1637 receipts and expenditures.

1638 b. A current account and a monthly, bimonthly, or
 1639 quarterly statement of the account for each unit designating the
 1640 name of the unit owner, the due date and amount of each
 1641 assessment, the amount paid upon the account, and the balance
 1642 due.

1643 c. All audits, reviews, accounting statements, reserve
 1644 studies, and financial reports of the association. Reserve
 1645 studies must be maintained for at least 15 years after the study
 1646 is completed.

1647 d. All contracts for work to be performed. Bids for work
 1648 to be performed shall also be considered official records and
 1649 shall be maintained for ~~a period of~~ 1 year.

1650 10. Ballots, sign-in sheets, voting proxies, and all other

1651 papers and electronic records relating to voting by unit owners,
 1652 which shall be maintained for ~~a period of~~ 1 year after the date
 1653 of the election, vote, or meeting to which the document relates.

1654 11. All rental records where the association is acting as
 1655 agent for the rental of units.

1656 12. A copy of the current question and answer sheet as
 1657 described in s. 719.504.

1658 13. All affirmative acknowledgments made pursuant to s.
 1659 719.108 (3) (b)3.

1660 14. All written recertification reports and written phase
 1661 2 inspection reports as described in s. 719.132, if applicable,
 1662 which must be permanently maintained.

1663 ~~15.14.~~ All other written records of the association not
 1664 specifically included in the foregoing which are related to the
 1665 operation of the association.

1666 Section 14. Paragraphs (k) through (m) of subsection (1)
 1667 of section 719.106, Florida Statutes, are redesignated as
 1668 paragraphs (l) through (n), respectively, paragraph (j) of
 1669 subsection (1) is amended, and a new paragraph (k) is added to
 1670 subsection (1) of that section, to read:

1671 719.106 Bylaws; cooperative ownership.—

1672 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1673 documents shall provide for the following, and if they do not,
 1674 they shall be deemed to include the following:

1675 (j) Annual budget.—

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1676 1. The proposed annual budget of common expenses must
1677 ~~shall~~ be detailed and must ~~shall~~ show the amounts budgeted by
1678 accounts and expense classifications, including, if applicable,
1679 but not limited to, those expenses listed in s. 719.504(20). The
1680 board of administration shall adopt the annual budget at least
1681 14 days before ~~prior to~~ the start of the association's fiscal
1682 year. In the event that the board fails to timely adopt the
1683 annual budget a second time, it is ~~shall be~~ deemed a minor
1684 violation and the prior year's budget shall continue in effect
1685 until a new budget is adopted.

1686 2. In addition to annual operating expenses, the budget
1687 must ~~shall~~ include reserve accounts for capital expenditures and
1688 deferred maintenance. These accounts must ~~shall~~ include, but not
1689 be limited to, roof replacement, building painting, and pavement
1690 resurfacing, regardless of the amount of deferred maintenance
1691 expense or replacement cost, and for any other items for which
1692 the deferred maintenance expense or replacement cost exceeds
1693 \$10,000. The amount to be reserved for an item is determined by
1694 the association's most recent reserve study. If the amount to be
1695 reserved for an item is not in the association's most recent
1696 reserve study or the association has not completed a reserve
1697 study, the amount must ~~shall~~ be computed by means of a formula
1698 which is based upon estimated remaining useful life and
1699 estimated replacement cost or deferred maintenance expense of
1700 the each reserve item. The association may adjust replacement

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1701 reserve assessments annually to take into account any changes in
1702 estimates or extension of the useful life of a reserve item
1703 caused by deferred maintenance. ~~This paragraph shall not apply~~
1704 ~~to any budget in which~~ The members of an association may
1705 determine ~~have~~, at a duly called meeting of the association,
1706 ~~determined~~ for a fiscal year to provide no reserves or reserves
1707 less adequate than required by this subsection. Before turnover
1708 of control of an association by a developer to unit owners other
1709 than a developer under s. 719.301, the developer-controlled
1710 association may not vote to waive the reserves or reduce funding
1711 of the reserves without the approval of a majority of all
1712 nondeveloper voting interests voting in person or by limited
1713 proxy at a duly called meeting of the association. Effective
1714 July 1, 2024, an association, including a developer-controlled
1715 association, may not determine to provide no reserves or
1716 reserves less adequate than required by this paragraph for items
1717 listed in paragraph (k) which are for a building on the
1718 cooperative property that is three stories or higher in height.
1719 ~~However, prior to turnover of control of an association by a~~
1720 ~~developer to unit owners other than a developer pursuant to s.~~
1721 ~~719.301, the developer may vote to waive the reserves or reduce~~
1722 ~~the funding of reserves for the first 2 years of the operation~~
1723 ~~of the association after which time reserves may only be waived~~
1724 ~~or reduced upon the vote of a majority of all nondeveloper~~
1725 ~~voting interests voting in person or by limited proxy at a duly~~

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1726 ~~called meeting of the association.~~ If a meeting of the unit
1727 owners has been called to determine to provide no reserves, or
1728 reserves less adequate than required, and such result is not
1729 attained or a quorum is not attained, the reserves as included
1730 in the budget shall go into effect.

