

CHAPTER 2021-99

Committee Substitute for Committee Substitute for Senate Bill No. 630

An act relating to community associations; amending s. 627.714, F.S.; prohibiting insurance policies from providing specified rights of subrogation under certain circumstances; amending s. 718.103, F.S.; revising the definition of the terms “multicondominium,” “operation,” and “operation of the condominium”; amending s. 718.111, F.S.; requiring that certain records be maintained for a specified time; prohibiting an association from requiring certain actions relating to the inspection of records; revising requirements relating to the posting of digital copies of certain documents by certain condominium associations; amending s. 718.112, F.S.; authorizing a condominium association to extinguish discriminatory restrictions; revising the calculation used in determining a board member’s term limit; providing requirements for certain notices; revising the fees that an association may charge for transfers; deleting a prohibition against employing or contracting with certain service providers; amending s. 718.113, F.S.; revising legislative findings; defining the terms “natural gas fuel” and “natural gas fuel vehicle”; revising requirements for electric vehicle charging stations; providing requirements for natural gas fuel stations on property governed by condominium associations; authorizing the board of administration of an association to take certain actions relating to electric vehicle charging stations and natural gas fuel stations; providing that the installation, repair, or maintenance of electric vehicle charging stations or natural gas fuel stations does not constitute a material alteration or substantial addition to the common elements or association property; amending s. 718.117, F.S.; conforming provisions to changes made by the act; amending s. 718.121, F.S.; providing that labor and materials associated with the installation of a natural gas fuel station may not serve as the basis for filing a lien against an association but may serve as the basis for filing a lien against a unit owner; requiring that notices of intent to record a claim of lien specify certain dates; amending s. 718.1255, F.S.; authorizing parties to initiate presuit mediation under certain circumstances; specifying the circumstances under which arbitration is binding on the parties; providing requirements for presuit mediation; making technical changes; amending s. 718.1265, F.S.; revising the emergency powers of condominium associations; prohibiting condominium associations from taking certain actions during a declared state of emergency; amending s. 718.202, F.S.; revising the allowable uses of certain escrow funds withdrawn by developers; defining the term “actual costs”; amending s. 718.303, F.S.; revising requirements for certain actions for failure to comply with specified provisions relating to condominium associations; revising requirements for certain fines; amending s. 718.405, F.S.; providing clarifying language relating to certain multicondominium declarations; providing applicability; amending s. 718.501, F.S.; conforming provisions to changes made by the act;

amending s. 718.5014, F.S.; revising a requirement regarding the location of the principal office of the Office of the Condominium Ombudsman; amending s. 719.103, F.S.; revising the definition of the term “unit” to specify that an interest in a cooperative unit is an interest in real property; amending s. 719.104, F.S.; prohibiting an association from requiring certain actions relating to the inspection of records; amending s. 719.106, F.S.; revising provisions relating to a quorum and voting rights for members remotely participating in meetings; revising the procedure to challenge a board member recall; authorizing cooperative associations to extinguish discriminatory restrictions; amending s. 719.128, F.S.; revising emergency powers for cooperative associations; prohibiting cooperative associations from taking certain actions during a declared state of emergency; amending s. 720.301, F.S.; revising the definition of the term “governing documents”; amending s. 720.303, F.S.; authorizing an association to adopt procedures for electronic meeting notices; revising the documents that constitute the official records of an association; revising the types of records that are not accessible to members or parcel owners; revising the circumstances under which a specified statement must be included in an association’s financial report; revising requirements for such statement; revising the circumstances under which an association is deemed to have provided for reserve accounts; authorizing certain developers to include reserves in the budget; specifying that the developers are not obligated to pay for certain expenses; providing applicability; revising the procedure to challenge a board member recall; amending s. 720.305, F.S.; providing requirements for certain fines levied by a board of administration; amending s. 720.306, F.S.; revising requirements for providing certain notices; providing limitations on associations when a parcel owner attempts to rent or lease his or her parcel; providing when a change of ownership of a parcel does and does not occur; defining the term “affiliated entity”; amending the procedure for election disputes; amending s. 720.307, F.S.; revising the circumstances under which members other than the developer are entitled to elect members to the board of directors of the homeowners’ association; amending s. 720.311, F.S.; revising the dispute resolution requirements for election disputes and recall disputes; amending s. 720.3075, F.S.; authorizing homeowners’ associations to extinguish discriminatory restrictions; amending s. 720.316, F.S.; revising emergency powers of homeowners’ associations; prohibiting homeowners’ associations from taking certain actions during a declared state of emergency; providing an effective date.

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

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

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

(4) Every individual unit owner's residential property policy must contain a provision stating that the coverage afforded by such policy is excess coverage over the amount recoverable under any other policy covering the same property. If a condominium association's insurance policy does not provide rights for subrogation against the unit owners in the association, an insurance policy issued to an individual unit owner in the association may not provide rights of subrogation against the condominium association.

