

By Senator Garcia

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1 A bill to be entitled
2 An act relating to condominiums; amending s. 718.111,
3 F.S.; prohibiting an attorney from representing a
4 board under certain conditions; prohibiting certain
5 actions by a board member or management company;
6 providing recordkeeping requirements; providing that
7 the official records of an association are open to
8 inspection by unit renters; providing criminal
9 penalties; providing a definition; providing
10 requirements relating to the posting of specified
11 documents on an association's website; providing a
12 remedy for an association's failure to provide a unit
13 owner with a copy of the most recent financial report;
14 requiring the Division of Florida Condominiums,
15 Timeshares, and Mobile Homes to maintain and provide
16 copies of financial reports; amending s. 718.112,
17 F.S.; providing board member term limits; providing an
18 exception; deleting certification requirements
19 relating to the recall of board members; revising the
20 amount of time in which a recalled board member must
21 turn over records and property of the association to
22 the board; prohibiting an association from employing
23 or contracting with a service provider that is owned
24 or operated by certain persons; amending s. 718.1255,
25 F.S.; authorizing, rather than requiring, the division
26 to employ full-time attorneys to conduct certain
27 arbitration hearings; providing requirements for the
28 certification of arbitrators; prohibiting the
29 Department of Business and Professional Regulation

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30 from entering into a legal services contract for
31 certain arbitration hearings; requiring the division
32 to assign or enter into contracts with arbitrators;
33 requiring arbitrators to conduct hearings within a
34 specified period; providing an exception; providing
35 arbitration proceeding requirements; creating s.
36 718.129, F.S.; providing that certain activities
37 constitute fraudulent voting activities related to
38 association elections; providing criminal penalties;
39 amending s. 718.3025, F.S.; prohibiting specified
40 parties from certain activities; creating s. 718.3027,
41 F.S.; providing requirements relating to board
42 director and officer conflicts of interest; providing
43 that certain contracts are null and void if they do
44 not meet specified notice requirements; amending s.
45 718.303, F.S.; providing requirements relating to the
46 suspension of voting rights of unit owners and
47 members; prohibiting a receiver from exercising the
48 voting rights of a unit owner whose unit is placed in
49 receivership; amending s. 718.5012, F.S.; providing
50 the ombudsman with an additional power; creating s.
51 718.71, F.S.; providing financial reporting
52 requirements of an association; providing an effective
53 date.

54
55 Be It Enacted by the Legislature of the State of Florida:
56

57 Section 1. Subsections (3) and (9), paragraphs (a) and (c)
58 of subsection (12), and subsection (13) of section 718.111,

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59 Florida Statutes, are amended, and paragraph (g) is added to
60 subsection (12) of that section, to read:

61 718.111 The association.—

62 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
63 SUE, AND BE SUED; CONFLICT OF INTEREST.—

64 (a) The association may contract, sue, or be sued with
65 respect to the exercise or nonexercise of its powers. For these
66 purposes, the powers of the association include, but are not
67 limited to, the maintenance, management, and operation of the
68 condominium property. After control of the association is
69 obtained by unit owners other than the developer, the
70 association may institute, maintain, settle, or appeal actions
71 or hearings in its name on behalf of all unit owners concerning
72 matters of common interest to most or all unit owners,
73 including, but not limited to, the common elements; the roof and
74 structural components of a building or other improvements;
75 mechanical, electrical, and plumbing elements serving an
76 improvement or a building; representations of the developer
77 pertaining to any existing or proposed commonly used facilities;
78 and protesting ad valorem taxes on commonly used facilities and
79 on units; and may defend actions in eminent domain or bring
80 inverse condemnation actions. If the association has the
81 authority to maintain a class action, the association may be
82 joined in an action as representative of that class with
83 reference to litigation and disputes involving the matters for
84 which the association could bring a class action. Nothing herein
85 limits any statutory or common-law right of any individual unit
86 owner or class of unit owners to bring any action without
87 participation by the association which may otherwise be

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88 available.

89 (b) An attorney may not represent a board if the attorney
90 represents the management company of the association.

91 (9) PURCHASE OF UNITS.—The association has the power,
92 unless prohibited by the declaration, articles of incorporation,
93 or bylaws of the association, to purchase units in the
94 condominium and to acquire and hold, lease, mortgage, and convey
95 them. There shall be no limitation on the association's right to
96 purchase a unit at a foreclosure sale resulting from the
97 association's foreclosure of its lien for unpaid assessments, or
98 to take title by deed in lieu of foreclosure. However, a board
99 member or management company may not purchase a unit at a
100 foreclosure sale resulting from the association's foreclosure of
101 its lien for unpaid assessments or take title by deed in lieu of
102 foreclosure.