1731 3. Reserve funds and any interest accruing thereon shall
1732 remain in the reserve account or accounts, and shall be used
1733 only for authorized reserve expenditures unless their use for
1734 other purposes is approved in advance by a vote of the majority
1735 of the voting interests, voting in person or by limited proxy at
1736 a duly called meeting of the association. Prior to turnover of
1737 control of an association by a developer to unit owners other
1738 than the developer under s. 719.301, the developer may not vote
1739 to use reserves for purposes other than that for which they were
1740 intended without the approval of a majority of all nondeveloper
1741 voting interests, voting in person or by limited proxy at a duly
1742 called meeting of the association. Effective July 1, 2024, an
1743 association, including a developer-controlled association, may
1744 not vote to use reserve funds, or any interest thereon, for
1745 items listed in paragraph (k) which are for a building on the
1746 cooperative property that is three stories or higher in height
1747 for purposes other than their intended purpose.

1748 (k) Reserve study.—

1749 1. An association must have a reserve study completed at
1750 least every 10 years for, at a minimum, the following items for

- 1751 each building on the cooperative property that is three stories
1752 or higher in height:
- 1753 a. Roof.
 - 1754 b. Load-bearing walls or other primary structural members.
 - 1755 c. Floor.
 - 1756 d. Foundation.
 - 1757 e. Fireproofing and fire protection systems.
 - 1758 f. Plumbing.
 - 1759 g. Electrical systems.
 - 1760 h. Waterproofing and exterior painting.
 - 1761 i. Windows.
 - 1762 j. Any other item that has a deferred maintenance expense
1763 or replacement cost that exceeds \$10,000 and the failure to
1764 replace or maintain such item negatively affects the items
1765 listed in subparagraphs a.-i., as determined by the licensed
1766 engineer or architect performing the visual inspection.
- 1767 2. Before a developer turns over control of an association
1768 to unit owners other than the developer, the developer must have
1769 a reserve study completed for each building on the cooperative
1770 property that is three stories or higher in height.
- 1771 3. Associations existing on or before July 1, 2022, which
1772 are controlled by unit owners other than the developer, must
1773 have a reserve study completed by July 1, 2024, for each
1774 building on the cooperative property that is three stories or
1775 higher in height.

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1776 Section 15. Section 719.132, Florida Statutes, is created
1777 to read:

1778 719.132 Building recertification.—

1779 (1) As used in this section, the term:

1780 (a) "Coastline" has the same meaning as in the Submerged
1781 Lands Act, 43 U.S.C. s. 1301(c).

1782 (b) "Phase 2 inspection" means an inspection that includes
1783 destructive and nondestructive testing at the discretion of the
1784 person performing the inspection and a written report of such
1785 inspection. A phase 2 inspection must be performed by an
1786 engineer licensed under chapter 471 or an architect licensed
1787 under chapter 481.

1788 (c) "Recertification" or "recertify" means a visual
1789 inspection of a building's general structural condition and
1790 general condition of its electrical system, including a written
1791 report of such inspection, performed by an engineer licensed
1792 under chapter 471 or an architect licensed under chapter 481.

1793 (d) "Visual inspection" means a visual examination of the
1794 items listed s. 719.106(1)(k).

1795 (2)(a) An association must have any building on the
1796 cooperative property that is three stories or higher in height
1797 and that has been occupied for at least 30 years, or 25 years if
1798 the building is within 3 miles of the coastline of the state,
1799 recertified as determined by the local building official.

1800 (b) An association must have any building on the

1801 cooperative property that is required to be recertified under
1802 paragraph (a) recertified at least every 10 years after its
1803 first recertification.

1804 (3) Upon determining that a building on the cooperative
1805 property must be recertified, the local building official must
1806 provide written notice of such required recertification to the
1807 association by certified mail, return receipt requested.

1808 (4) (a) Within 90 days after receiving the written notice
1809 under subsection (3), or within 180 days if the association
1810 receives the written notice before July 1, 2023, the association
1811 or the association's manager must provide the written
1812 recertification report by e-mail or United States Postal Service
1813 to the local building official and state the date on which the
1814 association received such report from the licensed engineer or
1815 architect who performed the recertification.

1816 (b) Within 14 days after receiving the written
1817 recertification report from the licensed engineer or architect
1818 who performed the recertification, the association must provide
1819 the written recertification report by e-mail or United States
1820 Postal Service to each unit owner.