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

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

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

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

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

718.111 The association.—

(12) OFFICIAL RECORDS.—

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

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

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

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

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

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

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

7. A current roster of all unit owners and their mailing addresses, unit identifications, voting certifications, and, if known, telephone numbers. The association shall also maintain the e-mail addresses and facsimile numbers

of unit owners consenting to receive notice by electronic transmission. The e-mail addresses and facsimile numbers are not accessible to unit owners if consent to receive notice by electronic transmission is not provided in accordance with sub-subparagraph (c)3.e. However, the association is not liable for an inadvertent disclosure of the e-mail address or facsimile number for receiving electronic transmission of notices.

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

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

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

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

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

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

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

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

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

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

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

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

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

~~16.17.~~ Bids for materials, equipment, or services.

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

(b) The official records specified in subparagraphs (a)1.-6. must be permanently maintained from the inception of the association. Bids for work to be performed or for materials, equipment, or services must be maintained for at least 1 year after receipt of the bid. All other official records must be maintained within the state for at least 7 years, unless otherwise provided by general law. The records of the association shall be made available to a unit owner within 45 miles of the condominium property or within the county in which the condominium property is located within 10 working days after receipt of a written request by the board or its designee. However, such distance requirement does not apply to an association governing a timeshare condominium. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the condominium property or association property, or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative in pursuant to the compliance with requirements of this chapter unless the association has an affirmative duty not to disclose such information under pursuant to this chapter.

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

control of the records who, directly or indirectly, knowingly denied access to the records.

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

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

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

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

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

d. Medical records of unit owners.

e. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this sub-subparagraph, an association may print and distribute to unit ~~parcel~~ owners a directory containing the name, unit ~~parcel~~ address, and all telephone numbers of each unit ~~parcel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this sub-subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this sub-subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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

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

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

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

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

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

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

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

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

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

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

c. The articles of incorporation of the association, or other documents creating the association, and each amendment to the articles of incorporation or other documents thereto. The copy posted pursuant to this subparagraph must be a copy of the articles of incorporation filed with the Department of State.

d. The rules of the association.

e. A list of all executory contracts or documents to which the association is a party or under which the association or the unit owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year. Summaries of bids for materials, equipment, or services which exceed \$500 must be maintained on the website or application for 1 year. In lieu of summaries, complete copies of the bids may be posted.

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

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

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

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

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

k. The notice of any unit owner meeting and the agenda for the meeting, as required by s. 718.112(2)(d)3., no later than 14 days before the meeting. The notice must be posted in plain view on the front page of the website or application, or on a separate subpage of the website or application labeled

“Notices” which is conspicuously visible and linked from the front page. The association must also post on its website or application any document to be considered and voted on by the owners during the meeting or any document listed on the agenda at least 7 days before the meeting at which the document or the information within the document will be considered.

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

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

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

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

718.112 Bylaws.—

(1) GENERALLY.—

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

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

(d) *Unit owner meetings.*—

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

2. Unless the bylaws provide otherwise, a vacancy on the board caused by the expiration of a director’s term must be filled by electing a new board

member, and the election must be by secret ballot. An election is not required if the number of vacancies equals or exceeds the number of candidates. For purposes of this paragraph, the term “candidate” means an eligible person who has timely submitted the written notice, as described in sub-subparagraph 4.a., of his or her intention to become a candidate. Except in a timeshare or nonresidential condominium, or if the staggered term of a board member does not expire until a later annual meeting, or if all members’ terms would otherwise expire but there are no candidates, the terms of all board members expire at the annual meeting, and such members may stand for reelection unless prohibited by the bylaws. Board members may serve terms longer than 1 year if permitted by the bylaws or articles of incorporation. A board member may not serve more than 8 consecutive years unless approved by an affirmative vote of unit owners representing two-thirds of all votes cast in the election or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. Only board service that occurs on or after July 1, 2018, may be used when calculating a board member’s term limit. If the number of board members whose terms expire at the annual meeting equals or exceeds the number of candidates, the candidates become members of the board effective upon the adjournment of the annual meeting. Unless the bylaws provide otherwise, any remaining vacancies shall be filled by the affirmative vote of the majority of the directors making up the newly constituted board even if the directors constitute less than a quorum or there is only one director. In a residential condominium association of more than 10 units or in a residential condominium association that does not include timeshare units or timeshare interests, co-owners of a unit may not serve as members of the board of directors at the same time unless they own more than one unit or unless there are not enough eligible candidates to fill the vacancies on the board at the time of the vacancy. A unit owner in a residential condominium desiring to be a candidate for board membership must comply with sub-subparagraph 4.a. and must be eligible to be a candidate to serve on the board of directors at the time of the deadline for submitting a notice of intent to run in order to have his or her name listed as a proper candidate on the ballot or to serve on the board. A person who has been suspended or removed by the division under this chapter, or who is delinquent in the payment of any monetary obligation due to the association, is not eligible to be a candidate for board membership and may not be listed on the ballot. A person who has been convicted of any felony in this state or in a United States District or Territorial Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon’s civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony. This subparagraph does not limit the term of a member of the board of a nonresidential or timeshare condominium.

