

**Glitch Bill – Arbitration & Recall**

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The 2017 Florida Statutes

Title XL

REAL AND PERSONAL PROPERTY

Chapter 718

CONDOMINIUMS

718.112 Bylaws.—

(1) GENERALLY.—

(a) The operation of the association shall be governed by the articles of incorporation if the association is incorporated, and the bylaws of the association, which shall be included as exhibits to the recorded declaration. If one association operates more than one condominium, it shall not be necessary to rerecord the same articles of incorporation and bylaws as exhibits to each declaration after the first, provided that in each case where the articles and bylaws are not so recorded, the declaration expressly incorporates them by reference as exhibits and identifies the book and page of the public records where the first declaration to which they were attached is recorded.

(b) No amendment to the articles of incorporation or bylaws is valid unless recorded with identification on the first page thereof of the book and page of the public records where the declaration of each condominium operated by the association is recorded.

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

(a) Administration.—

1. The form of administration of the association shall be described indicating the title of the officers and board of administration and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards. In the absence of such a provision, the board of administration shall be composed of five members, except in the case of a condominium which has five or fewer units, in which case in a not-for-profit corporation the board shall consist of not fewer than three members. In the absence of provisions to the contrary in the bylaws, the board of administration shall have a president, a secretary, and a treasurer, who shall perform the duties of such officers customarily performed by officers of corporations. Unless prohibited in the bylaws, the board of administration may appoint other officers and grant them the duties it deems appropriate. Unless otherwise provided in the bylaws, the officers shall serve without compensation and at the pleasure of the board of administration. Unless otherwise provided in the bylaws, the members of the board shall serve without compensation.

37 2. When a unit owner of a residential condominium files a written inquiry by certified mail with the  
38 board of administration, the board shall respond in writing to the unit owner within 30 days after  
39 receipt of the inquiry. The board's response shall either give a substantive response to the inquirer,  
40 notify the inquirer that a legal opinion has been requested, or notify the inquirer that advice has been  
41 requested from the division. If the board requests advice from the division, the board shall, within 10  
42 days after its receipt of the advice, provide in writing a substantive response to the inquirer. If a legal  
43 opinion is requested, the board shall, within 60 days after the receipt of the inquiry, provide in writing a  
44 substantive response to the inquiry. The failure to provide a substantive response to the inquiry as  
45 provided herein precludes the board from recovering attorney fees and costs in any subsequent  
46 litigation, administrative proceeding, or arbitration arising out of the inquiry. The association may  
47 through its board of administration adopt reasonable rules and regulations regarding the frequency and  
48 manner of responding to unit owner inquiries, one of which may be that the association is only  
49 obligated to respond to one written inquiry per unit in any given 30-day period. In such a case, any  
50 additional inquiry or inquiries must be responded to in the subsequent 30-day period, or periods, as  
51 applicable.

52 (b) Quorum; voting requirements; proxies.—

53 1. Unless a lower number is provided in the bylaws, the percentage of voting interests required to  
54 constitute a quorum at a meeting of the members is a majority of the voting interests. Unless otherwise  
55 provided in this chapter or in the declaration, articles of incorporation, or bylaws, and except as  
56 provided in subparagraph (d)4., decisions shall be made by a majority of the voting interests  
57 represented at a meeting at which a quorum is present.

58 2. Except as specifically otherwise provided herein, unit owners in a residential condominium may not  
59 vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form  
60 adopted by the division. A voting interest or consent right allocated to a unit owned by the association  
61 may not be exercised or considered for any purpose, whether for a quorum, an election, or otherwise.  
62 Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for  
63 votes taken to waive or reduce reserves in accordance with subparagraph (f)2.; for votes taken to waive  
64 the financial reporting requirements of s. 718.111(13); for votes taken to amend the declaration  
65 pursuant to s. 718.110; for votes taken to amend the articles of incorporation or bylaws pursuant to this  
66 section; and for any other matter for which this chapter requires or permits a vote of the unit owners.  
67 Except as provided in paragraph (d), a proxy, limited or general, may not be used in the election of  
68 board members in a residential condominium. General proxies may be used for other matters for which  
69 limited proxies are not required, and may be used in voting for nonsubstantive changes to items for  
70 which a limited proxy is required and given. Notwithstanding this subparagraph, unit owners may vote  
71 in person at unit owner meetings. This subparagraph does not limit the use of general proxies or require  
72 the use of limited proxies for any agenda item or election at any meeting of a timeshare condominium  
73 association or a nonresidential condominium association.

74 13. A proxy given is effective only for the specific meeting for which originally given and any lawfully  
75 adjourned meetings thereof. A proxy is not valid longer than 90 days after the date of the first meeting  
76 for which it was given. Each proxy is revocable at any time at the pleasure of the unit owner executing it.

77 4. A member of the board of administration or a committee may submit in writing his or her  
78 agreement or disagreement with any action taken at a meeting that the member did not attend. This

79 agreement or disagreement may not be used as a vote for or against the action taken or to create a  
80 quorum.

81 5. A board or committee member's participation in a meeting via telephone, real-time  
82 videoconferencing, or similar real-time electronic or video communication counts toward a quorum, and  
83 such member may vote as if physically present. A speaker must be used so that the conversation of such  
84 members may be heard by the board or committee members attending in person as well as by any unit  
85 owners present at a meeting.

86 (c) Board of administration meetings.—Meetings of the board of administration at which a quorum of  
87 the members is present are open to all unit owners. Members of the board of administration may use e-  
88 mail as a means of communication but may not cast a vote on an association matter via e-mail. A unit  
89 owner may tape record or videotape the meetings. The right to attend such meetings includes the right  
90 to speak at such meetings with reference to all designated agenda items. The division shall adopt  
91 reasonable rules governing the tape recording and videotaping of the meeting. The association may  
92 adopt written reasonable rules governing the frequency, duration, and manner of unit owner  
93 statements.

