

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 657 (2026)

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u> (Y/N)
ADOPTED AS AMENDED	<u> </u> (Y/N)
ADOPTED W/O OBJECTION	<u> </u> (Y/N)
FAILED TO ADOPT	<u> </u> (Y/N)
WITHDRAWN	<u> </u> (Y/N)
OTHER	<u> </u>

1 Committee/Subcommittee hearing bill: Civil Justice & Claims
2 Subcommittee

3 Representative Porras offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 162-940 and insert:

7 in paragraph (a). In order to amend the governing documents
8 under this paragraph, the association must, at a meeting of the
9 membership at which a quorum has been attained, obtain the
10 affirmative approval of the owners of two-thirds of the units.

11 **Section 3. Subsections (6) and (7) of section 718.1255,**
12 **Florida Statutes, are renumbered as subsections (5) and (6),**
13 **respectively, and paragraphs (a), (h), (k), and (m) of**
14 **subsection (4) and present subsection (5) of that section are**
15 **amended, to read:**

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16 718.1255 Alternative dispute resolution; mediation;
17 nonbinding arbitration; applicability.—

18 (4) NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The
19 Division of Florida Condominiums, Timeshares, and Mobile Homes
20 of the Department of Business and Professional Regulation may
21 employ full-time attorneys to act as arbitrators to conduct the
22 arbitration hearings provided by this chapter. The division may
23 also certify attorneys who are not employed by the division to
24 act as arbitrators to conduct the arbitration hearings provided
25 by this chapter. A person may not be employed by the department
26 as a full-time arbitrator unless he or she is a member in good
27 standing of The Florida Bar. A person may only be certified by
28 the division to act as an arbitrator if he or she has been a
29 member in good standing of The Florida Bar for at least 5 years
30 and has mediated or arbitrated at least 10 disputes involving
31 condominiums in this state during the 3 years immediately
32 preceding the date of application, mediated or arbitrated at
33 least 30 disputes in any subject area in this state during the 3
34 years immediately preceding the date of application, or attained
35 board certification in real estate law or condominium and
36 planned development law from The Florida Bar. Arbitrator
37 certification is valid for 1 year. An arbitrator who does not
38 maintain the minimum qualifications for initial certification
39 may not have his or her certification renewed. The department
40 may not enter into a legal services contract for an arbitration

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41 hearing under this chapter with an attorney who is not a
42 certified arbitrator unless a certified arbitrator is not
43 available within 50 miles of the dispute. The department shall
44 adopt rules of procedure to govern such arbitration hearings
45 including mediation incident thereto. The decision of an
46 arbitrator is final; however, a decision is not deemed final
47 agency action. Nothing in this provision shall be construed to
48 foreclose parties from proceeding in a trial de novo unless the
49 parties have agreed that the arbitration is binding. If judicial
50 proceedings are initiated, the final decision of the arbitrator
51 is admissible in evidence in the trial de novo.

52 (a) Before the institution of court litigation, a party to
53 a dispute, other than an election or recall dispute, must shall
54 ~~either~~ petition the division for nonbinding arbitration or
request that the case be referred to mediation ~~initiate presuit~~
~~mediation as provided in subsection (5)~~. Arbitration is binding
55 on the parties if all parties in arbitration agree to be bound
56 in a writing filed in arbitration. The petition must be
57 accompanied by a filing fee in the amount of \$50. Filing fees
58 collected under this section must be used to defray the expenses
59 of the alternative dispute resolution program.

60 (h) Mediation proceedings must generally be conducted in
61 accordance with the Florida Rules of Civil Procedure, and these
62 proceedings are privileged and confidential to the same extent
63 as court-ordered mediation. Persons who are not parties to the

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66 dispute are not allowed to attend the mediation conference
67 without the consent of all parties, with the exception of
68 counsel for the parties and corporate representatives designated
69 to appear for a party. If the mediator declares an impasse after
70 a mediation conference has been held, the arbitration proceeding
71 terminates, unless all parties agree in writing to continue the
72 arbitration proceeding, in which case the arbitrator's decision
73 shall be binding or nonbinding, as agreed upon by the parties;
74 in the arbitration proceeding, the arbitrator shall not consider
75 any evidence relating to the unsuccessful mediation except in a
76 proceeding to impose sanctions for failure to appear at the
77 mediation conference. If the parties do not agree to continue
78 arbitration, the arbitrator shall enter an order of dismissal,
79 and either party may institute a suit in a community association
80 court program under s. 720.32 or a court of competent
81 jurisdiction. The parties may seek to recover any costs and
82 attorney fees incurred in connection with arbitration and
83 mediation proceedings under this section as part of the costs
84 and fees that may be recovered by the prevailing party in any
85 subsequent litigation.

86 (k) The arbitration decision shall be rendered within 30
87 days after the hearing and presented to the parties in writing.
88 An arbitration decision is final in those disputes in which the
89 parties have agreed to be bound. An arbitration decision is also
90 final if a complaint for a trial de novo is not filed in a

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91 community association court program under s. 720.32 or a court
92 of competent jurisdiction in which the condominium is located
93 within 30 days. The right to file for a trial de novo entitles
94 the parties to file a complaint in the appropriate trial court
95 for a judicial resolution of the dispute. The prevailing party
96 in an arbitration proceeding shall be awarded the costs of the
97 arbitration and reasonable attorney fees in an amount determined
98 by the arbitrator. Such an award shall include the costs and
99 reasonable attorney fees incurred in the arbitration proceeding
100 as well as the costs and reasonable attorney fees incurred in
101 preparing for and attending any scheduled mediation. An
102 arbitrator's failure to render a written decision within 30 days
103 after the hearing may result in the cancellation of his or her
104 arbitration certification.