3. The bylaws must provide the method of calling meetings of unit owners, including annual meetings. Written notice of an annual meeting

must include an agenda; ~~must~~ be mailed, hand delivered, or electronically transmitted to each unit owner at least 14 days before the annual meeting; and ~~must~~ be posted in a conspicuous place on the condominium property or association property at least 14 continuous days before the annual meeting. Written notice of a meeting other than an annual meeting must include an agenda; be mailed, hand delivered, or electronically transmitted to each unit owner; and be posted in a conspicuous place on the condominium property or association property within the timeframe specified in the bylaws. If the bylaws do not specify a timeframe for written notice of a meeting other than an annual meeting, notice must be provided at least 14 continuous days before the meeting. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium property or association property where all notices of unit owner meetings must be posted. This requirement does not apply if there is no condominium property for posting notices. In lieu of, or in addition to, the physical posting of meeting notices, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice posted physically on the condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on a website serving the condominium association for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the condominium property. Any rule adopted shall, in addition to other matters, include a requirement that the association send an electronic notice in the same manner as a notice for a meeting of the members, which must include a hyperlink to the website where the notice is posted, to unit owners whose e-mail addresses are included in the association's official records. Unless a unit owner waives in writing the right to receive notice of the annual meeting, such notice must be hand delivered, mailed, or electronically transmitted to each unit owner. Notice for meetings and notice for all other purposes must be mailed to each unit owner at the address last furnished to the association by the unit owner, or hand delivered to each unit owner. However, if a unit is owned by more than one person, the association must provide notice to the address that the developer identifies for that purpose and thereafter as one or more of the owners of the unit advise the association in writing, or if no address is given or the owners of the unit do not agree, to the address provided on the deed of record. An officer of the association, or the manager or other person providing notice of the association meeting, must provide an affidavit or United States Postal Service certificate of mailing, to be included in the

official records of the association affirming that the notice was mailed or hand delivered in accordance with this provision.

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

a. At least 60 days before a scheduled election, the association shall mail, deliver, or electronically transmit, by separate association mailing or included in another association mailing, delivery, or transmission, including regularly published newsletters, to each unit owner entitled to a vote, a first notice of the date of the election. A unit owner or other eligible person desiring to be a candidate for the board must give written notice of his or her intent to be a candidate to the association at least 40 days before a scheduled election. Together with the written notice and agenda as set forth in subparagraph 3., the association shall mail, deliver, or electronically transmit a second notice of the election to all unit owners entitled to vote, together with a ballot that lists all candidates not less than 14 days or more than 34 days before the date of the election. Upon request of a candidate, an information sheet, no larger than 8½ inches by 11 inches, which must be furnished by the candidate at least 35 days before the election, must be included with the mailing, delivery, or transmission of the ballot, with the costs of mailing, delivery, or electronic transmission and copying to be borne by the association. The association is not liable for the contents of the information sheets prepared by the candidates. In order to reduce costs, the association may print or duplicate the information sheets on both sides of the paper. The division shall by rule establish voting procedures consistent with this sub-subparagraph, including rules establishing procedures for giving notice by electronic transmission and rules providing for the secrecy of ballots. Elections shall be decided by a plurality of ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A unit owner may not authorize any other person to vote his or her ballot, and any ballots improperly cast are invalid. A unit owner who violates this provision may be fined by the association in accordance with s. 718.303. A unit owner who needs assistance in casting the ballot for the reasons stated in s. 101.051 may obtain such assistance. The regular election must occur on the date of the annual meeting. Notwithstanding this sub-subparagraph, an election is not required unless more candidates file notices of intent to run or are nominated than board vacancies exist.

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

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

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

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

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

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

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

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

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

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

(i) *Transfer fees.*—An association may not ~~no~~ charge a fee ~~shall be made by the association or any body thereof~~ in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee for such approval is provided for in the declaration, articles, or bylaws. Any such fee may be preset, but may not in no event may such fee exceed \$150 ~~\$100~~ per applicant. For the purpose of calculating the fee, spouses or a parent or parents and any dependent children other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, a charge may not no charge shall be made. Such fees must be adjusted every 5 years in an amount equal to the total of the annual increases occurring in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items during that 5-year period. The Department of Business and Professional Regulation shall periodically calculate the fees, rounded to the nearest dollar, and publish the amounts, as adjusted, on its website. The foregoing notwithstanding, an association may, if the authority to do so appears in the declaration, articles, or bylaws, an association may require that a prospective lessee place a security deposit, in an amount not to exceed the equivalent of 1 month's rent, into an escrow account maintained by the association. The security deposit shall protect against damages to the common elements or association property. Payment of interest, claims against the deposit, refunds, and disputes under this paragraph shall be handled in the same fashion as provided in part II of chapter 83.

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

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

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

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

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

5. If a vacancy occurs on the board as a result of a recall or removal and less than a majority of the board members are removed, the vacancy may be

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

6. A board member who has been recalled may file a petition or court action under ~~pursuant to~~ s. 718.1255 challenging the validity of the recall. The petition or action must be filed within 60 days after the recall. The association and the unit owner representative shall be named as the respondents. The petition or action may challenge the facial validity of the written agreement or ballots filed or the substantial compliance with the procedural requirements for the recall. If the arbitrator or court determines the recall was invalid, the petitioning board member shall immediately be reinstated and the recall is null and void. A board member who is successful in challenging a recall is entitled to recover reasonable attorney fees and costs from the respondents. The arbitrator or court may award reasonable attorney fees and costs to the respondents if they prevail, if the arbitrator or court makes a finding that the petitioner's claim is frivolous.