94 1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be  
95 posted conspicuously on the condominium property at least 48 continuous hours before the meeting  
96 except in an emergency. If 20 percent of the voting interests petition the board to address an item of  
97 business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its  
98 next regular board meeting or at a special meeting called for that purpose. An item not included on the  
99 notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board  
100 members. Such emergency action must be noticed and ratified at the next regular board meeting.  
101 However, written notice of a meeting at which a nonemergency special assessment or an amendment to  
102 rules regarding unit use will be considered must be mailed, delivered, or electronically transmitted to  
103 the unit owners and posted conspicuously on the condominium property at least 14 days before the  
104 meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit  
105 executed by the person providing the notice and filed with the official records of the association. Upon  
106 notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the  
107 condominium or association property where all notices of board meetings must be posted. If there is no  
108 condominium property or association property where notices can be posted, notices shall be mailed,  
109 delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of  
110 or in addition to the physical posting of the notice on the condominium property, the association may,  
111 by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice  
112 and the agenda on a closed-circuit cable television system serving the condominium association.  
113 However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the  
114 notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted  
115 notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda  
116 must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average  
117 reader to observe the notice and read and comprehend the entire content of the notice and the agenda.  
118 Notice of any meeting in which regular or special assessments against unit owners are to be considered  
119 must specifically state that assessments will be considered and provide the nature, estimated cost, and  
120 description of the purposes for such assessments.

121 2. Meetings of a committee to take final action on behalf of the board or make recommendations to  
122 the board regarding the association budget are subject to this paragraph. Meetings of a committee that  
123 does not take final action on behalf of the board or make recommendations to the board regarding the  
124 association budget are subject to this section, unless those meetings are exempted from this section by  
125 the bylaws of the association.

126 3. Notwithstanding any other law, the requirement that board meetings and committee meetings be  
127 open to the unit owners does not apply to:

128 a. Meetings between the board or a committee and the association's attorney, with respect to  
129 proposed or pending litigation, if the meeting is held for the purpose of seeking or rendering legal  
130 advice; or

131 b. Board meetings held for the purpose of discussing personnel matters.

132 (d) Unit owner meetings.—

133 1. An annual meeting of the unit owners shall be held at the location provided in the association  
134 bylaws and, if the bylaws are silent as to the location, the meeting shall be held within 45 miles of the  
135 condominium property. However, such distance requirement does not apply to an association governing  
136 a timeshare condominium.

137 2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a  
138 director's term shall be filled by electing a new board member, and the election must be by secret  
139 ballot. An election is not required if the number of vacancies equals or exceeds the number of  
140 candidates. For purposes of this paragraph, the term "candidate" means an eligible person who has  
141 timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to  
142 become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a  
143 board member does not expire until a later annual meeting, or if all members' terms would otherwise  
144 expire but there are no candidates, the terms of all board members expire at the annual meeting, and  
145 such members may stand for reelection unless prohibited by the bylaws. Board members may serve 2-  
146 year terms if permitted by the bylaws or articles of incorporation. A board member may not serve more  
147 than four consecutive 2-year terms, unless approved by an affirmative vote of two-thirds of the total  
148 voting interests of the association or unless there are not enough eligible candidates to fill the vacancies  
149 on the board at the time of the vacancy. If the number of board members whose terms expire at the  
150 annual meeting equals or exceeds the number of candidates, the candidates become members of the  
151 board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any  
152 remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the  
153 newly constituted board even if the directors constitute less than a quorum or there is only one director.  
154 In a residential condominium association of more than 10 units or in a residential condominium  
155 association that does not include timeshare units or timeshare interests, coowners of a unit may not  
156 serve as members of the board of directors at the same time unless they own more than one unit or  
157 unless there are not enough eligible candidates to fill the vacancies on the board at the time of the  
158 vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership  
159 must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of  
160 directors at the time of the deadline for submitting a notice of intent to run in order to have his or her  
161 name listed as a proper candidate on the ballot or to serve on the board. A person who has been

162 suspended or removed by the division under this chapter, or who is delinquent in the payment of any  
163 monetary obligation due to the association, is not eligible to be a candidate for board membership and  
164 may not be listed on the ballot. A person who has been convicted of any felony in this state or in a  
165 United States District or Territorial Court, or who has been convicted of any offense in another  
166 jurisdiction which would be considered a felony if committed in this state, is not eligible for board  
167 membership unless such felon's civil rights have been restored for at least 5 years as of the date such  
168 person seeks election to the board. The validity of an action by the board is not affected if it is later  
169 determined that a board member is ineligible for board membership due to having been convicted of a  
170 felony. This subparagraph does not limit the term of a member of the board of a nonresidential or  
171 timeshare condominium.

172 3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings.  
173 Written notice must include an agenda, must be mailed, hand delivered, or electronically transmitted to  
174 each unit owner at least 14 days before the annual meeting, and must be posted in a conspicuous place  
175 on the condominium property at least 14 continuous days before the annual meeting. Upon notice to  
176 the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium  
177 property or association property where all notices of unit owner meetings shall be posted. This  
178 requirement does not apply if there is no condominium property or association property for posting  
179 notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by  
180 reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice  
181 and the agenda on a closed-circuit cable television system serving the condominium association.  
182 However, if broadcast notice is used in lieu of a notice posted physically on the condominium property,  
183 the notice and agenda must be broadcast at least four times every broadcast hour of each day that a  
184 posted notice is otherwise required under this section. If broadcast notice is provided, the notice and  
185 agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an  
186 average reader to observe the notice and read and comprehend the entire content of the notice and the  
187 agenda. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such  
188 notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for  
189 meetings and notice for all other purposes must be mailed to each unit owner at the address last  
190 furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit  
191 is owned by more than one person, the association must provide notice to the address that the  
192 developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the  
193 association in writing, or if no address is given or the owners of the unit do not agree, to the address  
194 provided on the deed of record. An officer of the association, or the manager or other person providing  
195 notice of the association meeting, must provide an affidavit or United States Postal Service certificate of  
196 mailing, to be included in the official records of the association affirming that the notice was mailed or  
197 hand delivered in accordance with this provision.