105 (m) Any party to an arbitration proceeding may enforce an
106 arbitration award by filing a petition in a community
107 association court program under s. 720.32 or a court of
108 competent jurisdiction in which the condominium is located. A
109 petition may not be granted unless the time for appeal by the
110 filing of a complaint for trial de novo has expired. If a
111 complaint for a trial de novo has been filed, a petition may not
112 be granted with respect to an arbitration award that has been
113 stayed. If the petition for enforcement is granted, the
114 petitioner shall recover reasonable attorney fees and costs
115 incurred in enforcing the arbitration award. A mediation

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116 settlement may also be enforced through the county or circuit
117 court or a community association court program, as applicable,
118 and any costs and fees incurred in the enforcement of a
119 settlement agreement reached at mediation must be awarded to the
120 prevailing party in any enforcement action.

121 ~~(5) PRESUIT MEDIATION. In lieu of the initiation of~~
122 ~~nonbinding arbitration as provided in subsections (1)-(4), a~~
123 ~~party may submit a dispute to presuit mediation in accordance~~
124 ~~with s. 720.311; however, election and recall disputes are not~~
125 ~~eligible for mediation and such disputes must be arbitrated by~~
126 ~~the division or filed in a court of competent jurisdiction.~~

127 **Section 4. Subsections (8), (9), (10), (11), (12), and**
128 **(13) of section 720.301, Florida Statutes, are amended to read:**

129 720.301 Definitions.—As used in this chapter, the term:

130 (8) "Financial statements" means a comprehensive report
131 prepared in accordance with generally accepted accounting
132 principles which accurately reflects the financial condition and
133 operation of a homeowners' association for a specified reporting
134 period. This report must include, at a minimum, a balance sheet;
135 an income and expense statement; a budget comparison; and a
136 complete set of bank statements, including copies of check
137 images for all disbursements the association made during the
138 reporting period, for each bank account belonging to the
139 association.

140 (9)-(8) "Governing documents" means:

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141 (a) The recorded declaration of covenants for a community
142 and all duly adopted and recorded amendments, supplements, and
143 recorded exhibits thereto; and

144 (b) The articles of incorporation and bylaws of the
145 homeowners' association and any duly adopted amendments thereto.

146 (10) (9) "Homeowners' association" or "association" means a
147 Florida corporation responsible for the operation of a community
148 or a mobile home subdivision in which the voting membership is
149 made up of parcel owners or their agents, or a combination
150 thereof, and in which membership is a mandatory condition of
151 parcel ownership, and which is authorized to impose assessments
152 that, if unpaid, may become a lien on the parcel. The term
153 "homeowners' association" does not include a community
154 development district or other similar special taxing district
155 created pursuant to statute.

156 (11) (10) "Member" means a member of an association, and
157 may include, but is not limited to, a parcel owner or an
158 association representing parcel owners or a combination thereof,
159 and includes any person or entity obligated by the governing
160 documents to pay an assessment or amenity fee.

161 (12) (11) "Parcel" means a platted or unplatted lot, tract,
162 unit, or other subdivision of real property within a community,
163 as described in the declaration:

164 (a) Which is capable of separate conveyance; and

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165 (b) Of which the parcel owner, or an association in which
166 the parcel owner must be a member, is obligated:

167 1. By the governing documents to be a member of an
168 association that serves the community; and

169 2. To pay to the homeowners' association assessments that,
170 if not paid, may result in a lien.

171 (13)~~(12)~~ "Parcel owner" means the record owner of legal
172 title to a parcel.

173 (14)~~(13)~~ "Voting interest" means the voting rights
174 distributed to the members of the homeowners' association,
175 pursuant to the governing documents.

176 **Section 5. Subsection (2) of section 720.302, Florida
177 Statutes, is amended to read:**

178 720.302 Purposes, scope, and application.—

179 (2) The Legislature recognizes that it is not in the best
180 interest of homeowners' associations or the individual
181 association members thereof to create or impose a bureau or
182 other agency of state government to regulate the affairs of
183 homeowners' associations. However, in accordance with s.
184 720.311, the Legislature finds that homeowners' associations and
185 their individual members will benefit from an expedited
186 alternative process for resolution of election and recall
187 disputes and ~~presuit mediation of other disputes involving~~
188 ~~covenant enforcement~~ and authorizes the department to hear,
189 administer, and determine these disputes as more fully set forth

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190 in this chapter. Further, the Legislature recognizes that
191 certain contract rights have been created for the benefit of
192 homeowners' associations and members thereof before the
193 effective date of this act and that ss. 720.301-720.407 are not
194 intended to impair such contract rights, including, but not
195 limited to, the rights of the developer to complete the
196 community as initially contemplated.

197 **Section 6. Subsections (11) through (15) of section
198 720.303, Florida Statutes, are renumbered as subsections (12)
199 through (16), respectively, subsection (1) is amended, and a new
200 subsection (11) is added to that section, to read:**

201 720.303 Association powers and duties; meetings of board;
202 official records; budgets; financial reporting; association
203 funds; recalls.—

204 (1) POWERS AND DUTIES.—

205 (a) An association that operates a community as defined in
206 s. 720.301 must be operated by an association that is a Florida
207 corporation. After October 1, 1995, the association must be
208 incorporated and the initial governing documents must be
209 recorded in the official records of the county in which the
210 community is located. An association may operate more than one
211 community.

212 (b) The officers and directors of an association are
213 subject to s. 617.0830 and have a fiduciary relationship to the
214 members who are served by the association.

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215 (c) The powers and duties of an association include those
216 set forth in this chapter and, except as expressly limited or
217 restricted in this chapter, those set forth in the governing
218 documents.

219 1. Each association formed on or after July 1, 2026, must
220 include the following statement in the governing documents:

222 This association and the association's governing
223 documents are governed by the Florida Homeowners'
224 Association Act, as amended from time to time.

226 2. By January 1, 2027, each association in existence
227 before July 1, 2026, must hold a meeting of the members in
228 accordance with s. 720.306 to vote whether to amend the
229 governing documents of the association to include the statement
230 in subparagraph 1. In order to amend the governing documents
231 under this subparagraph, the association must, at a meeting of
232 the membership at which a quorum has been attained, obtain the
233 affirmative approval of two-thirds of the voting interests of
234 the association.