1821 (5) Upon completing a recertification, the licensed
1822 engineer or architect who performed the recertification must
1823 provide a written recertification report by e-mail or United
1824 States Postal Service to the association. The written
1825 recertification report must, at a minimum:

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1826 (a) Bear the impressed seal and signature of the licensed
1827 engineer or architect who performed the inspection.

1828 (b) Indicate the manner and type of inspection forming the
1829 basis for the written recertification report and a description
1830 of any items identified as requiring further inspection or
1831 remedial action.

1832 (c) Indicate whether there is damage to the items listed
1833 in s. 719.106(1)(k), within a reasonable professional
1834 probability based on the scope of the inspection, and list any
1835 recommended repairs for such damage.

1836 (d) Indicate whether there is substantial damage to the
1837 items listed s. 719.106(1)(k) within a reasonable professional
1838 probability based on the scope of the inspection.

1839 (e) State whether the building is structurally and
1840 electrically safe for its intended use within a reasonable
1841 professional probability based on the scope of the inspection.

1842 (6)(a) If a written recertification report indicates that
1843 there is substantial damage to the items listed in s.
1844 719.106(1)(k), within a reasonable professional probability
1845 based on the scope of the inspection, the local building
1846 official must provide written notice to the association by
1847 certified mail, return receipt requested, that the association
1848 must have a phase 2 inspection performed.

1849 (b) Within 60 days after receiving the written notice
1850 under paragraph (a), the association must provide written notice

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1851 to the local building official by e-mail or United States Postal
1852 Service that includes the start date of the phase 2 inspection
1853 and the name and contact information of the licensed engineer or
1854 architect who will perform the phase 2 inspection.

1855 (c) The written phase 2 inspection report must, at a
1856 minimum:

1857 1. Bear the impressed seal and signature of the licensed
1858 engineer or architect who performed the inspection.

1859 2. State the manner and type of inspection forming the
1860 basis for the written report.

1861 3. State whether there is damage to the items listed in s.
1862 719.106(1)(k), within a reasonable professional probability
1863 based on the scope of the inspection, and the extent of such
1864 damage and list any recommended repairs for such damage.

1865 4. State whether the building is structurally and
1866 electrically safe for its intended use within a reasonable
1867 professional probability based on the scope of the inspection.

1868 (d) The licensed engineer or architect performing the
1869 phase 2 inspection must provide the written phase 2 inspection
1870 report by e-mail or United States Postal Service to the local
1871 building official and the association upon completion.

1872 (e) Within 14 days after receiving the written phase 2
1873 inspection report from the licensed engineer or architect who
1874 performed the phase 2 inspection, the association must provide
1875 the written phase 2 inspection report by e-mail or United States

1876 Postal Service to each unit owner.

1877 (7)(a) A local building official may prescribe penalties,
 1878 which must be posted on the building department's website, for
 1879 failure to comply with this section.

1880 (b) If an association fails to schedule or begin repairs
 1881 to the items listed in s. 719.106(1)(k) that are identified in
 1882 the written phase 2 inspection report within a time period to be
 1883 determined by the county commissioners of the county where the
 1884 building is located, which time period may not exceed 365 days
 1885 after the local building official receives the written phase 2
 1886 inspection report, the local building official must determine
 1887 that the building is unsafe for human occupancy until such
 1888 repairs are scheduled or begin.

1889 Section 16. Paragraphs (p), (q), and (r) are added to
 1890 subsection (4) of section 719.301, Florida Statutes, to read:

1891 719.301 Transfer of association control.—

1892 (4) When unit owners other than the developer elect a
 1893 majority of the members of the board of administration of an
 1894 association, the developer shall relinquish control of the
 1895 association, and the unit owners shall accept control.
 1896 Simultaneously, or for the purpose of paragraph (c) not more
 1897 than 90 days thereafter, the developer shall deliver to the
 1898 association, at the developer's expense, all property of the
 1899 unit owners and of the association held or controlled by the
 1900 developer, including, but not limited to, the following items,

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1901 if applicable, as to each cooperative operated by the
1902 association:

1903 (p) A copy of the association's most recent reserve study.

1904 (q) If a building on the cooperative property must be
1905 recertified under s. 719.132, a copy of the association's most
1906 recent written recertification report or a statement that the
1907 association has not completed the required recertification.

1908 (r) If a building on the cooperative property must have a
1909 phase 2 inspection performed under s. 719.132, a copy of the
1910 association's most recent written phase 2 inspection report or a
1911 statement that the association has not completed the required
1912 phase 2 inspection.