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

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

205 notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for  
206 the board must give written notice of his or her intent to be a candidate to the association at least 40  
207 days before a scheduled election. Together with the written notice and agenda as set forth in  
208 subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the  
209 election to all unit owners entitled to vote, together with a ballot that lists all candidates. Upon request  
210 of a candidate, an information sheet, no larger than 8 1/2 inches by 11 inches, which must be furnished  
211 by the candidate at least 35 days before the election, must be included with the mailing, delivery, or  
212 transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to  
213 be borne by the association. The association is not liable for the contents of the information sheets  
214 prepared by the candidates. In order to reduce costs, the association may print or duplicate the  
215 information sheets on both sides of the paper. The division shall by rule establish voting procedures  
216 consistent with this sub-subparagraph, including rules establishing procedures for giving notice by  
217 electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a  
218 plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible  
219 voters must cast a ballot in order to have a valid election. A unit owner may not permit any other person  
220 to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this  
221 provision may be fined by the association in accordance with s. 718.303. A unit owner who needs  
222 assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The  
223 regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph,  
224 an election is not required unless more candidates file notices of intent to run or are nominated than  
225 board vacancies exist.

226 b. Within 90 days after being elected or appointed to the board of an association of a residential  
227 condominium, each newly elected or appointed director shall certify in writing to the secretary of the  
228 association that he or she has read the association's declaration of condominium, articles of  
229 incorporation, bylaws, and current written policies; that he or she will work to uphold such documents  
230 and policies to the best of his or her ability; and that he or she will faithfully discharge his or her  
231 fiduciary responsibility to the association's members. In lieu of this written certification, within 90 days  
232 after being elected or appointed to the board, the newly elected or appointed director may submit a  
233 certificate of having satisfactorily completed the educational curriculum administered by a division-  
234 approved condominium education provider within 1 year before or 90 days after the date of election or  
235 appointment. The written certification or educational certificate is valid and does not have to be  
236 resubmitted as long as the director serves on the board without interruption. A director of an  
237 association of a residential condominium who fails to timely file the written certification or educational  
238 certificate is suspended from service on the board until he or she complies with this sub-subparagraph.  
239 The board may temporarily fill the vacancy during the period of suspension. The secretary shall cause  
240 the association to retain a director's written certification or educational certificate for inspection by the  
241 members for 5 years after a director's election or the duration of the director's uninterrupted tenure,  
242 whichever is longer. Failure to have such written certification or educational certificate on file does not  
243 affect the validity of any board action.

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

246 5. Any approval by unit owners called for by this chapter or the applicable declaration or bylaws,  
247 including, but not limited to, the approval requirement in s. 718.111(8), must be made at a duly noticed

248 meeting of unit owners and is subject to all requirements of this chapter or the applicable condominium  
249 documents relating to unit owner decisionmaking, except that unit owners may take action by written  
250 agreement, without meetings, on matters for which action by written agreement without meetings is  
251 expressly allowed by the applicable bylaws or declaration or any law that provides for such action.

252 6. Unit owners may waive notice of specific meetings if allowed by the applicable bylaws or declaration  
253 or any law. Notice of meetings of the board of administration, unit owner meetings, except unit owner  
254 meetings called to recall board members under paragraph (j), and committee meetings may be given by  
255 electronic transmission to unit owners who consent to receive notice by electronic transmission.

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

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

261 9. Unless otherwise provided in the bylaws, any vacancy occurring on the board before the expiration  
262 of a term may be filled by the affirmative vote of the majority of the remaining directors, even if the  
263 remaining directors constitute less than a quorum, or by the sole remaining director. In the alternative,  
264 a board may hold an election to fill the vacancy, in which case the election procedures must conform to  
265 sub-subparagraph 4.a. unless the association governs 10 units or fewer and has opted out of the  
266 statutory election process, in which case the bylaws of the association control. Unless otherwise  
267 provided in the bylaws, a board member appointed or elected under this section shall fill the vacancy for  
268 the unexpired term of the seat being filled. Filling vacancies created by recall is governed by paragraph  
269 (j) and rules adopted by the division.

270 10. This chapter does not limit the use of general or limited proxies, require the use of general or  
271 limited proxies, or require the use of a written ballot or voting machine for any agenda item or election  
272 at any meeting of a timeshare condominium association or nonresidential condominium association.

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274 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an association of 10 or fewer units may,  
275 by affirmative vote of a majority of the total voting interests, provide for different voting and election  
276 procedures in its bylaws, which may be by a proxy specifically delineating the different voting and  
277 election procedures. The different voting and election procedures may provide for elections to be  
278 conducted by limited or general proxy.

279 (e) Budget meeting.—

280 1. Any meeting at which a proposed annual budget of an association will be considered by the board  
281 or unit owners shall be open to all unit owners. At least 14 days prior to such a meeting, the board shall  
282 hand deliver to each unit owner, mail to each unit owner at the address last furnished to the association  
283 by the unit owner, or electronically transmit to the location furnished by the unit owner for that purpose  
284 a notice of such meeting and a copy of the proposed annual budget. An officer or manager of the  
285 association, or other person providing notice of such meeting, shall execute an affidavit evidencing

286 compliance with such notice requirement, and such affidavit shall be filed among the official records of  
287 the association.

