

1                                   A bill to be entitled  
 2           An act relating to homeowners' association recalls;  
 3           providing a short title; amending s. 720.303, F.S.;  
 4           revising the process for recalling a director of a  
 5           homeowners' association; requiring a specified  
 6           percentage of certain parcel owners to initiate a  
 7           recall petition or a special meeting to recall a  
 8           director; requiring the board of directors to duly  
 9           notice and hold a referendum within a specified time;  
 10          conforming provisions to changes made by the act;  
 11          providing an effective date.

12  
 13 Be It Enacted by the Legislature of the State of Florida:

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 15           Section 1. This act may be cited as the "Community Recall  
 16 Act."

17           Section 2. Subsection (10) of section 720.303, Florida  
 18 Statutes, is amended to read:

19           720.303 Association powers and duties; meetings of board;  
 20 official records; budgets; financial reporting; association  
 21 funds; recalls.—

22           (10) RECALL OF DIRECTORS.—

23           (a)1. Regardless of any provision to the contrary  
 24 contained in the governing documents, subject to the provisions  
 25 of s. 720.307 regarding transition of association control, any

26 member of the board of directors may be recalled and removed  
27 from office with or without cause as provided in paragraphs (b)  
28 and (c) by a majority of the total voting interests.

29 2. When the governing documents, including the  
30 declaration, articles of incorporation, or bylaws, provide that  
31 only a specific class of members is entitled to elect a board  
32 director or directors, only that class of members may vote to  
33 recall those board directors so elected.

34 (b)1. A board director ~~directors~~ may be subject to removal  
35 from office ~~recalled~~ by a recall petition signed by at least 60  
36 percent of the parcel owners whose parcels are their homesteads  
37 ~~an agreement in writing or by written ballot without a~~  
38 ~~membership meeting.~~ A recall petition with a sufficient number  
39 of signatures ~~The agreement in writing or the written ballots,~~  
40 or a copy thereof, shall be served on the association by  
41 certified mail or by personal service in the manner authorized  
42 by chapter 48 and the Florida Rules of Civil Procedure.

43 2. The board shall duly notice and hold a referendum  
44 ~~meeting of the board~~ within 30 ~~5 full~~ business days after  
45 receipt of the recall petition ~~agreement in writing or written~~  
46 ~~ballots.~~ The board shall give all members notice of the date by  
47 which ballots must be returned in accordance with the 14-day  
48 notice requirement under subparagraph (2)(c)2. All members with  
49 a voting interest may cast a vote in favor of or opposition to  
50 the recall petition. If a majority of the votes cast are in

51 favor of the recall petition, the board shall duly notice and  
52 hold a meeting of the board within 5 business days after the  
53 closing date for submitting ballots in the referendum. At the  
54 meeting, the board shall either certify the recall petition  
55 ~~written ballots or written agreement~~ to recall a director or  
56 directors of the board, in which case such director or directors  
57 shall be recalled effective immediately and shall turn over to  
58 the board within 5 ~~full~~ business days any and all records and  
59 property of the association in their possession, or proceed as  
60 described in paragraph (d).

61 3. If ~~When~~ it is determined by the department through  
62 ~~pursuant to~~ binding arbitration proceedings that a ~~an~~ initial  
63 recall effort under this paragraph was defective, the ~~written~~  
64 ~~recall agreements or written~~ ballots used in the first  
65 referendum that are recall effort and not found to be defective  
66 may be reused in one subsequent referendum ~~recall effort~~.  
67 However, in no event is a ~~written agreement or written~~ ballot  
68 valid for more than 120 days after it has been signed by the  
69 member.

70 4. Any rescission or revocation of a member's ~~written~~  
71 ~~recall~~ ballot ~~or agreement~~ must be in writing and, in order to  
72 be effective, must be delivered to the association before the  
73 closing date for submitting ballots in referendum ~~association is~~  
74 ~~served with the written recall agreements or ballots~~.

75 5. The recall petition must ~~agreement in writing or ballot~~

76 | ~~shall~~ list at least as many possible replacement directors as  
77 | there are directors subject to removal ~~the recall~~, when at least  
78 | a majority of the board is sought to be removed from office. In  
79 | the duly noticed referendum, all members with a voting interest  
80 | ~~recalled; the person executing the recall instrument~~ may vote  
81 | for as many replacement candidates as there are directors  
82 | subject to removal ~~the recall~~.

83 | (c)1. If the declaration, articles of incorporation, or  
84 | bylaws specifically provide, the members may also recall and  
85 | remove a board director or directors by a vote taken at a  
86 | meeting. If so provided in the governing documents, a special  
87 | meeting of the members to recall a director or directors of the  
88 | board of administration may be called by 10 percent of the  
89 | parcel owners whose parcels are the homesteads of such owners  
90 | ~~voting interests~~ giving notice of the meeting as required for a  
91 | meeting of members, and the notice shall state the purpose of  
92 | the meeting. Electronic transmission may not be used as a method  
93 | of giving notice of a meeting called in whole or in part for  
94 | this purpose.