235 (d) After control of the association is obtained by
236 members other than the developer, the association may institute,
237 maintain, settle, or appeal actions or hearings in its name on
238 behalf of all members concerning matters of common interest to
239 the members, including, but not limited to, the common areas;

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240 roof or structural components of a building, or other
241 improvements for which the association is responsible;
242 mechanical, electrical, or plumbing elements serving an
243 improvement or building for which the association is
244 responsible; representations of the developer pertaining to any
245 existing or proposed commonly used facility; and protest of ad
246 valorem taxes on commonly used facilities. The association may
247 defend actions in eminent domain or bring inverse condemnation
248 actions. Before commencing litigation against any party in the
249 name of the association involving amounts in controversy in
250 excess of \$100,000, the association must obtain the affirmative
251 approval of a majority of the voting interests at a meeting of
252 the membership at which a quorum has been attained. This
253 paragraph subsection does not limit any statutory or common-law
254 right of any individual member or class of members to bring any
255 action without participation by the association.

256 (e) A member does not have authority to act for the
257 association by virtue of being a member. An association may have
258 more than one class of members and may issue membership
259 certificates.

260 (f) An association of 15 or fewer parcel owners may
261 enforce only the requirements of those deed restrictions
262 established prior to the purchase of each parcel upon an
263 affected parcel owner or owners.

264 (11) CONFLICTS OF INTEREST.-

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265 (a) A director, an officer, or a committee member of an
266 association owes a duty of loyalty to the association and its
267 members.

268 (b) A conflict of interest exists when a director, an
269 officer, or a committee member has a direct or an indirect
270 financial interest in a transaction, contract, or decision under
271 consideration by the association.

272 (c) The director, officer, or committee member with a
273 conflict of interest must disclose the nature and extent of the
274 conflict in writing to the board before any discussion or vote
275 occurs on the matter.

276 (d) After disclosure of the conflict of interest, the
277 conflicted director, officer, or committee member may not
278 participate in any discussion or vote on the matter.

279 (e) A transaction involving a conflict of interest is
280 voidable by the association unless the transaction was approved
281 by a majority of the voting interests of the association after
282 full disclosure by the conflicted director, officer, or
283 committee member has occurred.

284 (f) Compensating or contracting with a director, an
285 officer, or a committee member of the association, or an
286 immediate family member thereof, creates a rebuttable
287 presumption that a conflict of interest exists.

288 (g) This subsection may not be waived or limited by the
289 governing documents of the association.

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290 **Section 7. Paragraph (h) of subsection (1) of section**
291 **720.306, Florida Statutes, is amended to read:**

292 720.306 Meetings of members; voting and election
293 procedures; amendments.—

294 (1) QUORUM; AMENDMENTS.—

295 (h)1. Except as otherwise provided in this paragraph, any
296 governing document, or amendment to a governing document, that
297 is enacted after July 1, 2021, and that prohibits or regulates
298 rental agreements applies only to a parcel owner who acquires
299 title to the parcel after the effective date of the governing
300 document or amendment, or to a parcel owner who consents,
301 individually or through a representative, to the governing
302 document or amendment.

303 2. Notwithstanding subparagraph 1., an association may
304 amend its governing documents to prohibit or regulate rental
305 agreements for a term of less than 6 months and may prohibit the
306 rental of a parcel for more than three times in a calendar year,
307 and such amendments shall apply to all parcel owners.

308 3. This paragraph does not affect the amendment
309 restrictions for associations of 15 or fewer parcel owners under
310 s. 720.303(1)(f) ~~s. 720.303(1)~~.

311 4. For purposes of this paragraph, a change of ownership
312 does not occur when a parcel owner conveys the parcel to an
313 affiliated entity, when beneficial ownership of the parcel does
314 not change, or when an heir becomes the parcel owner. For

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315 purposes of this subparagraph, the term "affiliated entity"
316 means an entity that controls, is controlled by, or is under
317 common control with the parcel owner or that becomes a parent or
318 successor entity by reason of transfer, merger, consolidation,
319 public offering, reorganization, dissolution or sale of stock,
320 or transfer of membership partnership interests. For a
321 conveyance to be recognized as one made to an affiliated entity,
322 the entity must furnish to the association a document certifying
323 that this subparagraph applies and provide any organizational
324 documents for the parcel owner and the affiliated entity which
325 support the representations in the certificate, as requested by
326 the association.

327 5. For purposes of this paragraph, a change of ownership
328 does occur when, with respect to a parcel owner that is a
329 business entity, every person that owned an interest in the real
330 property at the time of the enactment of the amendment or rule
331 conveys their interest in the real property to an unaffiliated
332 entity.

333 **Section 8. Section 720.311, Florida Statutes, is amended**
334 **to read:**

335 720.311 Dispute resolution.—

336 (1) The Legislature finds that alternative dispute
337 resolution has made progress in reducing court dockets and
338 trials and in offering a more efficient, cost-effective option
339 to litigation. The filing of any petition for arbitration tolls

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340 ~~or the serving of a demand for presuit mediation as provided for~~
341 ~~in this section shall toll the applicable statute of~~
342 limitations. Any recall dispute filed with the department under
343 s. 720.303(10) ~~must shall~~ be conducted by the department in
344 accordance with ~~the provisions of~~ ss. 718.112(2)(1) and 718.1255
345 and the rules adopted by the division. In addition, the
346 department shall conduct binding arbitration of election
347 disputes between a member and an association in accordance with
348 s. 718.1255 and rules adopted by the division. Election disputes
349 and recall disputes ~~are not eligible for presuit mediation;~~
350 ~~these disputes~~ must be arbitrated by the department or filed in
351 a court of competent jurisdiction. The arbitration proceeding
352 must be conducted by a department arbitrator or by a private
353 arbitrator certified by the department. At the conclusion of an
354 arbitration proceeding, the department shall charge the parties
355 a fee in an amount adequate to cover all costs and expenses
356 incurred by the department in conducting the proceeding.
357 Initially, the petitioner shall remit a filing fee of at least
358 \$200 to the department. The fees paid to the department shall
359 become a recoverable cost in the arbitration proceeding, and the
360 prevailing party in an arbitration proceeding shall recover its
361 reasonable costs and attorney fees in an amount found reasonable
362 by the arbitrator. The department shall adopt rules to
363 effectuate the purposes of this section.