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

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

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

Section 5. Subsection (8) of section 718.113, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

718.113 Maintenance; limitation upon improvement; display of flag; hurricane shutters and protection; display of religious decorations.—

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

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

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

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

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

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

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

(g) The unit owner installing, maintaining, or removing the electric vehicle charging station or natural gas fuel station is responsible for

complying with all federal, state, or local laws and regulations applicable to such installation, maintenance, or removal.

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

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

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

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

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

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

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

(9) The board of administration of an association may make available, install, or operate an electric vehicle charging station or a natural gas fuel station upon the common elements or association property and establish the charges or the manner of payments for the unit owners, residents, or guests who use the electric vehicle charging station or natural gas fuel station. For the purposes of this section, the installation, repair, or maintenance of an electric vehicle charging station or natural gas fuel station under this subsection does not constitute a material alteration or substantial addition to the common elements or association property.

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

718.117 Termination of condominium.—

(16) RIGHT TO CONTEST.—A unit owner or lienor may contest a plan of termination by initiating a petition in accordance with ~~for mandatory nonbinding arbitration pursuant to s. 718.1255~~ within 90 days after the date the plan is recorded. A unit owner or lienor may only contest the fairness and reasonableness of the apportionment of the proceeds from the sale among the unit owners, that the liens of the first mortgages of unit owners other than the bulk owner have not or will not be satisfied to the extent required by subsection (3), or that the required vote to approve the plan was not obtained. A unit owner or lienor who does not contest the plan within the 90-day period is barred from asserting or prosecuting a claim against the association, the termination trustee, any unit owner, or any successor in interest to the condominium property. In an action contesting a plan of termination, the person contesting the plan has the burden of pleading and proving that the apportionment of the proceeds from the sale among the unit owners was not fair and reasonable or that the required vote was not obtained. The apportionment of sale proceeds is presumed fair and reasonable if it was determined pursuant to the methods prescribed in subsection (12). If the petition is filed with the division for arbitration, the arbitrator shall determine the rights and interests of the parties in the apportionment of the sale proceeds. If the arbitrator determines that the apportionment of sales proceeds is not fair and reasonable, the arbitrator may void the plan or may modify the plan to apportion the proceeds in a fair and reasonable manner pursuant to this section based upon the proceedings and order the modified plan of termination to be implemented. If the arbitrator determines that the plan was not properly approved, or that the procedures to adopt the plan were not properly followed, the arbitrator may void the plan or grant other relief it deems just and proper. The arbitrator shall automatically void the plan upon a finding that any of the disclosures required in subparagraph (3)(c)5. are omitted, misleading, incomplete, or inaccurate. Any challenge to a plan, other than a challenge that the required vote was not obtained, does not affect title to the condominium property or the vesting of the condominium property in the trustee, but shall only be a claim against the proceeds of the plan. In any such action, the prevailing party shall recover reasonable attorney fees and costs.

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

718.121 Liens.—

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

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

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

NOTICE OF INTENT
TO RECORD A CLAIM OF LIEN

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

The following amounts are currently due on your account to ...(name of association)..., and must be paid within 30 days after your receipt of this letter. This letter shall serve as the association’s notice of intent to record a Claim of Lien against your property no sooner than 30 days after your receipt of this letter, unless you pay in full the amounts set forth below:

Maintenance due ...(dates)...	\$.....
Late fee, if applicable	\$.....
Interest through ...(dates)...	\$.....
Certified mail charges <u>...(dates)...</u>	\$.....
Other costs	\$.....
TOTAL OUTSTANDING	\$.....

*Interest accrues at the rate of percent per annum.

Section 8. Section 718.1255, Florida Statutes, is amended to read:

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

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

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

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

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

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

1. Properly conduct elections.

2. Give adequate notice of meetings or other actions.

3. Properly conduct meetings.

4. Allow inspection of books and records.

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

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

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

(3) **LEGISLATIVE FINDINGS.**—

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

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

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

(d) The high cost and significant delay of circuit court litigation faced by unit owners in the state can be alleviated by requiring nonbinding

arbitration and mediation in appropriate cases, thereby reducing delay and attorney attorney's fees while preserving the right of either party to have its case heard by a jury, if applicable, in a court of law.

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

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

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

1. Advance written notice of the specific nature of the dispute;
2. A demand for relief, and a reasonable opportunity to comply or to provide the relief; and

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

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

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

(d) Upon determination by the division that a dispute exists and that the petition substantially meets the requirements of paragraphs (a) and (b) and any other applicable rules, the division shall assign or enter into a contract with an arbitrator and serve a copy of the petition upon all respondents. The arbitrator shall conduct a hearing within 30 days after being assigned or entering into a contract unless the petition is withdrawn or a continuance is granted for good cause shown.