288 2.a. If a board adopts in any fiscal year an annual budget which requires assessments against unit  
289 owners which exceed 115 percent of assessments for the preceding fiscal year, the board shall conduct  
290 a special meeting of the unit owners to consider a substitute budget if the board receives, within 21  
291 days after adoption of the annual budget, a written request for a special meeting from at least 10  
292 percent of all voting interests. The special meeting shall be conducted within 60 days after adoption of  
293 the annual budget. At least 14 days prior to such special meeting, the board shall hand deliver to each  
294 unit owner, or mail to each unit owner at the address last furnished to the association, a notice of the  
295 meeting. An officer or manager of the association, or other person providing notice of such meeting  
296 shall execute an affidavit evidencing compliance with this notice requirement, and such affidavit shall be  
297 filed among the official records of the association. Unit owners may consider and adopt a substitute  
298 budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting  
299 interests unless the bylaws require adoption by a greater percentage of voting interests. If there is not a  
300 quorum at the special meeting or a substitute budget is not adopted, the annual budget previously  
301 adopted by the board shall take effect as scheduled.

302 b. Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal  
303 year shall exclude any authorized provision for reasonable reserves for repair or replacement of the  
304 condominium property, anticipated expenses of the association which the board does not expect to be  
305 incurred on a regular or annual basis, or assessments for betterments to the condominium property.

306 c. If the developer controls the board, assessments shall not exceed 115 percent of assessments for  
307 the prior fiscal year unless approved by a majority of all voting interests.

308 (f) Annual budget.—

309 1. The proposed annual budget of estimated revenues and expenses must be detailed and must show  
310 the amounts budgeted by accounts and expense classifications, including, at a minimum, any applicable  
311 expenses listed in s. 718.504(21). A multicondominium association shall adopt a separate budget of  
312 common expenses for each condominium the association operates and shall adopt a separate budget of  
313 common expenses for the association. In addition, if the association maintains limited common  
314 elements with the cost to be shared only by those entitled to use the limited common elements as  
315 provided for in s. 718.113(1), the budget or a schedule attached to it must show the amount budgeted  
316 for this maintenance. If, after turnover of control of the association to the unit owners, any of the  
317 expenses listed in s. 718.504(21) are not applicable, they need not be listed.

318 2.a. In addition to annual operating expenses, the budget must include reserve accounts for capital  
319 expenditures and deferred maintenance. These accounts must include, but are not limited to, roof  
320 replacement, building painting, and pavement resurfacing, regardless of the amount of deferred  
321 maintenance expense or replacement cost, and any other item that has a deferred maintenance  
322 expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using  
323 a formula based upon estimated remaining useful life and estimated replacement cost or deferred  
324 maintenance expense of each reserve item. The association may adjust replacement reserve  
325 assessments annually to take into account any changes in estimates or extension of the useful life of a  
326 reserve item caused by deferred maintenance. This subsection does not apply to an adopted budget in



327 which the members of an association have determined, by a majority vote at a duly called meeting of  
328 the association, to provide no reserves or less reserves than required by this subsection.

329 b. Before turnover of control of an association by a developer to unit owners other than a developer  
330 pursuant to s. 718.301, the developer may vote the voting interests allocated to its units to waive the  
331 reserves or reduce the funding of reserves through the period expiring at the end of the second fiscal  
332 year after the fiscal year in which the certificate of a surveyor and mapper is recorded pursuant to s.  
333 718.104(4)(e) or an instrument that transfers title to a unit in the condominium which is not  
334 accompanied by a recorded assignment of developer rights in favor of the grantee of such unit is  
335 recorded, whichever occurs first, after which time reserves may be waived or reduced only upon the  
336 vote of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly  
337 called meeting of the association. If a meeting of the unit owners has been called to determine whether  
338 to waive or reduce the funding of reserves and no such result is achieved or a quorum is not attained,  
339 the reserves included in the budget shall go into effect. After the turnover, the developer may vote its  
340 voting interest to waive or reduce the funding of reserves.

341 3. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts,  
342 and may be used only for authorized reserve expenditures unless their use for other purposes is  
343 approved in advance by a majority vote at a duly called meeting of the association. Before turnover of  
344 control of an association by a developer to unit owners other than the developer pursuant to s. 718.301,  
345 the developer-controlled association may not vote to use reserves for purposes other than those for  
346 which they were intended without the approval of a majority of all nondeveloper voting interests, voting  
347 in person or by limited proxy at a duly called meeting of the association.

348 4. The only voting interests that are eligible to vote on questions that involve waiving or reducing the  
349 funding of reserves, or using existing reserve funds for purposes other than purposes for which the  
350 reserves were intended, are the voting interests of the units subject to assessment to fund the reserves  
351 in question. Proxy questions relating to waiving or reducing the funding of reserves or using existing  
352 reserve funds for purposes other than purposes for which the reserves were intended must contain the  
353 following statement in capitalized, bold letters in a font size larger than any other used on the face of  
354 the proxy ballot: **WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING ALTERNATIVE USES OF  
355 EXISTING RESERVES MAY RESULT IN UNIT OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL  
356 ASSESSMENTS REGARDING THOSE ITEMS.**

357 (g) Assessments.—The manner of collecting from the unit owners their shares of the common  
358 expenses shall be stated in the bylaws. Assessments shall be made against units not less frequently than  
359 quarterly in an amount which is not less than that required to provide funds in advance for payment of  
360 all of the anticipated current operating expenses and for all of the unpaid operating expenses previously  
361 incurred. Nothing in this paragraph shall preclude the right of an association to accelerate assessments  
362 of an owner delinquent in payment of common expenses. Accelerated assessments shall be due and  
363 payable on the date the claim of lien is filed. Such accelerated assessments shall include the amounts  
364 due for the remainder of the budget year in which the claim of lien was filed.