1913 Section 17. Subsection (1) of section 719.501, Florida
1914 Statutes, is amended, and subsection (3) is added to that
1915 section, to read:

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

1918 (1) The Division of Florida Condominiums, Timeshares, and
1919 Mobile Homes of the Department of Business and Professional
1920 Regulation, referred to as the "division" in this part, in
1921 addition to other powers and duties prescribed by chapter 718,
1922 has the power to enforce and ensure compliance with this chapter
1923 and adopted rules relating to the development, construction,
1924 sale, lease, ownership, operation, reserve studies required
1925 under s. 719.106(1)(k), recertifications and phase 2 inspections

1926 required under s. 719.132, and management of residential
 1927 cooperative units. In performing its duties, the division shall
 1928 have the following powers and duties:

1929 (a) The division may make necessary public or private
 1930 investigations within or outside this state to determine whether
 1931 any person has violated this chapter or any rule or order
 1932 hereunder, to aid in the enforcement of this chapter, or to aid
 1933 in the adoption of rules or forms hereunder.

1934 (b) The division may require or permit any person to file
 1935 a statement in writing, under oath or otherwise, as the division
 1936 determines, as to the facts and circumstances concerning a
 1937 matter to be investigated.

1938 (c) For the purpose of any investigation under this
 1939 chapter, the division director or any officer or employee
 1940 designated by the division director may administer oaths or
 1941 affirmations, subpoena witnesses and compel their attendance,
 1942 take evidence, and require the production of any matter which is
 1943 relevant to the investigation, including the existence,
 1944 description, nature, custody, condition, and location of any
 1945 books, documents, or other tangible things and the identity and
 1946 location of persons having knowledge of relevant facts or any
 1947 other matter reasonably calculated to lead to the discovery of
 1948 material evidence. Upon failure by a person to obey a subpoena
 1949 or to answer questions propounded by the investigating officer
 1950 and upon reasonable notice to all persons affected thereby, the

1951 | division may apply to the circuit court for an order compelling
 1952 | compliance.

1953 | (d) Notwithstanding any remedies available to unit owners
 1954 | and associations, if the division has reasonable cause to
 1955 | believe that a violation of any provision of this chapter or
 1956 | related rule has occurred, the division may institute
 1957 | enforcement proceedings in its own name against a developer,
 1958 | association, officer, or member of the board, or its assignees
 1959 | or agents, as follows:

1960 | 1. The division may permit a person whose conduct or
 1961 | actions may be under investigation to waive formal proceedings
 1962 | and enter into a consent proceeding whereby orders, rules, or
 1963 | letters of censure or warning, whether formal or informal, may
 1964 | be entered against the person.

1965 | 2. The division may issue an order requiring the
 1966 | developer, association, officer, or member of the board, or its
 1967 | assignees or agents, to cease and desist from the unlawful
 1968 | practice and take such affirmative action as in the judgment of
 1969 | the division will carry out the purposes of this chapter. Such
 1970 | affirmative action may include, but is not limited to, an order
 1971 | requiring a developer to pay moneys determined to be owed to a
 1972 | condominium association.

1973 | 3. The division may bring an action in circuit court on
 1974 | behalf of a class of unit owners, lessees, or purchasers for
 1975 | declaratory relief, injunctive relief, or restitution.

1976 4. The division may impose a civil penalty against a
 1977 developer or association, or its assignees or agents, for any
 1978 violation of this chapter or related rule. The division may
 1979 impose a civil penalty individually against any officer or board
 1980 member who willfully and knowingly violates a provision of this
 1981 chapter, a rule adopted pursuant to this chapter, or a final
 1982 order of the division. The term "willfully and knowingly" means
 1983 that the division informed the officer or board member that his
 1984 or her action or intended action violates this chapter, a rule
 1985 adopted under this chapter, or a final order of the division,
 1986 and that the officer or board member refused to comply with the
 1987 requirements of this chapter, a rule adopted under this chapter,
 1988 or a final order of the division. The division, prior to
 1989 initiating formal agency action under chapter 120, shall afford
 1990 the officer or board member an opportunity to voluntarily comply
 1991 with this chapter, a rule adopted under this chapter, or a final
 1992 order of the division. An officer or board member who complies
 1993 within 10 days is not subject to a civil penalty. A penalty may
 1994 be imposed on the basis of each day of continuing violation, but
 1995 in no event shall the penalty for any offense exceed \$5,000. By
 1996 January 1, 1998, the division shall adopt, by rule, penalty
 1997 guidelines applicable to possible violations or to categories of
 1998 violations of this chapter or rules adopted by the division. The
 1999 guidelines must specify a meaningful range of civil penalties
 2000 for each such violation of the statute and rules and must be