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

(f) Upon referral of a case to mediation, the parties must select a mutually acceptable mediator. To assist in the selection, the arbitrator shall provide the parties with a list of both volunteer and paid mediators that have been certified by the division under s. 718.501. If the parties are unable to agree on a mediator within the time allowed by the arbitrator, the arbitrator shall appoint a mediator from the list of certified mediators. If a case is referred to mediation, the parties shall attend a mediation conference, as scheduled by the parties and the mediator. If any party fails to attend a duly noticed mediation conference, without the permission or approval of the arbitrator or mediator, the arbitrator must impose sanctions against the party, including the striking of any pleadings filed, the entry of an order of dismissal or default if appropriate, and the award of costs and attorney fees incurred by the other parties. Unless otherwise agreed to by the parties or as provided by order of the arbitrator, a party is deemed to have appeared at a mediation conference by the physical presence of the party or its representative having full authority to settle without further consultation, provided that an association may comply by having one or more representatives

present with full authority to negotiate a settlement and recommend that the board of administration ratify and approve such a settlement within 5 days from the date of the mediation conference. The parties shall share equally the expense of mediation, unless they agree otherwise.

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

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

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

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

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

in a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

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

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

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

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

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

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

718.1265 Association emergency powers.—

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

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

(b) Cancel and reschedule any association meeting.

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

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

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

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

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

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

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

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

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

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

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

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

(3) Notwithstanding paragraphs (1)(f)-(i), during a state of emergency declared by executive order or proclamation of the Governor pursuant to s.

252.36, an association may not prohibit unit owners, tenants, guests, agents, or invitees of a unit owner from accessing the unit and the common elements and limited common elements appurtenant thereto for the purposes of ingress to and egress from the unit and when access is necessary in connection with:

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

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

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

718.202 Sales or reservation deposits prior to closing.—

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

Section 11. Subsection (1) and paragraph (b) of subsection (3) of section 718.303, Florida Statutes, are amended to read:

718.303 Obligations of owners and occupants; remedies.—

(1) Each unit owner, ~~each~~ tenant and other invitee, and ~~each~~ association is governed by, and must comply with the provisions of, this chapter, the declaration, the documents creating the association, and the association bylaws which are ~~shall be deemed expressly incorporated into any lease of a~~

unit. Actions ~~at law or in equity for damages or for injunctive relief~~, or both, for failure to comply with these provisions may be brought by the association or by a unit owner against:

- (a) The association.
- (b) A unit owner.
- (c) Directors designated by the developer, for actions taken by them before control of the association is assumed by unit owners other than the developer.
- (d) Any director who willfully and knowingly fails to comply with these provisions.
- (e) Any tenant leasing a unit, and any other invitee occupying a unit.

The prevailing party in any such action or in any action in which the purchaser claims a right of voidability based upon contractual provisions as required in s. 718.503(1)(a) is entitled to recover reasonable attorney ~~attorney's~~ fees. A unit owner prevailing in an action between the association and the unit owner under this subsection ~~section~~, in addition to recovering his or her reasonable attorney ~~attorney's~~ fees, may recover additional amounts as determined by the court to be necessary to reimburse the unit owner for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. Actions arising under this subsection are not considered ~~may not be deemed to be~~ actions for specific performance.

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

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

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

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

718.405 Multicondominiums; multicondominium associations.—

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

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

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

(1) The division may enforce and ensure compliance with ~~the provisions of this chapter and rules relating to the development, construction, sale, lease, ownership, operation, and management of residential condominium units. In performing its duties, the division has complete jurisdiction to investigate complaints and enforce compliance with respect to associations that are still under developer control or the control of a bulk assignee or bulk buyer pursuant to part VII of this chapter and complaints against developers, bulk assignees, or bulk buyers involving improper turnover or failure to turnover, pursuant to s. 718.301. However, after turnover has occurred, the division has jurisdiction to investigate complaints related only to financial issues, elections, and the maintenance of and~~ unit owner access to association records under ~~pursuant to~~ s. 718.111(12).

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

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

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

(c) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon the failure by a person to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all affected persons, the division may apply to the circuit court for an order compelling compliance.

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

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

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

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

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

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

6. The division may impose a civil penalty against a developer, bulk assignee, or bulk buyer, or association, or its assignee or agent, for any violation of this chapter or related rule. The division may impose a civil penalty individually against an officer or board member who willfully and knowingly violates ~~a provision of~~ this chapter, adopted rule, or a final order of the division; may order the removal of such individual as an officer or from the board of administration or as an officer of the association; and may prohibit such individual from serving as an officer or on the board of a community association for a period of time. The term “willfully and knowingly” means that the division informed the officer or board member that his or her action or intended action violates this chapter, a rule adopted under this chapter, or a final order of the division and that the officer or board member refused to comply with the requirements of this chapter, a rule adopted under this chapter, or a final order of the division. The division, before initiating formal agency action under chapter 120, must afford the officer or board member an opportunity to voluntarily comply, and an officer or board member who complies within 10 days is not subject to a civil penalty. A penalty may be imposed on the basis of each day of continuing violation, but the penalty for any offense may not exceed \$5,000. ~~By January 1, 1998,~~ The division shall adopt, by rule, penalty guidelines applicable to possible violations or to categories of violations of this chapter or rules