103 (12) OFFICIAL RECORDS.—

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

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

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

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

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

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- 117 5. A copy of the current rules of the association.
- 118 6. A book or books that contain the minutes of all meetings
119 of the association, the board of administration, and the unit
120 owners, which minutes must be retained for at least 7 years.
- 121 7. A current roster of all unit owners and their mailing
122 addresses, unit identifications, voting certifications, and, if
123 known, telephone numbers. The association shall also maintain
124 the electronic mailing addresses and facsimile numbers of unit
125 owners consenting to receive notice by electronic transmission.
126 The electronic mailing addresses and facsimile numbers are not
127 accessible to unit owners if consent to receive notice by
128 electronic transmission is not provided in accordance with sub-
129 subparagraph (c)5.e. ~~subparagraph (c)5.~~ However, the association
130 is not liable for an inadvertent disclosure of the electronic
131 mail address or facsimile number for receiving electronic
132 transmission of notices.
- 133 8. All current insurance policies of the association and
134 condominiums operated by the association.
- 135 9. A current copy of any management agreement, lease, or
136 other contract to which the association is a party or under
137 which the association or the unit owners have an obligation or
138 responsibility.
- 139 10. Bills of sale or transfer for all property owned by the
140 association.
- 141 11. Accounting records for the association and separate
142 accounting records for each condominium that the association
143 operates. All accounting records must be maintained for at least
144 7 years. Any person who knowingly or intentionally defaces or
145 destroys such records, or who knowingly or intentionally fails

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146 to create or maintain such records, with the intent of causing
147 harm to the association or one or more of its members, is
148 personally subject to a civil penalty pursuant to s.
149 718.501(1)(d). The accounting records must include, but are not
150 limited to:

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

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

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

159 d. All contracts for work to be performed. Bids for work to
160 be performed are also considered official records and must be
161 maintained by the association.

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

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

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

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

174 16. A copy of the inspection report as described in s.

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175 718.301(4)(p).

176 17. Bids for materials, equipment, or services.

177 (c)1. The official records of the association are open to
178 inspection by any association member, ~~or~~ the authorized
179 representative of such member, or the renter of such member's
180 unit at all reasonable times. The right to inspect the records
181 includes the right to make or obtain copies, at the reasonable
182 expense, if any, of the member, authorized representative of
183 such member, or the renter of such member's unit. The
184 association may adopt reasonable rules regarding the frequency,
185 time, location, notice, and manner of record inspections and
186 copying. The failure of an association to provide the records
187 within 10 working days after receipt of a written request
188 creates a rebuttable presumption that the association willfully
189 failed to comply with this paragraph. A unit owner who is denied
190 access to official records is entitled to the actual damages or
191 minimum damages for the association's willful failure to comply.
192 Minimum damages are \$50 per calendar day for up to 10 days,
193 beginning on the 11th working day after receipt of the written
194 request. The failure to permit inspection entitles any person
195 prevailing in an enforcement action to recover reasonable
196 attorney fees from the person in control of the records who,
197 directly or indirectly, knowingly denied access to the records.

198 2. Any director or member of the board or association who
199 knowingly, willfully, and repeatedly violates subparagraph 1.
200 commits a misdemeanor of the second degree, punishable as
201 provided in s. 775.082 or s. 775.083. For purposes of this
202 subparagraph, the term "repeatedly violates" means more than two
203 violations within a 12-month period.

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204 3. Any person who knowingly or intentionally defaces or
205 destroys accounting records that are required by this chapter to
206 be maintained during the period for which such records are
207 required to be maintained, or who knowingly or intentionally
208 fails to create or maintain accounting records that are required
209 to be created or maintained, with the intent of causing harm to
210 the association or one or more of its members, commits a
211 misdemeanor of the first degree, punishable as provided in s.
212 775.082 or s. 775.083.