2001 based upon the harm caused by the violation, the repetition of
 2002 the violation, and upon such other factors deemed relevant by
 2003 the division. For example, the division may consider whether the
 2004 violations were committed by a developer or owner-controlled
 2005 association, the size of the association, and other factors. The
 2006 guidelines must designate the possible mitigating or aggravating
 2007 circumstances that justify a departure from the range of
 2008 penalties provided by the rules. It is the legislative intent
 2009 that minor violations be distinguished from those which endanger
 2010 the health, safety, or welfare of the cooperative residents or
 2011 other persons and that such guidelines provide reasonable and
 2012 meaningful notice to the public of likely penalties that may be
 2013 imposed for proscribed conduct. This subsection does not limit
 2014 the ability of the division to informally dispose of
 2015 administrative actions or complaints by stipulation, agreed
 2016 settlement, or consent order. All amounts collected shall be
 2017 deposited with the Chief Financial Officer to the credit of the
 2018 Division of Florida Condominiums, Timeshares, and Mobile Homes
 2019 Trust Fund. If a developer fails to pay the civil penalty, the
 2020 division shall thereupon issue an order directing that such
 2021 developer cease and desist from further operation until such
 2022 time as the civil penalty is paid or may pursue enforcement of
 2023 the penalty in a court of competent jurisdiction. If an
 2024 association fails to pay the civil penalty, the division shall
 2025 thereupon pursue enforcement in a court of competent

2026 | jurisdiction, and the order imposing the civil penalty or the
 2027 | cease and desist order shall not become effective until 20 days
 2028 | after the date of such order. Any action commenced by the
 2029 | division shall be brought in the county in which the division
 2030 | has its executive offices or in the county where the violation
 2031 | occurred.

2032 | (e) The division may prepare and disseminate a prospectus
 2033 | and other information to assist prospective owners, purchasers,
 2034 | lessees, and developers of residential cooperatives in assessing
 2035 | the rights, privileges, and duties pertaining thereto.

2036 | (f) The division has authority to adopt rules pursuant to
 2037 | ss. 120.536(1) and 120.54 to implement and enforce the
 2038 | provisions of this chapter.

2039 | (g) The division shall establish procedures for providing
 2040 | notice to an association when the division is considering the
 2041 | issuance of a declaratory statement with respect to the
 2042 | cooperative documents governing such cooperative community.

2043 | (h) The division shall furnish each association which pays
 2044 | the fees required by paragraph (2)(a) a copy of this act,
 2045 | subsequent changes to this act on an annual basis, an amended
 2046 | version of this act as it becomes available from the Secretary
 2047 | of State's office on a biennial basis, and the rules adopted
 2048 | thereto on an annual basis.

2049 | (i) The division shall annually provide each association
 2050 | with a summary of declaratory statements and formal legal

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2051 opinions relating to the operations of cooperatives which were
2052 rendered by the division during the previous year.

2053 (j) The division shall adopt uniform accounting
2054 principles, policies, and standards to be used by all
2055 associations in the preparation and presentation of all
2056 financial statements required by this chapter. The principles,
2057 policies, and standards shall take into consideration the size
2058 of the association and the total revenue collected by the
2059 association.

2060 (k) The division shall provide training and educational
2061 programs for cooperative association board members and unit
2062 owners. The training may, in the division's discretion, include
2063 web-based electronic media, and live training and seminars in
2064 various locations throughout the state. The division may review
2065 and approve education and training programs for board members
2066 and unit owners offered by providers and shall maintain a
2067 current list of approved programs and providers and make such
2068 list available to board members and unit owners in a reasonable
2069 and cost-effective manner.

2070 (l) The division shall maintain a toll-free telephone
2071 number accessible to cooperative unit owners.

2072 (m) When a complaint is made to the division, the division
2073 shall conduct its inquiry with reasonable dispatch and with due
2074 regard to the interests of the affected parties. Within 30 days
2075 after receipt of a complaint, the division shall acknowledge the

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2076 | complaint in writing and notify the complainant whether the
2077 | complaint is within the jurisdiction of the division and whether
2078 | additional information is needed by the division from the
2079 | complainant. The division shall conduct its investigation and
2080 | shall, within 90 days after receipt of the original complaint or
2081 | timely requested additional information, take action upon the
2082 | complaint. However, the failure to complete the investigation
2083 | within 90 days does not prevent the division from continuing the
2084 | investigation, accepting or considering evidence obtained or
2085 | received after 90 days, or taking administrative action if
2086 | reasonable cause exists to believe that a violation of this
2087 | chapter or a rule of the division has occurred. If an
2088 | investigation is not completed within the time limits
2089 | established in this paragraph, the division shall, on a monthly
2090 | basis, notify the complainant in writing of the status of the
2091 | investigation. When reporting its action to the complainant, the
2092 | division shall inform the complainant of any right to a hearing
2093 | pursuant to ss. 120.569 and 120.57.