adopted by the division. The guidelines must specify a meaningful range of civil penalties for each such violation of the statute and rules and must be based upon the harm caused by the violation, the repetition of the violation, and upon such other factors deemed relevant by the division. For example, the division may consider whether the violations were committed by a developer, bulk assignee, or bulk buyer, or owner-controlled association, the size of the association, and other factors. The guidelines must designate the possible mitigating or aggravating circumstances that justify a departure from the range of penalties provided by the rules. It is the legislative intent that minor violations be distinguished from those which endanger the health, safety, or welfare of the condominium residents or other persons and that such guidelines provide reasonable and meaningful notice to the public of likely penalties that may be imposed for proscribed conduct. This subsection does not limit the ability of the division to informally dispose of administrative actions or complaints by stipulation, agreed settlement, or consent order. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund. If a developer, bulk assignee, or bulk buyer fails to pay the civil penalty and the amount deemed to be owed to the association, the division shall issue an order directing that such developer, bulk assignee, or bulk buyer cease and desist from further operation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If an association fails to pay the civil penalty, the division shall pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order is not effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in the county where the violation occurred.

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

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

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

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

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

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

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

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

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

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

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

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

(n) Condominium association directors, officers, and employees; condominium developers; bulk assignees, bulk buyers, and community association managers; and community association management firms have an ongoing duty to reasonably cooperate with the division in any investigation under ~~pursuant to~~ this section. The division shall refer to local law enforcement authorities any person whom the division believes has altered, destroyed, concealed, or removed any record, document, or thing required to be kept or maintained by this chapter with the purpose to impair its verity or availability in the department's investigation.

(o) The division may:

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

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

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

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

(s) The division shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the

legislative appropriations committees an annual report that includes, but need not be limited to, the number of training programs provided for condominium association board members and unit owners, the number of complaints received by type, the number and percent of complaints acknowledged in writing within 30 days and the number and percent of investigations acted upon within 90 days in accordance with paragraph (m), and the number of investigations exceeding the 90-day requirement. The annual report must also include an evaluation of the division's core business processes and make recommendations for improvements, including statutory changes. The report shall be submitted by September 30 following the end of the fiscal year.

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

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

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

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

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

719.103 Definitions.—As used in this chapter:

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

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

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

(2) OFFICIAL RECORDS.—

(c) The official records of the association are open to inspection by any association member or the authorized representative of such member at all reasonable times. The right to inspect the records includes the right to make or obtain copies, at the reasonable expense, if any, of the association member. The association may adopt reasonable rules regarding the frequency, time, location, notice, and manner of record inspections and copying, but may not require a member to demonstrate any purpose or state any reason for the inspection. The failure of an association to provide the records within 10 working days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with this paragraph. A member ~~unit owner~~ who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply. The minimum damages are \$50 per calendar day for up to 10 days, beginning on the 11th working day after receipt of the written request. The failure to permit inspection entitles any person prevailing in an enforcement action to recover reasonable attorney fees from the person in control of the records who, directly or indirectly, knowingly denied access to the records. Any person who knowingly or intentionally defaces or destroys accounting records that are required by this chapter to be maintained during the period for which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, is personally subject to a civil penalty under ~~pursuant to~~ s. 719.501(1)(d). The association shall maintain an adequate number of copies of the declaration, articles of incorporation, bylaws, and rules, and all amendments to each of the foregoing, as well as the question and answer sheet as described in s. 719.504 and year-end financial information required by the department, on the cooperative property to ensure their availability to members ~~unit owners~~ and prospective purchasers, and may charge its actual costs for preparing and furnishing these documents to those requesting the same. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association providing the member or his or her authorized representative with a copy of such records. The association may not charge a member or his or her authorized representative for the use of a portable device. Notwithstanding this paragraph, the following records shall not be accessible to members ~~unit owners~~:

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

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

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

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association’s notice requirements, and other personal identifying information of any person, excluding the person’s name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association’s notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to unit ~~pareel~~ owners a directory containing the name, unit ~~pareel~~ address, and all telephone numbers of each unit ~~pareel~~ owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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

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

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

719.106 Bylaws; cooperative ownership.—

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

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

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

2. Except as specifically otherwise provided herein, after January 1, 1992, unit owners may not vote by general proxy, but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies shall be used for votes taken to waive or reduce reserves in accordance with subparagraph (j)2., for votes taken to waive the financial reporting requirements of s. 719.104(4)(b), for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and for any other matter for which this chapter requires or permits a vote of the unit owners. Except as provided in paragraph (d), after January 1, 1992, no proxy, limited or general, shall be used in the election of board members. General proxies may be used for other matters for which limited proxies are not required, and may also be used in voting for nonsubstantive changes to items for which a limited proxy is required and given. Notwithstanding the provisions of this section, unit owners may vote in person at unit owner meetings. Nothing contained herein shall limit the use of general proxies or require the use of limited proxies or require the use of limited proxies for any agenda item or election at any meeting of a timeshare cooperative.

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

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

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

(f) *Recall of board members.*—Subject to s. 719.301, any member of the board of administration may be recalled and removed from office with or without cause by the vote or agreement in writing by a majority of all the voting interests. A special meeting of the voting interests to recall any member of the board of administration may be called by 10 percent of the unit owners giving notice of the meeting as required for a meeting of unit owners, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

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

2. If the proposed recall is by an agreement in writing by a majority of all voting interests, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of administration shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall either certify the written agreement to recall members of the board, in which case such members shall be recalled effective immediately and shall turn over to the board, within 5 full business days, any and all records and property of the association in their possession, or proceed as described in subparagraph 3.