365 (h) Amendment of bylaws.—

366 1. The method by which the bylaws may be amended consistent with the provisions of this chapter  
367 shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the  
368 amendment is approved by the owners of not less than two-thirds of the voting interests.

369 2. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend  
370 existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in  
371 the text underlined, and words to be deleted shall be lined through with hyphens. However, if the  
372 proposed change is so extensive that this procedure would hinder, rather than assist, the understanding  
373 of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words  
374 added or deleted, but, instead, a notation must be inserted immediately preceding the proposed  
375 amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw for  
376 present text."

377 3. Nonmaterial errors or omissions in the bylaw process will not invalidate an otherwise properly  
378 promulgated amendment.

379 (i) Transfer fees.—No charge shall be made by the association or any body thereof in connection with  
380 the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to  
381 approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws.  
382 Any such fee may be preset, but in no event may such fee exceed \$100 per applicant other than  
383 husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or  
384 sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made.  
385 The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration  
386 or bylaws, require that a prospective lessee place a security deposit, in an amount not to exceed the  
387 equivalent of 1 month's rent, into an escrow account maintained by the association. The security  
388 deposit shall protect against damages to the common elements or association property. Payment of  
389 interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the  
390 same fashion as provided in part II of chapter 83.

391 (j) Recall of board members.—Subject to s. 718.301, any member of the board of administration may  
392 be recalled and removed from office with or without cause by the vote or agreement in writing by a  
393 majority of all the voting interests. A special meeting of the unit owners to recall a member or members  
394 of the board of administration may be called by 10 percent of the voting interests giving notice of the  
395 meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting.  
396 Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in  
397 part for this purpose.

398 1. If the recall is approved by a majority of all voting interests by a vote at a meeting, the recall will be  
399 effective as provided in this paragraph. The board shall duly notice and hold a board meeting within 5  
400 full business days after the adjournment of the unit owner meeting to recall one or more board  
401 members. ~~Such member or members shall be recalled~~At the meeting, the board shall either accept or  
402 reject the recall, and if it is rejected shall state in the minutes of the meeting the specific flaws which the  
403 board finds to justify that determination. If the board accepts the recall, then it shall be effective  
404 immediately and the recalled director shall turn over to the board within 10 full business days after the  
405 vote any and all records and property of the association in ~~their~~that person's possession, subject to a  
406 right of the recalled director to file a petition for arbitration in an effort to regain office, as set forth in

407 [subparagraph 6. If the board rejects the recall, then it is subject to a right of the recalling unit owner](#)  
408 [representative to file a petition for arbitration as set forth in subparagraph 4.](#)

409 2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the  
410 agreement in writing or a copy thereof shall be served on the association by certified mail or by personal  
411 service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of  
412 administration shall duly notice and hold a meeting of the board within 5 full business days after receipt  
413 of the agreement in writing. ~~Such member or members shall be recalled~~[At the meeting, the board shall](#)  
414 [either accept or reject the recall, and if it is rejected shall state in the minutes of the meeting the specific](#)  
415 [flaws which the board finds to justify that determination. If the board accepts the recall, then it shall be](#)  
416 effective immediately and [the recalled director](#) shall turn over to the board within 10 full business days  
417 any and all records and property of the association in ~~their~~[that person's](#) possession, [subject to a right of](#)  
418 [the recalled director to file a petition for arbitration in an effort to regain office, as set forth in](#)  
419 [subparagraph 6. If the board rejects the recall, then it is subject to a right of the recalling unit owner](#)  
420 [representative to file a petition for arbitration as set forth in subparagraph 4.](#)

421 3. If the board fails to duly notice and hold a board meeting within 5 full business days after service of  
422 an agreement in writing or within 5 full business days after the adjournment of the unit owner recall  
423 meeting, the recall shall be deemed effective and the board members so recalled shall turn over to the  
424 board within 10 full business days after the vote any and all records and property of the association.

425 4. If the board fails to duly notice and hold the required meeting or ~~fails to file the required~~  
426 ~~petition~~[rejects the sufficiency of the recall as provided in subparagraph 1. or 2.](#), the unit owner  
427 representative may file a petition pursuant to s. 718.1255 challenging the board's failure to act. The  
428 petition must be filed within 60 days after the [board meeting which rejects the recall or within 60 days](#)  
429 [after](#) expiration of the ~~applicable~~[5-full-business-day period](#) [if the board meeting is not timely held](#). The  
430 review of a petition under this subparagraph is limited to the sufficiency of service on the board and the  
431 facial validity of the written agreement or ballots filed.

432 5. If a vacancy occurs on the board as a result of a recall or removal and less than a majority of the  
433 board members are removed, the vacancy may be filled by the affirmative vote of a majority of the  
434 remaining directors, notwithstanding any provision to the contrary contained in this subsection. If  
435 vacancies occur on the board as a result of a recall and a majority or more of the board members are  
436 removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division,  
437 which rules need not be consistent with this subsection. The rules must provide procedures governing  
438 the conduct of the recall election as well as the operation of the association during the period after a  
439 recall but before the recall election.

440 6. A board member who has been recalled may file a petition pursuant to s. 718.1255 challenging the  
441 validity of the recall. The petition must be filed within 60 days after the recall [is accepted by the board](#)  
442 [as provided in subparagraph 1. or 2.](#) The association and the unit owner representative shall be named  
443 as the respondents.

444 7. The division may not accept for filing a recall petition, whether filed pursuant to subparagraph 1.,  
445 subparagraph 2., subparagraph 4., or subparagraph 6. when there are 60 or fewer days until the  
446 scheduled reelection of the board member sought to be recalled or when 60 or fewer days have elapsed  
447 since the election of the board member sought to be recalled.

448 (k) Arbitration.—There shall be a provision for mandatory nonbinding arbitration as provided for in s.  
449 718.1255 for any residential condominium.