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(2) (a) Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be the subject of a demand for presuit mediation served by an aggrieved party before the dispute is filed in court. Presuit mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Disputes subject to presuit mediation under this section shall not include the collection of any assessment, fine, or other financial obligation, including attorney's fees and costs, claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. Also, in any dispute subject to presuit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the presuit mediation requirements of this section. After any issues regarding emergency or temporary relief are resolved, the court may either refer the parties to a mediation program administered by the courts or require mediation under this section. An arbitrator or judge may not consider any information

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389 or evidence arising from the presuit mediation proceeding except
390 in a proceeding to impose sanctions for failure to attend a
391 presuit mediation session or to enforce a mediated settlement
392 agreement. Persons who are not parties to the dispute may not
393 attend the presuit mediation conference without the consent of
394 all parties, except for counsel for the parties and a corporate
395 representative designated by the association. When mediation is
396 attended by a quorum of the board, such mediation is not a board
397 meeting for purposes of notice and participation set forth in s.
398 720.303. An aggrieved party shall serve on the responding party
399 a written demand to participate in presuit mediation in
400 substantially the following form:

401 ~~STATUTORY OFFER TO PARTICIPATE~~

402 ~~IN PRESUIT MEDIATION~~

403 The alleged aggrieved party,, hereby
404 demands that, as the responding
405 party, engage in mandatory presuit mediation in
406 connection with the following disputes, which by
407 statute are of a type that are subject to presuit
408 mediation:

409 (List specific nature of the dispute or disputes to be
410 mediated and the authority supporting a finding of a
411 violation as to each dispute.)

412 Pursuant to section 720.311, Florida Statutes, this
413 demand to resolve the dispute through presuit

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414 mediation is required before a lawsuit can be filed
415 concerning the dispute. Pursuant to the statute, the
416 parties are required to engage in presuit mediation
417 with a neutral third party mediator in order to
418 attempt to resolve this dispute without court action,
419 and the aggrieved party demands that you likewise
420 agree to this process. If you fail to participate in
421 the mediation process, suit may be brought against you
422 without further warning.

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

435 If an agreement is reached, it shall be reduced to
436 writing and becomes a binding and enforceable
437 commitment of the parties. A resolution of one or more
438 disputes in this fashion avoids the need to litigate

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439 these issues in court. The failure to reach an
440 agreement, or the failure of a party to participate in
441 the process, results in the mediator declaring an
442 impasse in the mediation, after which the aggrieved
443 party may proceed to court on all outstanding,
444 unsettled disputes. If you have failed or refused to
445 participate in the entire mediation process, you will
446 not be entitled to recover attorney's fees, even if
447 you prevail.

448 The aggrieved party has selected and hereby lists five
449 certified mediators who we believe to be neutral and
450 qualified to mediate the dispute. You have the right
451 to select any one of these mediators. The fact that
452 one party may be familiar with one or more of the
453 listed mediators does not mean that the mediator
454 cannot act as a neutral and impartial facilitator. Any
455 mediator who cannot act in this capacity is required
456 ethically to decline to accept engagement. The
457 mediators that we suggest, and their current hourly
458 rates, are as follows:

459 (List the names, addresses, telephone numbers, and
460 hourly rates of the mediators. Other pertinent
461 information about the background of the mediators may
462 be included as an attachment.)

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463 You may contact the offices of these mediators to
464 confirm that the listed mediators will be neutral and
465 will not show any favoritism toward either party. The
466 Florida Supreme Court can provide you a list of
467 certified mediators.

468 Unless otherwise agreed by the parties, section
469 720.311(2)(b), Florida Statutes, requires that the
470 parties share the costs of presuit mediation equally,
471 including the fee charged by the mediator. An average
472 mediation may require three to four hours of the
473 mediator's time, including some preparation time, and
474 the parties would need to share equally the mediator's
475 fees as well as their own attorney's fees if they
476 choose to employ an attorney in connection with the
477 mediation. However, use of an attorney is not required
478 and is at the option of each party. The mediators may
479 require the advance payment of some or all of the
480 anticipated fees. The aggrieved party hereby agrees to
481 pay or prepay one half of the mediator's estimated
482 fees and to forward this amount or such other
483 reasonable advance deposits as the mediator requires
484 for this purpose. Any funds deposited will be returned
485 to you if these are in excess of your share of the
486 fees incurred.

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487 To begin your participation in presuit mediation to
488 try to resolve the dispute and avoid further legal
489 action, please sign below and clearly indicate which
490 mediator is acceptable to you. We will then ask the
491 mediator to schedule a mutually convenient time and
492 place for the mediation conference to be held. The
493 mediation conference must be held within ninety (90)
494 days of this date, unless extended by mutual written
495 agreement. In the event that you fail to respond
496 within 20 days from the date of this letter, or if you
497 fail to agree to at least one of the mediators that we
498 have suggested or to pay or prepay to the mediator
499 one-half of the costs involved, the aggrieved party
500 will be authorized to proceed with the filing of a
501 lawsuit against you without further notice and may
502 seek an award of attorney's fees or costs incurred in
503 attempting to obtain mediation.

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

508

509

510 RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR
511 AGREEMENT TO THAT CHOICE.

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512 **AGREEMENT TO MEDIATE**

513 The undersigned hereby agrees to participate in
514 presuit mediation and agrees to attend a mediation
515 conducted by the following mediator or mediators who
516 are listed above as someone who would be acceptable to
517 mediate this dispute:

518 (List acceptable mediator or mediators.)