213 4. Any person who willfully and knowingly refuses to
214 release or otherwise produce association records with the intent
215 of facilitating the commission of a crime or avoiding or
216 escaping detection, arrest, trial, or punishment for a crime
217 commits a felony of the third degree, punishable as provided in
218 s. 775.082, s. 775.083, or s. 775.084 ~~is personally subject to a~~
219 ~~civil penalty pursuant to s. 718.501(1)(d).~~

220 5. The association shall maintain an adequate number of
221 copies of the declaration, articles of incorporation, bylaws,
222 and rules, and all amendments to each of the foregoing, as well
223 as the question and answer sheet as described in s. 718.504 and
224 year-end financial information required under this section, on
225 the condominium property to ensure their availability to unit
226 owners and prospective purchasers, and may charge its actual
227 costs for preparing and furnishing these documents to those
228 requesting the documents. An association shall allow a member or
229 his or her authorized representative to use a portable device,
230 including a smartphone, tablet, portable scanner, or any other
231 technology capable of scanning or taking photographs, to make an
232 electronic copy of the official records in lieu of the

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233 association's providing the member or his or her authorized
234 representative with a copy of such records. The association may
235 not charge a member or his or her authorized representative for
236 the use of a portable device. Notwithstanding this paragraph,
237 the following records are not accessible to unit owners:

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

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

251 c.3. Personnel records of association or management company
252 employees, including, but not limited to, disciplinary, payroll,
253 health, and insurance records. For purposes of this sub-
254 subparagraph ~~subparagraph~~, the term "personnel records" does not
255 include written employment agreements with an association
256 employee or management company, or budgetary or financial
257 records that indicate the compensation paid to an association
258 employee.

259 d.4. Medical records of unit owners.

260 e.5. Social security numbers, driver license numbers,
261 credit card numbers, e-mail addresses, telephone numbers,

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262 facsimile numbers, emergency contact information, addresses of a
263 unit owner other than as provided to fulfill the association's
264 notice requirements, and other personal identifying information
265 of any person, excluding the person's name, unit designation,
266 mailing address, property address, and any address, e-mail
267 address, or facsimile number provided to the association to
268 fulfill the association's notice requirements. Notwithstanding
269 the restrictions in this sub-subparagraph ~~subparagraph~~, an
270 association may print and distribute to parcel owners a
271 directory containing the name, parcel address, and all telephone
272 numbers of each parcel owner. However, an owner may exclude his
273 or her telephone numbers from the directory by so requesting in
274 writing to the association. An owner may consent in writing to
275 the disclosure of other contact information described in this
276 sub-subparagraph ~~subparagraph~~. The association is not liable for
277 the inadvertent disclosure of information that is protected
278 under this sub-subparagraph ~~subparagraph~~ if the information is
279 included in an official record of the association and is
280 voluntarily provided by an owner and not requested by the
281 association.

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

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

288 (g)1. An association with 500 or more units that does not
289 manage timeshare units shall post digital copies of the
290 documents specified in subparagraph 2. on its website.

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- 291 a. The association's website must be:
- 292 (I) An independent website or web portal wholly owned and
- 293 operated by the association; or
- 294 (II) A website or web portal operated by a third-party
- 295 provider with whom the association owns, leases, rents, or
- 296 otherwise obtains the right to operate a web page, subpage, web
- 297 portal, or collection of subpages or web portals dedicated to
- 298 the association's activities and on which required notices,
- 299 records, and documents may be posted by the association.
- 300 b. The association's website must be accessible through the
- 301 Internet and must contain a subpage, web portal, or other
- 302 protected electronic location that is inaccessible to the
- 303 general public and accessible only to unit owners, employees of
- 304 the association, and the department.
- 305 c. Upon a unit owner's request, the association must
- 306 provide the unit owner with a username and password and access
- 307 to the protected sections of the association's website that
- 308 contain any notices, records, or documents that must be
- 309 electronically provided.
- 310 2. A current copy of the following documents must be posted
- 311 in digital format on the association's website:
- 312 a. The recorded declaration of condominium of each
- 313 condominium operated by the association and each amendment to
- 314 each declaration.
- 315 b. The recorded bylaws of the association and each
- 316 amendment to the bylaws.
- 317 c. The articles of incorporation of the association, or
- 318 other documents creating the association, and each amendment
- 319 thereto. The copy posted pursuant to this sub-subparagraph must

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320 be a certified copy.

321 d. The rules of the association.

322 e. Any management agreement, lease, or other contract to
323 which the association is a party or under which the association
324 or the unit owners have an obligation or responsibility.

325 Summaries of bids for materials, equipment, or services must be
326 maintained on the website for 1 year.

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

329 g. The financial report required by subsection (13) and any
330 proposed financial report to be considered at a meeting.

331 h. The certification of each director required by s.
332 718.112(2)(d)4.b.

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

338 j. Any contract or document regarding a conflict of
339 interest or possible conflict of interest as provided in ss.
340 468.436(2) and 718.3026(3).