450 (l) Certificate of compliance.—A provision that a certificate of compliance from a licensed electrical  
451 contractor or electrician may be accepted by the association’s board as evidence of compliance of the  
452 condominium units with the applicable fire and life safety code must be included. Notwithstanding  
453 chapter 633 or of any other code, statute, ordinance, administrative rule, or regulation, or any  
454 interpretation of the foregoing, an association, residential condominium, or unit owner is not obligated  
455 to retrofit the common elements, association property, or units of a residential condominium with a fire  
456 sprinkler system in a building that has been certified for occupancy by the applicable governmental  
457 entity if the unit owners have voted to forego such retrofitting by the affirmative vote of a majority of all  
458 voting interests in the affected condominium. The local authority having jurisdiction may not require  
459 completion of retrofitting with a fire sprinkler system before January 1, 2020. By December 31, 2016, a  
460 residential condominium association that is not in compliance with the requirements for a fire sprinkler  
461 system and has not voted to forego retrofitting of such a system must initiate an application for a  
462 building permit for the required installation with the local government having jurisdiction demonstrating  
463 that the association will become compliant by December 31, 2019.

464 1. A vote to forego retrofitting may be obtained by limited proxy or by a ballot personally cast at a duly  
465 called membership meeting, or by execution of a written consent by the member, and is effective upon  
466 recording a certificate attesting to such vote in the public records of the county where the condominium  
467 is located. The association shall mail or hand deliver to each unit owner written notice at least 14 days  
468 before the membership meeting in which the vote to forego retrofitting of the required fire sprinkler  
469 system is to take place. Within 30 days after the association’s opt-out vote, notice of the results of the  
470 opt-out vote must be mailed or hand delivered to all unit owners. Evidence of compliance with this  
471 notice requirement must be made by affidavit executed by the person providing the notice and filed  
472 among the official records of the association. After notice is provided to each owner, a copy must be  
473 provided by the current owner to a new owner before closing and by a unit owner to a renter before  
474 signing a lease.

475 2. If there has been a previous vote to forego retrofitting, a vote to require retrofitting may be  
476 obtained at a special meeting of the unit owners called by a petition of at least 10 percent of the voting  
477 interests. Such a vote may only be called once every 3 years. Notice shall be provided as required for any  
478 regularly called meeting of the unit owners, and must state the purpose of the meeting. Electronic  
479 transmission may not be used to provide notice of a meeting called in whole or in part for this purpose.

480 3. As part of the information collected annually from condominiums, the division shall require  
481 condominium associations to report the membership vote and recording of a certificate under this  
482 subsection and, if retrofitting has been undertaken, the per-unit cost of such work. The division shall  
483 annually report to the Division of State Fire Marshal of the Department of Financial Services the number  
484 of condominiums that have elected to forego retrofitting.

485 4. Notwithstanding s. 553.509, a residential association may not be obligated to, and may forego the  
486 retrofitting of, any improvements required by s. 553.509(2) upon an affirmative vote of a majority of the  
487 voting interests in the affected condominium.

488 (m) Common elements; limited power to convey.—

489 1. With respect to condominiums created on or after October 1, 1994, the bylaws shall include a  
490 provision granting the association a limited power to convey a portion of the common elements to a  
491 condemning authority for the purpose of providing utility easements, right-of-way expansion, or other  
492 public purposes, whether negotiated or as a result of eminent domain proceedings.

493 2. In any case where the bylaws are silent as to the association's power to convey common elements  
494 as described in subparagraph 1., the bylaws shall be deemed to include the provision described in  
495 subparagraph 1.

496 (n) Director or officer delinquencies.—A director or officer more than 90 days delinquent in the  
497 payment of any monetary obligation due the association shall be deemed to have abandoned the office,  
498 creating a vacancy in the office to be filled according to law.

499 (o) Director or officer offenses.—A director or officer charged by information or indictment with a  
500 felony theft or embezzlement offense involving the association's funds or property must be removed  
501 from office, creating a vacancy in the office to be filled according to law until the end of the period of  
502 the suspension or the end of the director's term of office, whichever occurs first. While such director or  
503 officer has such criminal charge pending, he or she may not be appointed or elected to a position as a  
504 director or officer. However, if the charges are resolved without a finding of guilt, the director or officer  
505 shall be reinstated for the remainder of his or her term of office, if any.

506 (p) Service providers; conflicts of interest.—An association, which is not a timeshare condominium  
507 association, may not employ or contract with any service provider that is owned or operated by a board  
508 member or with any person who has a financial relationship with a board member or officer, or a  
509 relative within the third degree of consanguinity by blood or marriage of a board member or officer. This  
510 paragraph does not apply to a service provider in which a board member or officer, or a relative within  
511 the third degree of consanguinity by blood or marriage of a board member or officer, owns less than 1  
512 percent of the equity shares.

513 (3) OPTIONAL PROVISIONS.—The bylaws as originally recorded or as amended under the procedures  
514 provided therein may provide for the following:

515 (a) A method of adopting and amending administrative rules and regulations governing the details of  
516 the operation and use of the common elements.

517 (b) Restrictions on and requirements for the use, maintenance, and appearance of the units and the  
518 use of the common elements.

519 (c) Provisions for giving notice by electronic transmission in a manner authorized by law of meetings of  
520 the board of directors and committees and of annual and special meetings of the members.

521 (d) Other provisions which are not inconsistent with this chapter or with the declaration, as may be  
522 desired.