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

522

523 Signature of responding party #1

524

525 Telephone contact information

526

527 Signature and telephone contact information of
528 responding party #2 (if applicable) (if property is
529 owned by more than one person, all owners must sign)
530 (b) Service of the statutory demand to participate in
531 presuit mediation shall be effected by sending a letter in
532 substantial conformity with the above form by certified mail,
533 return receipt requested, with an additional copy being sent by
534 regular first class mail, to the address of the responding party
535 as it last appears on the books and records of the association.
536 The responding party has 20 days from the date of the mailing of

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537 the statutory demand to serve a response to the aggrieved party
538 in writing. The response shall be served by certified mail,
539 return receipt requested, with an additional copy being sent by
540 regular first class mail, to the address shown on the statutory
541 demand. Notwithstanding the foregoing, once the parties have
542 agreed on a mediator, the mediator may reschedule the mediation
543 for a date and time mutually convenient to the parties. The
544 parties shall share the costs of presuit mediation equally,
545 including the fee charged by the mediator, if any, unless the
546 parties agree otherwise, and the mediator may require advance
547 payment of its reasonable fees and costs. The failure of any
548 party to respond to a demand or response, to agree upon a
549 mediator, to make payment of fees and costs within the time
550 established by the mediator, or to appear for a scheduled
551 mediation session without the approval of the mediator, shall
552 constitute the failure or refusal to participate in the
553 mediation process and shall operate as an impasse in the presuit
554 mediation by such party, entitling the other party to proceed in
555 court and to seek an award of the costs and fees associated with
556 the mediation. Additionally, notwithstanding the provisions of
557 any other law or document, persons who fail or refuse to
558 participate in the entire mediation process may not recover
559 attorney's fees and costs in subsequent litigation relating to
560 the dispute. If any presuit mediation session cannot be
561 scheduled and conducted within 90 days after the offer to

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562 ~~participate in mediation was filed, an impasse shall be deemed~~
563 ~~to have occurred unless both parties agree to extend this~~
564 ~~deadline.~~

565 ~~(2)(e) In If presuit mediation as described in paragraph~~
566 ~~(a) is not successful in resolving all issues between the~~
567 ~~parties, the parties may file the unresolved dispute in a court~~
568 ~~of competent jurisdiction or elect to enter into binding or~~
569 ~~nonbinding arbitration pursuant to the procedures set forth in~~
570 ~~s. 718.1255 and rules adopted by the division, with the~~
571 ~~arbitration proceeding to be conducted by a department~~
572 ~~arbitrator or by a private arbitrator certified by the~~
573 ~~department. If all parties do not agree to arbitration~~
574 ~~proceedings following an unsuccessful presuit mediation, any~~
575 ~~party may file the dispute in court. A final order resulting~~
576 ~~from nonbinding arbitration is final and enforceable in the~~
577 ~~courts if a complaint for trial de novo is not filed in a court~~
578 ~~of competent jurisdiction within 30 days after entry of the~~
579 ~~order. As to any issue or dispute that is not resolved at~~
580 ~~arbitration presuit mediation, and as to any issue that is~~
581 ~~settled at arbitration presuit mediation but is thereafter~~
582 ~~subject to an action seeking enforcement of the mediation~~
583 ~~settlement, the prevailing party in any subsequent arbitration~~
584 ~~or litigation proceeding may shall be entitled to seek recovery~~
585 ~~of all costs and attorney attorney's fees incurred in the~~
586 ~~arbitration presuit mediation process.~~

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587 (3)(d) An A mediator or arbitrator is shall be authorized
588 to conduct ~~mediation or~~ arbitration under this section only if
589 he or she has been certified as a circuit court civil ~~mediator~~
590 ~~or arbitrator, respectively,~~ pursuant to the requirements
591 established by the Florida Supreme Court. ~~Settlement agreements~~
592 ~~resulting from mediation shall not have precedential value in~~
593 ~~proceedings involving parties other than those participating in~~
594 ~~the mediation to support either a claim or defense in other~~
595 ~~disputes.~~

596 (e) ~~The presuit mediation procedures provided by this~~
597 ~~subsection may be used by a Florida corporation responsible for~~
598 ~~the operation of a community in which the voting members are~~
599 ~~parcel owners or their representatives, in which membership in~~
600 ~~the corporation is not a mandatory condition of parcel~~
601 ~~ownership, or which is not authorized to impose an assessment~~
602 ~~that may become a lien on the parcel.~~

603 **Section 9. Section 720.319, Florida Statutes, is created**
604 **to read:**

605 720.319 Dissolution of homeowners' association.—
606 (1) This section may be cited as the "Homeowners'
607 Association Dissolution and Accountability Act."

608 (2) The Legislature finds that:
609 (a) Homeowners' associations are created as authorized by
610 general law and are subject to covenants that encumber the land
611 and restrict the use of real property.

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612 (b) In some circumstances, the continued enforcement of
613 those covenants may no longer serve the homeowners' or
614 community's interest and it is the public policy of this state
615 to provide by general law a method to preserve the value of the
616 property interests and the rights of alienation thereof that
617 homeowners have in their parcels before and after termination.

618 (c) It is contrary to the public policy of this state to
619 require the continued operation of a homeowners' association
620 when such continuation is made impossible by law or regulation.

621 (d) It is in the best interest of this state to provide
622 for termination of the declaration of covenants in certain
623 circumstances in order to:

624 1. Prevent covenants from impairing the continued
625 productive use of the property.

626 2. Provide fair treatment and just compensation for parcel
627 owners and preserve property values and the local property tax
628 base.

629 3. Preserve the state's long history of protecting
630 homestead property rights by ensuring that such protection is
631 extended to parcel owners whose parcel is their homestead in the
632 context of a termination of a declaration of covenants for an
633 association.

634 (3) A homeowners' association may be terminated by a plan
635 of termination that meets the requirements of this section and

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636 is approved by a community association court program under s.
637 720.32.

638 (4) A plan of termination is subject to the following
639 conditions:

640 (a) The total voting interests of the association must
641 include all voting interests for the purpose of considering a
642 plan of termination. A voting interest of the association may
643 not be suspended for any reason when voting on termination under
644 this section.