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

4. If the board fails to duly notice and hold a board meeting within 5 full business days after service of an agreement in writing or within 5 full

business days after the adjournment of the unit owner recall meeting, the recall is shall be deemed effective and the board members so recalled shall immediately turn over to the board any and all records and property of the association.

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

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

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

8. The division or court may not accept for filing a recall petition or action, whether filed under pursuant to subparagraph 1., subparagraph 2., subparagraph 5., or subparagraph 7. and regardless of whether the recall was certified, when there are 60 or fewer days until the scheduled reelection of the board member sought to be recalled or when 60 or fewer days have not elapsed since the election of the board member sought to be recalled.

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

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

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

719.128 Association emergency powers.—

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

(a) Conduct board meetings, committee meetings, elections, or membership meetings, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, electronic transmission, public service announcements, conspicuous posting on the cooperative property, or any other means the board deems appropriate under the circumstances. Notice of decisions may also be communicated as provided in this paragraph.

(b) Cancel and reschedule an association meeting.

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

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

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

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

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

(h) Based upon the advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board of administration, determine whether the cooperative property or any portion thereof can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the cooperative documents declaration.

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

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

(k) Contract, on behalf of a unit owner, for items or services for which the owner is otherwise individually responsible, but which are necessary to prevent further injury, contagion, or damage to the cooperative property. In such event, the unit owner on whose behalf the board has contracted is responsible for reimbursing the association for the actual costs of the items or services, and the association may use its lien authority provided by s. 719.108 to enforce collection of the charges. Such items or services may include the drying of the unit, the boarding of broken windows or doors, ~~and~~ the replacement of a damaged air conditioner or air handler to provide climate control in the unit or other portions of the property, and the sanitizing of the cooperative property.

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

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

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

(3) Notwithstanding paragraphs (1)(f)-(i), during a state of emergency declared by executive order or proclamation of the Governor pursuant to s. 252.36, an association may not prohibit unit owners, tenants, guests, agents, or invitees of a unit owner from accessing the common elements and limited

common elements appurtenant thereto for the purposes of ingress to and egress from the unit when access is necessary in connection with:

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

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

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

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

(8) “Governing documents” means:

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

(b) The articles of incorporation and bylaws of the homeowners’ association and any duly adopted amendments thereto; ~~and~~

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

Section 20. Present paragraph (l) of subsection (4) of section 720.303, Florida Statutes, is redesignated as paragraph (m) and amended, a new paragraph (l) is added to that subsection, paragraph (i) is added to subsection (6) of that section, and paragraph (c) of subsection (2), paragraph (c) of subsection (5), paragraphs (c) and (d) of subsection (6), and paragraphs (b), (d), (g), (k), and (l) of subsection (10) of that section are amended, to read:

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

(2) BOARD MEETINGS.—

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

1. Notices of all board meetings must be posted in a conspicuous place in the community at least 48 hours in advance of a meeting, except in an emergency. In the alternative, if notice is not posted in a conspicuous place in the community, notice of each board meeting must be mailed or delivered to each member at least 7 days before the meeting, except in an emergency. Notwithstanding this general notice requirement, for communities with

more than 100 members, the association bylaws may provide for a reasonable alternative to posting or mailing of notice for each board meeting, including publication of notice, provision of a schedule of board meetings, or the conspicuous posting and repeated broadcasting of the notice on a closed-circuit cable television system serving the homeowners' association. However, if broadcast notice is used in lieu of a notice posted physically in the community, the notice must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required. When broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any of the authorized means of providing notice of a meeting of the board, the association may, by rule, adopt a procedure for conspicuously posting the meeting notice and the agenda on the association's website or an application that can be downloaded on a mobile device for at least the minimum period of time for which a notice of a meeting is also required to be physically posted on the association property. Any rule adopted must, in addition to other matters, include a requirement that the association send an electronic notice to members whose e-mail addresses are included in the association's official records in the same manner as is required for a notice of a meeting of the members. Such notice must include a hyperlink to the website or such mobile application on which the meeting notice is posted. The association may provide notice by electronic transmission in a manner authorized by law for meetings of the board of directors, committee meetings requiring notice under this section, and annual and special meetings of the members to any member who has provided a facsimile number or e-mail address to the association to be used for such purposes; however, a member must consent in writing to receiving notice by electronic transmission.

2. An assessment may not be levied at a board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of the assessments. Written notice of any meeting at which special assessments will be considered or at which amendments to rules regarding parcel use will be considered must be mailed, delivered, or electronically transmitted to the members and parcel owners and posted conspicuously on the property or broadcast on closed-circuit cable television not less than 14 days before the meeting.

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

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

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

(m)(4) All other written records of the association not specifically included in this subsection ~~the foregoing~~ which are related to the operation of the association.