2094 | (n) The division shall develop a program to certify both
2095 | volunteer and paid mediators to provide mediation of cooperative
2096 | disputes. The division shall provide, upon request, a list of
2097 | such mediators to any association, unit owner, or other
2098 | participant in arbitration proceedings under s. 718.1255
2099 | requesting a copy of the list. The division shall include on the
2100 | list of voluntary mediators only persons who have received at

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2101 | least 20 hours of training in mediation techniques or have
2102 | mediated at least 20 disputes. In order to become initially
2103 | certified by the division, paid mediators must be certified by
2104 | the Supreme Court to mediate court cases in county or circuit
2105 | courts. However, the division may adopt, by rule, additional
2106 | factors for the certification of paid mediators, which factors
2107 | must be related to experience, education, or background. Any
2108 | person initially certified as a paid mediator by the division
2109 | must, in order to continue to be certified, comply with the
2110 | factors or requirements imposed by rules adopted by the
2111 | division.

2112 | (3) (a) Within 1 year after being created, each cooperative
2113 | association must provide to the division in writing, by e-mail
2114 | or United States Postal Service, the number of buildings on the
2115 | cooperative property that are three stories or higher in height,
2116 | the total number of units in all such buildings, and the
2117 | addresses of all such buildings. Each cooperative association
2118 | must provide an update to the division if there is any change in
2119 | the number of buildings on the cooperative property that are
2120 | three stories or higher in height or the total number of units
2121 | in all such buildings. An association must provide the update in
2122 | writing, by e-mail or United States Postal Service, to the
2123 | division within 6 months after the change.

2124 | (b) Cooperative associations existing on or before July 1,
2125 | 2022, must provide the required information in paragraph (a) to

2126 | the division no later than January 1, 2023.

2127 | Section 18. Paragraph (b) of subsection (1) and paragraph
 2128 | (a) of subsection (2) of section 719.503, Florida Statutes, are
 2129 | amended to read:

2130 | 719.503 Disclosure before ~~prior to~~ sale.-

2131 | (1) DEVELOPER DISCLOSURE.-

2132 | (b) Copies of documents to be furnished to prospective
 2133 | buyer or lessee.-Until such time as the developer has furnished
 2134 | the documents listed below to a person who has entered into a
 2135 | contract to purchase a unit or lease it for more than 5 years,
 2136 | the contract may be voided by that person, entitling the person
 2137 | to a refund of any deposit together with interest thereon as
 2138 | provided in s. 719.202. The contract may be terminated by
 2139 | written notice from the proposed buyer or lessee delivered to
 2140 | the developer within 15 days after the buyer or lessee receives
 2141 | all of the documents required by this section. The developer may
 2142 | ~~shall~~ not close for 15 days after ~~following~~ the execution of the
 2143 | agreement and delivery of the documents to the buyer as
 2144 | evidenced by a receipt for documents signed by the buyer unless
 2145 | the buyer is informed in the 15-day voidability period and
 2146 | agrees to close before ~~prior to~~ the expiration of the 15 days.
 2147 | The developer must ~~shall~~ retain in his or her records a separate
 2148 | signed agreement as proof of the buyer's agreement to close
 2149 | before ~~prior to~~ the expiration of the ~~said~~ voidability period.
 2150 | Such ~~Said~~ proof must ~~shall~~ be retained for ~~a period of~~ 5 years

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2151 after the date of the closing transaction. The documents to be
2152 delivered to the prospective buyer are the prospectus or
2153 disclosure statement with all exhibits, if the development is
2154 subject to ~~the provisions of~~ s. 719.504, or, if not, then copies
2155 of the following which are applicable:

2156 1. The question and answer sheet described in s. 719.504,
2157 and cooperative documents, or the proposed cooperative documents
2158 if the documents have not been recorded, which must ~~shall~~
2159 include the certificate of a surveyor approximately representing
2160 the locations required by s. 719.104.

2161 2. The documents creating the association.

2162 3. The bylaws.

2163 4. The ground lease or other underlying lease of the
2164 cooperative.

2165 5. The management contract, maintenance contract, and
2166 other contracts for management of the association and operation
2167 of the cooperative and facilities used by the unit owners having
2168 a service term in excess of 1 year, and any management contracts
2169 that are renewable.

2170 6. The estimated operating budget for the cooperative and
2171 a schedule of expenses for each type of unit, including fees
2172 assessed to a shareholder who has exclusive use of limited
2173 common areas, where such costs are shared only by those entitled
2174 to use such limited common areas.

2175 7. The lease of recreational and other facilities that

2176 will be used only by unit owners of the subject cooperative.

2177 8. The lease of recreational and other common areas that
 2178 will be used by unit owners in common with unit owners of other
 2179 cooperatives.

2180 9. The form of unit lease if the offer is of a leasehold.