645 (b) If the members reject a plan of termination, a
646 subsequent plan of termination under this section may not be
647 considered for at least 18 months after the date of the
648 rejection.

649 (c) A plan of termination must be approved by at least
650 two-thirds of the total voting interests of the association.

651 (d) A parcel owner desiring to reject a plan of
652 termination must do so by either voting in person or by proxy to
653 reject the plan or by delivering a written objection to the
654 association before or at the meeting called under subsection
655 (5).

656 (5) (a) A parcel owner who wishes to terminate a
657 homeowners' association in which he or she is a member must
658 provide to the board of administration a petition for a plan of
659 termination that is signed by at least 50 percent of the voting
660 members of the association. The board must hold a meeting of the

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661 members within 60 days after receipt of the signed petition. A
662 voting interest of the association may not be suspended for any
663 reason for purposes of signing the petition or determining
664 whether the 50 percent threshold for such petition has been met
665 under this paragraph.

666 (b) Notice of such meeting must be made in accordance with
667 s. 720.303(2) and include the following information:

668 1. A copy of the proposed plan of dissolution.
669 2. An explanation of how the common areas and the assets
670 of the association will be managed or transferred.
671 3. The manner in which voting will take place.

672 (c) If the board fails to call a meeting within the 60-day
673 time period, any member may petition a community association
674 court program under s. 720.32 or, if a community association
675 court program does not exist in the judicial circuit in which
676 the association is located, another court of competent
677 jurisdiction for an order compelling compliance with this
678 section.

679 (6) If a plan of termination is approved, the board must
680 submit such plan to the community association court program in
681 the judicial circuit in which the association is located or, if
682 a community association court program does not exist, another
683 court of competent jurisdiction. The court shall examine the
684 plan of termination and determine its procedural sufficiency
685 and, within 45 days after receipt of the plan, notify the

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686 association by mail of any procedural deficiencies or that the
687 plan is accepted. If notice is not provided within the 45-day
688 time period, the plan of termination is deemed accepted. If the
689 court determines that the conditions required by this section
690 have been met and that the plan of termination complies with the
691 procedural requirements of this section, the court must
692 authorize the termination and the termination may proceed as
693 authorized in this section.

694 (7) (a) A plan of termination and the consents or joinders
695 of parcel owners must be recorded in the public records of each
696 county in which any portion of the association is located. The
697 plan is effective only upon recordation or at a later date
698 specified in the plan.

699 (b) Upon recordation or at a later date specified in the
700 plan of termination, title to the association property vests in
701 a termination trustee. The board serves as such trustee unless
702 another person is appointed in the plan of termination. If the
703 board is not the termination trustee, the board must transfer
704 any association property to such trustee. The termination
705 trustee is vested with the powers given by the declaration and
706 bylaws of the association and subsection (9). If the board is
707 unable, unwilling, or fails to act as termination trustee, a
708 parcel owner may petition the community association court
709 program to appoint a termination trustee.

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710 (8) If the board fails to hold the meeting under
711 subsection (5), obstructs the termination process, or refuses to
712 record the decision of the members to terminate, a member may
713 file a petition with the community association court program in
714 the judicial circuit in which the association is located or, if
715 a community association court program does not exist, another
716 court of competent jurisdiction. A community association court
717 program may do all of the following:

718 (a) Verify compliance with the procedural requirements of
719 this section and all statutory voting requirements.

720 (b) Order the Department of State to dissolve the
721 homeowners' association.

722 (c) Appoint a termination trustee to manage the
723 distribution of assets and resolution of liabilities.

724 (9) The approval of the plan of termination does not
725 terminate the board of administration, which shall continue in
726 existence following approval of the plan of termination with all
727 powers and duties such board had before approval of the plan.
728 Notwithstanding any provision to the contrary in the declaration
729 or bylaws, after approval of the plan of termination the board
730 must:

731 (a) Employ directors, agents, attorneys, and other
732 professionals to liquidate or conclude the board's affairs.

733 (b) Conduct the affairs of the association as necessary
734 for the liquidation or termination.

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735 (c) Carry out contracts and collect, pay, and settle debts
736 and claims for and against the association.

737 (d) Defend suits brought against the association.

738 (e) Sue in the name of the association for all sums due or
739 owed to the association or to recover any association property.

740 (f) Perform any act necessary to maintain, repair, or
741 demolish unsafe or uninhabitable improvements or other
742 association property in compliance with applicable codes.

743 (g) Sell at public or private sale or exchange, convey, or
744 otherwise dispose of assets of the association for an amount
745 deemed to be in the best interests of the association, and
746 execute bills of sale and deeds of conveyance in the name of the
747 association.

748 (h) Collect and receive rents, profits, accounts
749 receivable, income, maintenance fees, special assessments, or
750 insurance proceeds for the association.

751 (i) Contract and do anything in the name of the
752 association which is proper or convenient to terminate the
753 affairs of the association.

754 (10) (a) All remaining association assets after the payment
755 of any lawful debts must be distributed equally among members or
756 as otherwise provided in the plan of termination.

757 (b) A member may not be subject to personal liability for
758 unpaid obligations beyond the member's regular assessments or

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759 special assessments that existed before the vote for
760 termination.

761 (11) (a) The following actions by an association or the
762 officers or directors thereof are unlawful:

763 1. Failing to call or notice a meeting after receipt of a
764 valid petition for a plan of termination.

765 2. Spending association funds to campaign for or against
766 the plan of termination.

767 3. Concealing any financial or property records relevant
768 to the plan of termination.

769 (b) An officer or a director who violates paragraph (a) is
770 subject to any of the following:

771 1. A civil penalty of up to \$5,000 per violation.

772 2. Removal from office by court order.

773 3. Personal liability for legal fees incurred by the
774 petitioners.