341 k. The notice of any board meeting and the agenda for the
342 meeting, as required by s. 718.112(2)(d)3., no later than 14
343 days before the meeting. The notice must be posted in plain view
344 on the front page of the website, or on a separate subpage of
345 the website labeled "Notices" which is conspicuously visible and
346 linked from the front page. The association must also post on
347 its website any documents to be considered during the meeting or
348 listed on the agenda at least 7 days before the meeting at which

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349 the document or the information within the document will be
350 considered, including the following documents:

351 (I) The proposed annual budget required by s.
352 718.112(2)(f), which must be provided at least 14 days before
353 the meeting.

354 (II) The proposed financial report required by subsection
355 (13).

356 3. The association shall ensure that the information and
357 records described in paragraph (c), which are not permitted to
358 be accessible to unit owners, are not posted on the
359 association's website. If protected information or information
360 restricted from being accessible to unit owners is included in
361 documents that are required to be posted on the association's
362 website, the association shall ensure the information is
363 redacted before posting the documents online.

364 (13) FINANCIAL REPORTING.—Within 90 days after the end of
365 the fiscal year, or annually on a date provided in the bylaws,
366 the association shall prepare and complete, or contract for the
367 preparation and completion of, a financial report for the
368 preceding fiscal year. Within 21 days after the final financial
369 report is completed by the association or received from the
370 third party, but not later than 120 days after the end of the
371 fiscal year or other date as provided in the bylaws, the
372 association shall mail to each unit owner at the address last
373 furnished to the association by the unit owner, or hand deliver
374 to each unit owner, a copy of the most recent financial report
375 or a notice that a copy of the most recent financial report will
376 be mailed or hand delivered to the unit owner, without charge,
377 within 5 business days after ~~upon~~ receipt of a written request

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378 from the unit owner. The division shall adopt rules setting
379 forth uniform accounting principles and standards to be used by
380 all associations and addressing the financial reporting
381 requirements for multicondominium associations. The rules must
382 include, but not be limited to, standards for presenting a
383 summary of association reserves, including a good faith estimate
384 disclosing the annual amount of reserve funds that would be
385 necessary for the association to fully fund reserves for each
386 reserve item based on the straight-line accounting method. This
387 disclosure is not applicable to reserves funded via the pooling
388 method. In adopting such rules, the division shall consider the
389 number of members and annual revenues of an association.
390 Financial reports shall be prepared as follows:

391 (a) An association that meets the criteria of this
392 paragraph shall prepare a complete set of financial statements
393 in accordance with generally accepted accounting principles. The
394 financial statements must be based upon the association's total
395 annual revenues, as follows:

396 1. An association with total annual revenues of \$150,000 or
397 more, but less than \$300,000, shall prepare compiled financial
398 statements.

399 2. An association with total annual revenues of at least
400 \$300,000, but less than \$500,000, shall prepare reviewed
401 financial statements.

402 3. An association with total annual revenues of \$500,000 or
403 more shall prepare audited financial statements.

404 (b)1. An association with total annual revenues of less
405 than \$150,000 shall prepare a report of cash receipts and
406 expenditures.

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407 2. An association that operates fewer than 50 units,
408 regardless of the association's annual revenues, shall prepare a
409 report of cash receipts and expenditures in lieu of financial
410 statements required by paragraph (a).

411 3. A report of cash receipts and disbursements must
412 disclose the amount of receipts by accounts and receipt
413 classifications and the amount of expenses by accounts and
414 expense classifications, including, but not limited to, the
415 following, as applicable: costs for security, professional and
416 management fees and expenses, taxes, costs for recreation
417 facilities, expenses for refuse collection and utility services,
418 expenses for lawn care, costs for building maintenance and
419 repair, insurance costs, administration and salary expenses, and
420 reserves accumulated and expended for capital expenditures,
421 deferred maintenance, and any other category for which the
422 association maintains reserves.

423 (c) An association may prepare, without a meeting of or
424 approval by the unit owners:

425 1. Compiled, reviewed, or audited financial statements, if
426 the association is required to prepare a report of cash receipts
427 and expenditures;

428 2. Reviewed or audited financial statements, if the
429 association is required to prepare compiled financial
430 statements; or

431 3. Audited financial statements if the association is
432 required to prepare reviewed financial statements.

433 (d) If approved by a majority of the voting interests
434 present at a properly called meeting of the association, an
435 association may prepare:

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- 436 1. A report of cash receipts and expenditures in lieu of a
437 compiled, reviewed, or audited financial statement;
- 438 2. A report of cash receipts and expenditures or a compiled
439 financial statement in lieu of a reviewed or audited financial
440 statement; or
- 441 3. A report of cash receipts and expenditures, a compiled
442 financial statement, or a reviewed financial statement in lieu
443 of an audited financial statement.