2181 10. Any declaration of servitude of properties serving the
 2182 cooperative but not owned by unit owners or leased to them or
 2183 the association.

2184 11. If the development is to be built in phases or if the
 2185 association is to manage more than one cooperative, a
 2186 description of the plan of phase development or the arrangements
 2187 for the association to manage two or more cooperatives.

2188 12. If the cooperative is a conversion of existing
 2189 improvements, the statements and disclosure required by s.
 2190 719.616.

2191 13. The form of agreement for sale or lease of units.

2192 14. A copy of the floor plan of the unit and the plot plan
 2193 showing the location of the residential buildings and the
 2194 recreation and other common areas.

2195 15. A copy of all covenants and restrictions that ~~which~~
 2196 will affect the use of the property and ~~which~~ are not contained
 2197 in the foregoing.

2198 16. If the developer is required by state or local
 2199 authorities to obtain acceptance or approval of any dock or
 2200 marina facilities intended to serve the cooperative, a copy of

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2201 any such acceptance or approval acquired by the time of filing
2202 with the division under ~~pursuant to~~ s. 719.502(1) or a statement
2203 that such acceptance or approval has not been acquired or
2204 received.

2205 17. Evidence demonstrating that the developer has an
2206 ownership, leasehold, or contractual interest in the land upon
2207 which the cooperative is to be developed.

2208 18. A copy of the association's most recent reserve study
2209 or a statement that the association has not completed a reserve
2210 study.

2211 19. If the unit is located in a building on the
2212 cooperative property that must be recertified under s. 719.132,
2213 a copy of the association's most recent written recertification
2214 report or a statement that the association has not completed the
2215 required recertification.

2216 20. If the unit is located in a building on the
2217 cooperative property that must have a phase 2 inspection
2218 performed under s. 719.132, a copy of the association's most
2219 recent written phase 2 inspection report or a statement that the
2220 association has not completed the required phase 2 inspection.

2221 (2) NONDEVELOPER DISCLOSURE.—

2222 (a) Each unit owner who is not a developer as defined by
2223 this chapter must comply with ~~the provisions of~~ this subsection
2224 before ~~prior to~~ the sale of his or her interest in the
2225 association. Each prospective purchaser who has entered into a

2226 contract for the purchase of an interest in a cooperative is
 2227 entitled, at the seller's expense, to a current copy of the
 2228 articles of incorporation of the association, the bylaws, and
 2229 rules of the association, ~~as well as~~ a copy of the question and
 2230 answer sheet as provided in s. 719.504, a copy of the
 2231 association's most recent reserve study or a statement that the
 2232 association has not completed a reserve study, and, if
 2233 applicable, a copy of the association's most recent written
 2234 recertification report or most recent written phase 2 inspection
 2235 report or a statement that the association has not completed the
 2236 required recertification or required phase 2 inspection.

2237 Section 19. Paragraphs (q), (r), and (s) are added to
 2238 subsection (23) of section 719.504, Florida Statutes, to read:

2239 719.504 Prospectus or offering circular.—Every developer
 2240 of a residential cooperative which contains more than 20
 2241 residential units, or which is part of a group of residential
 2242 cooperatives which will be served by property to be used in
 2243 common by unit owners of more than 20 residential units, shall
 2244 prepare a prospectus or offering circular and file it with the
 2245 Division of Florida Condominiums, Timeshares, and Mobile Homes
 2246 prior to entering into an enforceable contract of purchase and
 2247 sale of any unit or lease of a unit for more than 5 years and
 2248 shall furnish a copy of the prospectus or offering circular to
 2249 each buyer. In addition to the prospectus or offering circular,
 2250 each buyer shall be furnished a separate page entitled

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2251 "Frequently Asked Questions and Answers," which must be in
2252 accordance with a format approved by the division. This page
2253 must, in readable language: inform prospective purchasers
2254 regarding their voting rights and unit use restrictions,
2255 including restrictions on the leasing of a unit; indicate
2256 whether and in what amount the unit owners or the association is
2257 obligated to pay rent or land use fees for recreational or other
2258 commonly used facilities; contain a statement identifying that
2259 amount of assessment which, pursuant to the budget, would be
2260 levied upon each unit type, exclusive of any special
2261 assessments, and which identifies the basis upon which
2262 assessments are levied, whether monthly, quarterly, or
2263 otherwise; state and identify any court cases in which the
2264 association is currently a party of record in which the
2265 association may face liability in excess of \$100,000; and state
2266 whether membership in a recreational facilities association is
2267 mandatory and, if so, identify the fees currently charged per
2268 unit type. The division shall by rule require such other
2269 disclosure as in its judgment will assist prospective
2270 purchasers. The prospectus or offering circular may include more
2271 than one cooperative, although not all such units are being
2272 offered for sale as of the date of the prospectus or offering
2273 circular. The prospectus or offering circular must contain the
2274 following information:
2275 (23) Copies of the following, to the extent they are

2276 applicable, shall be included as exhibits:

2277 (q) The association's most recent reserve study or a
 2278 statement that the association has not completed a reserve
 2279 study.