523 History.—s. 1, ch. 76-222; s. 1, ch. 77-174; s. 5, ch. 77-221; ss. 3, 4, ch. 77-222; s. 1, ch. 78-340; s. 6, ch.  
524 79-314; s. 2, ch. 80-323; s. 2, ch. 81-225; s. 1, ch. 82-113; s. 4, ch. 82-199; s. 6, ch. 84-368; s. 6, ch. 86-  
525 175; s. 2, ch. 88-148; s. 7, ch. 90-151; s. 5, ch. 91-103; ss. 5, 6, ch. 91-426; s. 3, ch. 92-49; s. 3, ch. 94-336;  
526 s. 7, ch. 94-350; s. 36, ch. 95-274; s. 2, ch. 96-396; s. 32, ch. 97-93; s. 1773, ch. 97-102; s. 1, ch. 97-301; s.  
527 2, ch. 98-195; s. 3, ch. 98-322; s. 53, ch. 2000-302; s. 21, ch. 2001-64; s. 9, ch. 2002-27; s. 5, ch. 2003-14;

528 s. 4, ch. 2004-345; s. 4, ch. 2004-353; s. 134, ch. 2005-2; s. 7, ch. 2008-28; s. 88, ch. 2009-21; s. 10, ch.  
529 2010-174; s. 3, ch. 2011-196; s. 5, ch. 2013-122; s. 1, ch. 2013-159; s. 3, ch. 2013-188; s. 1, ch. 2014-74;  
530 s. 9, ch. 2014-133; s. 3, ch. 2015-97; s. 3, ch. 2017-188.

531 1Note.—As amended by s. 1, ch. 2014-74. For a description of multiple acts in the same session affecting  
532 a statutory provision, see preface to the Florida Statutes, “Statutory Construction.” Subparagraph  
533 (2)(b)3. was also amended by s. 9, ch. 2014-133, and that version reads:

534

535 3. Any proxy given is effective only for the specific meeting for which originally given and any lawfully  
536 adjourned meetings thereof. A proxy is not valid longer than 90 days after the date of the first meeting  
537 for which it was given and may be revoked at any time at the pleasure of the unit owner executing it.

538

539 718.1255 Alternative dispute resolution; voluntary mediation; mandatory nonbinding arbitration;  
540 legislative findings.—

541 (1) DEFINITIONS.—As used in this section, the term “dispute” means any disagreement between two  
542 or more parties that involves:

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

- 544 1. Require any owner to take any action, or not to take any action, involving that owner’s unit or the  
545 appurtenances thereto.
- 546 2. Alter or add to a common area or element.

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

- 548 1. Properly conduct elections.
- 549 2. Give adequate notice of meetings or other actions.
- 550 3. Properly conduct meetings.
- 551 4. Allow inspection of books and records.

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

553

554 “Dispute” does not include any disagreement that primarily involves: title to any unit or common  
555 element; the interpretation or enforcement of any warranty; the levy of a fee or assessment, or the  
556 collection of an assessment levied against a party; the eviction or other removal of a tenant from a unit;  
557 alleged breaches of fiduciary duty by one or more directors; or claims for damages to a unit based upon  
558 the alleged failure of the association to maintain the common elements or condominium property.

559 (2) VOLUNTARY MEDIATION.—Voluntary mediation through Citizen Dispute Settlement Centers as  
560 provided for in s. 44.201 is encouraged.

561 (3) LEGISLATIVE FINDINGS.—

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

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

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

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

576 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The Division of Florida  
577 Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional  
578 Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings  
579 provided by this chapter. The division may also certify attorneys who are not employed by the division  
580 to act as arbitrators to conduct the arbitration hearings provided by this chapter. No person may be  
581 employed by the department as a full-time arbitrator unless he or she is a member in good standing of  
582 The Florida Bar. A person may only be certified by the division to act as an arbitrator if he or she has  
583 been a member in good standing of The Florida Bar for at least 5 years and has mediated or arbitrated at  
584 least 10 disputes involving condominiums in this state during the 3 years immediately preceding the  
585 date of application, mediated or arbitrated at least 30 disputes in any subject area in this state during  
586 the 3 years immediately preceding the date of application, or attained board certification in real estate  
587 law or condominium and planned development law from The Florida Bar. Arbitrator certification is valid  
588 for 1 year. An arbitrator who does not maintain the minimum qualifications for initial certification may  
589 not have his or her certification renewed. The department may not enter into a legal services contract  
590 for an arbitration hearing under this chapter with an attorney who is not a certified arbitrator unless a  
591 certified arbitrator is not available within 50 miles of the dispute. The department shall adopt rules of  
592 procedure to govern such arbitration hearings including mediation incident thereto. The decision of an  
593 arbitrator shall be final; however, a decision shall not be deemed final agency action. Nothing in this  
594 provision shall be construed to foreclose parties from proceeding in a trial de novo unless the parties  
595 have agreed that the arbitration is binding. If judicial proceedings are initiated, the final decision of the  
596 arbitrator shall be admissible in evidence in the trial de novo.

597 (a) Prior to the institution of court litigation, a party to a dispute shall petition the division for  
598 nonbinding arbitration. The petition must be accompanied by a filing fee in the amount of \$50. Filing  
599 fees collected under this section must be used to defray the expenses of the alternative dispute  
600 resolution program.

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

- 603 1. Advance written notice of the specific nature of the dispute;
- 604 2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and
- 605 3. Notice of the intention to file an arbitration petition or other legal action in the absence of a
- 606 resolution of the dispute.

607

608 Failure to include the allegations or proof of compliance with these prerequisites requires dismissal of

609 the petition without prejudice.

610 (c) Upon receipt, the petition shall be promptly reviewed by the division to determine the existence of

611 a dispute and compliance with the requirements of paragraphs (a) and (b). If emergency relief is

612 required and is not available through arbitration, a motion to stay the arbitration may be filed. The

613 motion must be accompanied by a verified petition alleging facts that, if proven, would support entry of

614 a temporary injunction, and if an appropriate motion and supporting papers are filed, the division may

615 abate the arbitration pending a court hearing and disposition of a motion for temporary injunction.