775 **Section 10. Section 720.32, Florida Statutes, is created**
776 **to read:**

777 720.32 Community association court program.—

778 (1) It is the intent of the Legislature to encourage and
779 support the judicial circuits of the state to create and
780 maintain a community association court program in each judicial
781 circuit. The purpose of a community association court program is
782 to address disputes that arise between community associations
783 and the members thereof or between members within a community

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784 association. It is the intent of the Legislature that this
785 section provides a detailed statewide standard for the creation,
786 operation, and procedures for community association court
787 programs.

788 (2) A circuit court may create and administer a community
789 association court program. The chief judge shall designate at
790 least one judge to preside over the community association court
791 program. The chief judge may issue administrative orders
792 concerning the community association court program.

793 (3) The community association court program has
794 jurisdiction over disputes, including any related termination or
795 enforcement proceedings, arising under any of the following:

796 (a) Chapter 718, the Condominium Act.

797 (b) Chapter 719, the Cooperative Act.

798 (c) Chapter 720, the Homeowners' Association Act.

799 (4) The community association court program may do all of
800 the following:

801 (a) Enforce all statutory rights of unit owners and parcel
802 owners.

803 (b) Verify and compel compliance with all statutory
804 requirements by community associations, boards of
805 administration, and officers or directors of such boards.

806 (c) Order the Department of State to dissolve a community
807 association.

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808 (d) Appoint a termination trustee to manage the
809 distribution of association assets and resolution of
810 liabilities.

811 (e) Impose civil penalties for violations of statutory
812 rights.

813 (f) Issue injunctive relief as appropriate.

814 (g) Award reasonable attorney fees and costs as
815 appropriate.

816 (5) By January 1 of each year, the chief judge in each
817 judicial circuit in which a community association court program
818 is created shall submit to the President of the Senate and the
819 Speaker of the House of Representatives a report that summarizes
820 the caseload of each community association court program and the
821 outcomes of such caseload.

822 (6) The Office of the State Courts Administrator shall
823 establish procedure, staffing, and reporting requirements for
824 the operation of the community association court program.

825 (7) The costs associated with the creation, operation, and
826 compliance and enforcement duties of the community association
827 court program shall be funded through a general revenue
828 appropriation to the department.

829 **Section 11. Paragraph (d) of subsection (1) of section**
830 **34.01, Florida Statutes, is amended to read:**

831 34.01 Jurisdiction of county court.—

832 (1) County courts shall have original jurisdiction:

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833 (d) Of disputes occurring in the homeowners' associations
834 ~~as described in s. 720.311(2)(a)~~, which shall be concurrent with
835 jurisdiction of the circuit courts.

836 **Section 12. Paragraph (a) of subsection (1) of section**
837 **336.125, Florida Statutes, is amended to read:**

838 336.125 Closing and abandonment of roads; optional
839 conveyance to homeowners' association; traffic control
840 jurisdiction.—

841 (1) (a) In addition to the authority provided in s. 336.12,
842 the governing body of the county may abandon the roads and
843 rights-of-way dedicated in a recorded residential subdivision
844 plat and simultaneously convey the county's interest in such
845 roads, rights-of-way, and appurtenant drainage facilities to a
846 homeowners' association for the subdivision, if the following
847 conditions have been met:

848 1. The homeowners' association has requested the
849 abandonment and conveyance in writing for the purpose of
850 converting the subdivision to a gated neighborhood with
851 restricted public access.

852 2. No fewer than four-fifths of the owners of record of
853 property located in the subdivision have consented in writing to
854 the abandonment and simultaneous conveyance to the homeowners'
855 association.

856 3. The homeowners' association is both a corporation not
857 for profit organized and in good standing under chapter 617, and

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858 a "homeowners' association" as defined in s. 720.301 ~~s.~~
859 ~~720.301(9)~~ with the power to levy and collect assessments for
860 routine and periodic major maintenance and operation of street
861 lighting, drainage, sidewalks, and pavement in the subdivision.

862 4. The homeowners' association has entered into and
863 executed such agreements, covenants, warranties, and other
864 instruments; has provided, or has provided assurance of, such
865 funds, reserve funds, and funding sources; and has satisfied
866 such other requirements and conditions as may be established or
867 imposed by the county with respect to the ongoing operation,
868 maintenance, and repair and the periodic reconstruction or
869 replacement of the roads, drainage, street lighting, and
870 sidewalks in the subdivision after the abandonment by the
871 county.

872 **Section 13. Subsection (2) of section 558.002, Florida
873 Statutes, is amended to read:**

874 558.002 Definitions.—As used in this chapter, the term:
875 (2) "Association" has the same meaning as in s. 718.103,
876 s. 719.103(2), s.720.301(10) ~~s. 720.301(9)~~, or s. 723.075.

877 **Section 14. Subsection (6) of section 617.0601, Florida
878 Statutes, is amended to read:**

879 617.0601 Members, generally.—
880 (6) Subsections (1), (2), (3), and (4) do not apply to a
881 corporation that is an association as defined in s. 720.301(10)
882 ~~s. 720.301~~.

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883 **Section 15. Subsection (6) of section 617.0701, Florida**
884 **Statutes, is amended to read:**

885 617.0701 Meetings of members, generally; failure to hold
886 annual meeting; special meeting; consent to corporate actions
887 without meetings; waiver of notice of meetings.—

888 (6) Subsections (1) and (3) do not apply to any
889 corporation that is an association as defined in s. 720.301(10)
890 ~~s. 720.301~~; a corporation regulated by chapter 718, chapter 719,
891 chapter 720, chapter 721, or chapter 723; or a corporation where
892 membership in such corporation is required pursuant to a
893 document recorded in the county property records.

894 **Section 16. Subsection (7) of section 617.0721, Florida**
895 **Statutes, is amended to read:**

896 617.0721 Voting by members.—

897 (7) Subsections (1), (5), and (6) do not apply to a
898 corporation that is an association, as defined in s.720.301(10)
899 ~~s. 720.301~~, or a corporation regulated by chapter 718 or chapter
900 719.