2280 (r) If the unit is located in a building on the
 2281 cooperative property that must be recertified under s. 719.132,
 2282 the association's most recent written recertification report or
 2283 a statement that the association has not completed the required
 2284 recertification.

2285 (s) If the unit is located in a building on the
 2286 cooperative property that must have a phase 2 inspection
 2287 performed under s. 719.132, the association's most recent
 2288 written phase 2 inspection report or a statement that the
 2289 association has not completed the required phase 2 inspection.

2290 Section 20. Paragraphs (d) and (k) of subsection (10) of
 2291 section 720.303, Florida Statutes, are amended to read:

2292 720.303 Association powers and duties; meetings of board;
 2293 official records; budgets; financial reporting; association
 2294 funds; recalls.—

2295 (10) RECALL OF DIRECTORS.—

2296 (d) If the board determines not to certify the written
 2297 agreement or written ballots to recall a director or directors
 2298 of the board or does not certify the recall by a vote at a
 2299 meeting, the board shall, within 5 full business days after the
 2300 meeting, file an action with a court of competent jurisdiction

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2301 or file with the department a petition for binding arbitration
2302 under the applicable procedures in ss. 718.112(2)(k) ~~ss.~~
2303 ~~718.112(2)(j)~~ and 718.1255 and the rules adopted thereunder. For
2304 the purposes of this section, the members who voted at the
2305 meeting or who executed the agreement in writing shall
2306 constitute one party under the petition for arbitration or in a
2307 court action. If the arbitrator or court certifies the recall as
2308 to any director or directors of the board, the recall will be
2309 effective upon the final order of the court or the mailing of
2310 the final order of arbitration to the association. The director
2311 or directors so recalled shall deliver to the board any and all
2312 records of the association in their possession within 5 full
2313 business days after the effective date of the recall.

2314 (k) A board member who has been recalled may file an
2315 action with a court of competent jurisdiction or a petition
2316 under ss. 718.112(2)(k) ~~ss. 718.112(2)(j)~~ and 718.1255 and the
2317 rules adopted challenging the validity of the recall. The
2318 petition or action must be filed within 60 days after the recall
2319 is deemed certified. The association and the parcel owner
2320 representative shall be named as respondents.

2321 Section 21. Subsection (1) of section 720.311, Florida
2322 Statutes, is amended to read:

2323 720.311 Dispute resolution.—

2324 (1) The Legislature finds that alternative dispute
2325 resolution has made progress in reducing court dockets and

2326 trials and in offering a more efficient, cost-effective option
 2327 to litigation. The filing of any petition for arbitration or the
 2328 serving of a demand for presuit mediation as provided for in
 2329 this section shall toll the applicable statute of limitations.
 2330 Any recall dispute filed with the department under s.
 2331 720.303(10) shall be conducted by the department in accordance
 2332 with the provisions of ss. 718.112(2) (k) ~~ss. 718.112(2) (j)~~ and
 2333 718.1255 and the rules adopted by the division. In addition, the
 2334 department shall conduct binding arbitration of election
 2335 disputes between a member and an association in accordance with
 2336 s. 718.1255 and rules adopted by the division. Election disputes
 2337 and recall disputes are not eligible for presuit mediation;
 2338 these disputes must be arbitrated by the department or filed in
 2339 a court of competent jurisdiction. At the conclusion of an
 2340 arbitration proceeding, the department shall charge the parties
 2341 a fee in an amount adequate to cover all costs and expenses
 2342 incurred by the department in conducting the proceeding.
 2343 Initially, the petitioner shall remit a filing fee of at least
 2344 \$200 to the department. The fees paid to the department shall
 2345 become a recoverable cost in the arbitration proceeding, and the
 2346 prevailing party in an arbitration proceeding shall recover its
 2347 reasonable costs and attorney fees in an amount found reasonable
 2348 by the arbitrator. The department shall adopt rules to
 2349 effectuate the purposes of this section.

2350 Section 22. Subsection (6) of section 721.15, Florida

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2351 Statutes, is amended to read:
2352 721.15 Assessments for common expenses.—
2353 (6) Notwithstanding any contrary requirements of s.
2354 718.112(2)(h) ~~s. 718.112(2)(g)~~ or s. 719.106(1)(g), for
2355 timeshare plans subject to this chapter, assessments against
2356 purchasers need not be made more frequently than annually.
2357 Section 23. This act shall take effect July 1, 2022.