616 (d) Upon determination by the division that a dispute exists and that the petition substantially meets

617 the requirements of paragraphs (a) and (b) and any other applicable rules, the division shall assign or

618 enter into a contract with an arbitrator and serve a copy of the petition upon all respondents within 10

619 days of acceptance of the petition and assignment to or entering into a contract with an arbitrator. The

620 arbitrator shall conduct a final hearing within 30 days after ~~being assigned or entering into a~~

621 ~~contract~~service of an answer unless the petition is withdrawn or a continuance is granted for good cause

622 shown or by agreement of the parties.

623 (e) Before or after the filing of the respondents' answer to the petition, any party may request that the

624 arbitrator refer the case to mediation under this section and any rules adopted by the division. Upon

625 receipt of a request for mediation, the division shall promptly contact the parties to determine if there is

626 agreement that mediation would be appropriate. If all parties agree, the dispute must be referred to

627 mediation. Notwithstanding a lack of an agreement by all parties, the arbitrator may refer a dispute to

628 mediation at any time.

629 (f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To

630 assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid

631 mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on

632 a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the

633 list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation

634 conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed

635 mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator

636 must impose sanctions against the party, including the striking of any pleadings filed, the entry of an

637 order of dismissal or default if appropriate, and the award of costs and attorney fees incurred by the

638 other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a

639 party is deemed to have appeared at a mediation conference by the physical presence of the party or its

640 representative having full authority to settle without further consultation, provided that an association

641 may comply by having one or more representatives present with full authority to negotiate a settlement

642 and recommend that the board of administration ratify and approve such a settlement within 5 days



643 from the date of the mediation conference. The parties shall share equally the expense of mediation,  
644 unless they agree otherwise.

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

648 (h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil  
649 Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered  
650 mediation. Persons who are not parties to the dispute are not allowed to attend the mediation  
651 conference without the consent of all parties, with the exception of counsel for the parties and  
652 corporate representatives designated to appear for a party. If the mediator declares an impasse after a  
653 mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in  
654 writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be binding or  
655 nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not  
656 consider any evidence relating to the unsuccessful mediation except in a proceeding to impose  
657 sanctions for failure to appear at the mediation conference. If the parties do not agree to continue  
658 arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in a  
659 court of competent jurisdiction. The parties may seek to recover any costs and attorney fees incurred in  
660 connection with arbitration and mediation proceedings under this section as part of the costs and fees  
661 that may be recovered by the prevailing party in any subsequent litigation.

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

664 (j) At the request of any party to the arbitration, the arbitrator shall issue subpoenas for the  
665 attendance of witnesses and the production of books, records, documents, and other evidence and any  
666 party on whose behalf a subpoena is issued may apply to the court for orders compelling such  
667 attendance and production. Subpoenas shall be served and shall be enforceable in the manner provided  
668 by the Florida Rules of Civil Procedure. Discovery may, in the discretion of the arbitrator, be permitted in  
669 the manner provided by the Florida Rules of Civil Procedure. Rules adopted by the division may  
670 authorize any reasonable sanctions except contempt for a violation of the arbitration procedural rules of  
671 the division or for the failure of a party to comply with a reasonable nonfinal order issued by an  
672 arbitrator which is not under judicial review.

673 (k) The arbitration decision shall be rendered within 30 days after the [final](#) hearing and presented to  
674 the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed  
675 to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a court of  
676 competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de  
677 novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the  
678 dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration  
679 and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include  
680 the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and  
681 reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An  
682 arbitrator's failure to render a written decision within 30 days after the [final](#) hearing may result in the  
683 cancellation of his or her arbitration certification.

684 (l) The party who files a complaint for a trial de novo shall be assessed the other party's arbitration  
685 costs, court costs, and other reasonable costs, including attorney fees, investigation expenses, and  
686 expenses for expert or other testimony or evidence incurred after the arbitration hearing if the  
687 judgment upon the trial de novo is not more favorable than the arbitration decision. If the judgment is  
688 more favorable, the party who filed a complaint for trial de novo shall be awarded reasonable court  
689 costs and attorney fees.

690 (m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a  
691 court of competent jurisdiction in which the condominium is located. A petition may not be granted  
692 unless the time for appeal by the filing of a complaint for trial de novo has expired. If a complaint for a  
693 trial de novo has been filed, a petition may not be granted with respect to an arbitration award that has  
694 been stayed. If the petition for enforcement is granted, the petitioner shall recover reasonable attorney  
695 fees and costs incurred in enforcing the arbitration award. A mediation settlement may also be enforced  
696 through the county or circuit court, as applicable, and any costs and fees incurred in the enforcement of  
697 a settlement agreement reached at mediation must be awarded to the prevailing party in any  
698 enforcement action.

699 (5) DISPUTES INVOLVING ELECTION IRREGULARITIES.—Every arbitration petition received by the  
700 division and required to be filed under this section challenging the legality of the election of any director  
701 of the board of administration must be handled on an expedited basis in the manner provided by the  
702 division's rules for recall arbitration disputes.

703 (6) APPLICABILITY.—This section does not apply to a nonresidential condominium unless otherwise  
704 specifically provided for in the declaration of the nonresidential condominium.

705 History.—s. 4, ch. 82-199; s. 4, ch. 85-60; s. 10, ch. 91-103; s. 5, ch. 91-426; s. 7, ch. 92-49; s. 232, ch. 94-  
706 218; s. 12, ch. 94-350; s. 37, ch. 95-274; s. 859, ch. 97-102; s. 2, ch. 97-301; s. 12, ch. 2002-27; s. 14, ch.  
707 2008-28; s. 47, ch. 2008-240; s. 3, ch. 2014-74; s. 2, ch. 2015-175; s. 4, ch. 2017-188.

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<b>Summary report:</b>	
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