901 **Section 17. Section 617.0725, Florida Statutes, is amended**
902 **to read:**

903 617.0725 Quorum.—An amendment to the articles of
904 incorporation or the bylaws which adds, changes, or deletes a
905 greater or lesser quorum or voting requirement must meet the
906 same quorum or voting requirement and be adopted by the same
907 vote and voting groups required to take action under the quorum

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908 and voting requirements then in effect or proposed to be
909 adopted, whichever is greater. This section does not apply to
910 any corporation that is an association, as defined in s.
911 720.301(10) ~~s. 720.301(9)~~, or any corporation regulated under
912 chapter 718 or chapter 719.

913 **Section 18. Subsection (3) of section 617.0808, Florida
914 Statutes, is amended to read:**

915 617.0808 Removal of directors.—

916 (3) This section does not apply to any corporation that is
917 an association, as defined in s. 720.301(10) ~~s. 720.301~~, or a
918 corporation regulated under chapter 718 or chapter 719.

919 **Section 19. Section 617.1606, Florida Statutes, is amended
920 to read:**

921 617.1606 Access to records.—Sections 617.1601-617.1605 do
922 not apply to a corporation that is an association, as defined in
923 s. 720.301(10) ~~s. 720.301~~, or a corporation regulated under
924 chapter 718 or chapter 719.

925 **Section 20. Paragraph (b) of subsection (1) of section
926 718.116, Florida Statutes, is amended to read:**

927 718.116 Assessments; liability; lien and priority;
928 interest; collection.—

929 (1)

930 (b)1. The liability of a first mortgagee or its successor
931 or assignees who acquire title to a unit by foreclosure or by
932 deed in lieu of foreclosure for the unpaid assessments that

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933 became due before the mortgagee's acquisition of title is
934 limited to the lesser of:

935 a. The unit's unpaid common expenses and regular periodic
936 assessments which accrued or came due during the 12 months
937 immediately preceding the acquisition of title and for which
938 payment in full has not been received by the association; or

939 b. One percent of the original mortgage debt. The
940 provisions of this paragraph apply only if the first mortgagee
941 joined the association as a defendant in the foreclosure action.
942 Joinder of the association is not required if, on the date the
943 complaint is filed, the association was dissolved or did not
944 maintain an office or agent for service of process at a location
945 which was known to or reasonably discoverable by the mortgagee.

946 2. An association, or its successor or assignee, that
947 acquires title to a unit through the foreclosure of its lien for
948 assessments is not liable for any unpaid assessments, late fees,
949 interest, or reasonable attorney's fees and costs that came due
950 before the association's acquisition of title in favor of any
951 other association, as defined in s. 718.103 or s. 720.301(10) ~~s.~~
952 ~~720.301(9)~~, which holds a superior lien interest on the unit.
953 This subparagraph is intended to clarify existing law.

954 **Section 21. Paragraph (d) of subsection (2) of section
955 720.3085, Florida Statutes, is amended to read:**

956 720.3085 Payment for assessments; lien claims.—
957 (2)

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958 (d) An association, or its successor or assignee, that
959 acquires title to a parcel through the foreclosure of its lien
960 for assessments is not liable for any unpaid assessments, late
961 fees, interest, or reasonable attorney's fees and costs that
962 came due before the association's acquisition of title in favor
963 of any other association, as defined in s. 718.103 or s.
964 720.301(10) ~~s. 720.301(9)~~, which holds a superior lien interest
965 on the parcel. This paragraph is intended to clarify existing
966 law.

967

968 -----

969 **T I T L E A M E N D M E N T**

970 Remove lines 26-82 and insert:
971 presuit mediation requirements; amending s. 720.301,
972 F.S.; defining the term "financial statements";
973 amending s. 720.302, F.S.; conforming a provision to
974 changes made by the act; amending s. 720.303, F.S.;
975 requiring homeowners' associations to include a
976 specified statement in the governing documents or to
977 hold a meeting by a date certain to vote to amend the
978 governing documents to include such statement;
979 requiring a vote held at such meeting to be approved
980 by a certain amount of the voting interests; providing
981 that directors, officers, and committee members of a
982 homeowners' association owe a duty of loyalty to such

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983 association and its members; requiring a director, an
984 officer, or a committee member who has a conflict of
985 interest to disclose to the board such conflict in
986 writing; prohibiting such director, officer, or member
987 from participating in any discussion or vote on such
988 matter; authorizing an association to void a
989 transaction involving a conflict of interest;
990 providing an exception; providing a rebuttable
991 presumption; providing construction; amending s.
992 720.306, F.S.; conforming a cross-reference; amending
993 s. 720.311, F.S.; removing presuit mediation
994 requirements; requiring that specified arbitrators
995 conduct arbitration proceedings; creating s. 720.319,
996 F.S.; providing a short title; providing legislative
997 findings; authorizing a homeowners' association to be
998 terminated; providing requirements for the termination
999 of a homeowners' association; providing conditions for
1000 a plan of termination; requiring an approved plan of
1001 termination be submitted to a community association
1002 court program and recorded in the public records of
1003 each county in which the association is located;
1004 providing duties and responsibilities of a termination
1005 trustee; authorizing a member to file a petition with
1006 a community association court program under certain
1007 circumstances; authorizing a community association

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court program to take certain actions; providing responsibilities of the board after approval of a plan of termination; providing for the distribution of assets and paying of lawful debts after an association is terminated; specifying unlawful actions by an association or its officers or directors; providing penalties; creating s. 720.32, F.S.; providing legislative intent; authorizing circuit courts to create and administer a community association court program; providing duties of the chief judge; providing the jurisdiction of the community association court program; authorizing the community association court program to take certain actions; requiring the chief judge of certain judicial circuits to submit to the Legislature a specified report annually by a specified date; providing duties of the Office of the State Courts Administrator; providing that certain costs associated with the community association court program be funded through an appropriation to the Department of Business and Professional Regulation; amending s. 34.01, F.S.; conforming a provision to changes made by the act; amending ss. 336.125, 558.002, 617.0601, 617.0701, 617.0721, 617.0725, 617.0808, 617.1606, 718.116, and 720.3085, F.S.; conforming cross-references;

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