(5) INSPECTION AND COPYING OF RECORDS.—The official records shall be maintained within the state for at least 7 years and shall be made available to a parcel owner for inspection or photocopying within 45 miles of the community or within the county in which the association is located within 10 business days after receipt by the board or its designee of a written request. This subsection may be complied with by having a copy of the official records available for inspection or copying in the community or, at the option of the association, by making the records available to a parcel owner electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and the costs required for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding this paragraph, the following records are not accessible to members or parcel owners:

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

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

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

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

5.4. Medical records of parcel owners or community residents.

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

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

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

(6) BUDGETS.—

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

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

2. If the budget of the association does provide for funding accounts for deferred expenditures, including, but not limited to, funds for capital expenditures and deferred maintenance, but such accounts are not created or established ~~under pursuant to paragraph (d),~~ each financial report for the preceding fiscal year required under subsection (7) must also contain the following statement in conspicuous type:

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

(d) An association is deemed to have provided for reserve accounts if ~~reserve accounts have been initially established by the developer or if the membership of the association affirmatively elects to provide for reserves. If reserve accounts are established by the developer, the budget must designate the components for which the reserve accounts may be used. If reserve accounts are not initially provided by the developer, the membership of the association may elect to do so upon the affirmative approval of a majority of the total voting interests of the association. Such approval may be obtained by vote of the members at a duly called meeting of the membership or by the written consent of a majority of the total voting~~

interests of the association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided in paragraph (f).

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

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

b. Operating expenses; or

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

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

(10) RECALL OF DIRECTORS.—

(b)1. Board directors may be recalled by an agreement in writing or by written ballot without a membership meeting. The agreement in writing or the written ballots, or a copy thereof, shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure.

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

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

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

5. The agreement in writing or ballot shall list at least as many possible replacement directors as there are directors subject to the recall, when at least a majority of the board is sought to be recalled; the person executing the recall instrument may vote for as many replacement candidates as there are directors subject to the recall.

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

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

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

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

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

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

(2) An The association may levy reasonable fines. A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

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

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' notice to the parcel owner and, if applicable, any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the proposed fine or suspension levied by the board is approved by the committee, the fine payment is due 5 days after notice of the approved fine is provided to the parcel owner and, if applicable, to any

~~occupant, licensee, or invitee of the parcel owner the date of the committee meeting at which the fine is approved.~~ The association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any occupant tenant, licensee, or invitee of the parcel owner.

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

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

(1) QUORUM; AMENDMENTS.—

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

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

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

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

4. For purposes of this paragraph, a change of ownership does not occur when a parcel owner conveys the parcel to an affiliated entity, when beneficial ownership of the parcel does not change, or when an heir becomes the parcel owner. For purposes of this subparagraph, the term "affiliated entity" means an entity that controls, is controlled by, or is under common control with the parcel owner or that becomes a parent or successor entity by reason of transfer, merger, consolidation, public offering, reorganization, dissolution or sale of stock, or transfer of membership partnership interests. For a conveyance to be recognized as one made to an affiliated entity, the entity must furnish to the association a document certifying that this

subparagraph applies and provide any organizational documents for the parcel owner and the affiliated entity which support the representations in the certificate, as requested by the association.

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

(9) ELECTIONS AND BOARD VACANCIES.—

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

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

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

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

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

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

(c) Upon the developer abandoning or deserting its responsibility to maintain and complete the amenities or infrastructure as disclosed in the governing documents. There is a rebuttable presumption that the developer has abandoned and deserted the property if the developer has unpaid

assessments or guaranteed amounts under s. 720.308 for a period of more than 2 years;

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

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

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

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

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

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

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department under pursuant to s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(j) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct ~~mandatory~~ binding arbitration of election disputes between a member and an association in accordance with pursuant to s. 718.1255 and rules adopted by the division. Neither Election disputes and nor recall disputes are not eligible for presuit mediation; these disputes must ~~shall~~ be arbitrated by the department or filed in a court of competent jurisdiction. At the conclusion of an arbitration the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least \$200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall

recover its reasonable costs and attorney attorney's fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

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

720.3075 Prohibited clauses in association documents.—

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

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

720.316 Association emergency powers.—

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

(a) Conduct board meetings, committee meetings, elections, or membership meetings, in whole or in part, by telephone, real-time videoconferencing, or similar real-time electronic or video communication after notice of the meetings and board decisions is provided in as practicable a manner as possible, including via publication, radio, United States mail, the Internet, electronic transmission, public service announcements, conspicuous posting on the common area ~~association property~~, or any other means the board deems appropriate under the circumstances. Notice of decisions may also be communicated as provided in this paragraph.

(b) Cancel and reschedule an association meeting.

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

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

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

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

(g) Based upon the advice of emergency management officials or public health officials, or upon the advice of licensed professionals retained by or otherwise available to the board, determine any portion of the common areas or facilities ~~association property~~ unavailable for entry or occupancy by owners or their family members, tenants, guests, agents, or invitees to protect their health, safety, or welfare.

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

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

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

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

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

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

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

(b) The habitability of the parcel or for the health and safety of such person unless a governmental order or determination, or a public health

directive from the Centers for Disease Control and Prevention, has been issued prohibiting such access to the parcel. Any such access is subject to reasonable restrictions adopted by the association.

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

Approved by the Governor June 16, 2021.

Filed in Office Secretary of State June 16, 2021.