95 | 2. The board shall duly notice and hold a board meeting  
96 | within 5 ~~full~~ business days after the adjournment of the member  
97 | meeting to recall one or more directors. At the meeting, the  
98 | board shall certify the recall, in which case such member or  
99 | members shall be recalled effective immediately and shall turn  
100 | over to the board within 5 ~~full~~ business days any and all

101 records and property of the association in their possession, or  
102 shall proceed as set forth in paragraph (d).

103 (d) If the board determines not to certify the recall  
104 petition ~~written agreement or written ballots~~ to recall a  
105 director or directors of the board or does not certify the  
106 recall by a vote at a meeting, the board shall, within 5 ~~full~~  
107 business days after the meeting, file with the department a  
108 petition for binding arbitration under ~~pursuant to~~ the  
109 applicable procedures in ss. 718.112(2)(j) and 718.1255 and the  
110 rules adopted thereunder. For the purposes of this section, the  
111 members who voted at the meeting or who initiated ~~executed~~ the  
112 recall petition ~~agreement in writing~~ shall constitute one party  
113 under the petition for arbitration. If the arbitrator certifies  
114 the recall as to any director or directors of the board, the  
115 recall will be effective upon mailing of the final order of  
116 arbitration to the association. The director or directors so  
117 recalled shall deliver to the board any and all records of the  
118 association in their possession within 5 ~~full~~ business days  
119 after the effective date of the recall.

120 (e) If a vacancy occurs on the board as a result of a  
121 recall and less than a majority of the board directors are  
122 removed, the vacancy may be filled by the affirmative vote of a  
123 majority of the remaining directors, notwithstanding any  
124 provision to the contrary contained in this subsection or in the  
125 association documents. If vacancies occur on the board as a

126 result of a recall and a majority or more of the board directors  
127 are removed, the vacancies shall be filled by members voting in  
128 favor of the recall. ~~;~~ If removal is at a meeting, any vacancies  
129 shall be filled by the members at the meeting. If the recall  
130 occurred by a recall petition ~~agreement in writing or by written~~  
131 ~~ballot~~, members may vote for replacement directors in the same  
132 instrument in accordance with procedural rules adopted by the  
133 division, which rules need not be consistent with this  
134 subsection.

135 (f) If the board fails to duly notice and hold a board  
136 meeting within 5 ~~full~~ business days after the closing date for  
137 submitting ballots in the referendum ~~service of an agreement in~~  
138 ~~writing~~ or within 5 ~~full~~ business days after the adjournment of  
139 the member recall meeting, the recall is ~~shall be deemed~~  
140 effective and the board directors so recalled shall immediately  
141 turn over to the board all records and property of the  
142 association.

143 (g) If the board fails to duly notice and hold the  
144 required meeting or fails to file the required petition, the  
145 parcel ~~unit~~ owner representative may file a petition under  
146 ~~pursuant to~~ s. 718.1255 challenging the board's failure to act.  
147 The petition must be filed within 60 days after the expiration  
148 of the applicable 5-~~full~~-business-day period. The review of a  
149 petition under this paragraph is limited to the sufficiency of  
150 service on the board and the facial validity of the recall

151 petition ~~written agreement~~ or ballots filed.

152 (h) If a director who is removed fails to relinquish his  
153 or her office or turn over records as required under this  
154 section, the circuit court in the county where the association  
155 maintains its principal office may, upon the petition of the  
156 association, summarily order the director to relinquish his or  
157 her office and turn over all association records upon  
158 application of the association.

159 (i) The minutes of the board meeting at which the board  
160 decides whether to certify the recall are an official  
161 association record. The minutes must record the date and time of  
162 the meeting, the decision of the board, and the vote count taken  
163 on each board member subject to the recall. In addition, when  
164 the board decides not to certify the recall, as to each vote  
165 rejected, the minutes must identify the parcel number and the  
166 specific reason for each such rejection.

167 (j) When the recall of more than one board director is  
168 sought, the recall petition ~~written agreement~~, ballot, or vote  
169 at a meeting shall provide for a separate vote for each board  
170 director sought to be recalled.

171 (k) A board member who has been recalled may file a  
172 petition under ~~pursuant to~~ ss. 718.112(2)(j) and 718.1255 and  
173 the rules adopted challenging the validity of the recall. The  
174 petition must be filed within 60 days after the recall is ~~deemed~~  
175 certified or otherwise effective under paragraph (f). The

176 association and the parcel ~~unit~~ owner representative shall be  
177 named as respondents.

178 (1) The division may not accept for filing a ~~recall~~  
179 petition, whether filed under ~~pursuant to~~ paragraph (b),  
180 paragraph (c), paragraph (g), or paragraph (k) and regardless of  
181 whether the recall was certified, when there are 60 or fewer  
182 days until the scheduled reelection of the board member sought  
183 to be recalled or when 60 or fewer days have not elapsed since  
184 the election of the board member sought to be recalled.

185 Section 3. This act shall take effect July 1, 2020.