444

445 Such meeting and approval must occur before the end of the
446 fiscal year and is effective only for the fiscal year in which
447 the vote is taken, except that the approval may also be
448 effective for the following fiscal year. If the developer has
449 not turned over control of the association, all unit owners,
450 including the developer, may vote on issues related to the
451 preparation of the association's financial reports, from the
452 date of incorporation of the association through the end of the
453 second fiscal year after the fiscal year in which the
454 certificate of a surveyor and mapper is recorded pursuant to s.
455 718.104(4)(e) or an instrument that transfers title to a unit in
456 the condominium which is not accompanied by a recorded
457 assignment of developer rights in favor of the grantee of such
458 unit is recorded, whichever occurs first. Thereafter, all unit
459 owners except the developer may vote on such issues until
460 control is turned over to the association by the developer. Any
461 audit or review prepared under this section shall be paid for by
462 the developer if done before turnover of control of the
463 association. An association may not waive the financial
464 reporting requirements of this section for more than 3

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465 consecutive years.

466 (e) If an association has not mailed or hand delivered to
467 the unit owner a copy of the most recent financial report within
468 5 business days after receipt of a written request from the unit
469 owner, the unit owner may give notice to the division of the
470 association's failure to comply. Upon notification, the division
471 shall give notice to the association that the association must
472 mail or hand deliver the copy of the most recent financial
473 report to the unit owner and the division within 5 business days
474 after such notice. Any association that fails to comply with the
475 division's request may not waive the financial reporting
476 requirement provided in paragraph (d). A financial report
477 received by the division pursuant to this paragraph shall be
478 maintained, and the division shall provide a copy of such report
479 to an association member upon his or her request.

480 Section 2. Paragraphs (d) and (j) of subsection (2) of
481 section 718.112, Florida Statutes, are amended, and paragraph
482 (p) is added to that subsection, to read:

483 718.112 Bylaws.—

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

487 (d) *Unit owner meetings.*—

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

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494 2. Unless the bylaws provide otherwise, a vacancy on the
495 board caused by the expiration of a director's term shall be
496 filled by electing a new board member, and the election must be
497 by secret ballot. An election is not required if the number of
498 vacancies equals or exceeds the number of candidates. For
499 purposes of this paragraph, the term "candidate" means an
500 eligible person who has timely submitted the written notice, as
501 described in sub-subparagraph 4.a., of his or her intention to
502 become a candidate. Except in a timeshare or nonresidential
503 condominium, or if the staggered term of a board member does not
504 expire until a later annual meeting, or if all members' terms
505 would otherwise expire but there are no candidates, the terms of
506 all board members expire at the annual meeting, and such members
507 may stand for reelection unless prohibited by the bylaws. ~~If the~~
508 ~~bylaws or articles of incorporation permit terms of no more than~~
509 ~~2 years, the association~~ Board members may serve 2-year terms if
510 permitted by the bylaws or articles of incorporation. A board
511 member may not serve more than four consecutive 2-year terms,
512 unless approved by an affirmative vote of two-thirds of the
513 total voting interests of the association. If the number of
514 board members whose terms expire at the annual meeting equals or
515 exceeds the number of candidates, the candidates become members
516 of the board effective upon the adjournment of the annual
517 meeting. Unless the bylaws provide otherwise, any remaining
518 vacancies shall be filled by the affirmative vote of the
519 majority of the directors making up the newly constituted board
520 even if the directors constitute less than a quorum or there is
521 only one director. In a residential condominium association of
522 more than 10 units or in a residential condominium association

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523 that does not include timeshare units or timeshare interests,
524 coowners of a unit may not serve as members of the board of
525 directors at the same time unless they own more than one unit or
526 unless there are not enough eligible candidates to fill the
527 vacancies on the board at the time of the vacancy. A unit owner
528 in a residential condominium desiring to be a candidate for
529 board membership must comply with sub-subparagraph 4.a. and must
530 be eligible to be a candidate to serve on the board of directors
531 at the time of the deadline for submitting a notice of intent to
532 run in order to have his or her name listed as a proper
533 candidate on the ballot or to serve on the board. A person who
534 has been suspended or removed by the division under this
535 chapter, or who is delinquent in the payment of any monetary
536 obligation due to the association, is not eligible to be a
537 candidate for board membership and may not be listed on the
538 ballot. A person who has been convicted of any felony in this
539 state or in a United States District or Territorial Court, or
540 who has been convicted of any offense in another jurisdiction
541 which would be considered a felony if committed in this state,
542 is not eligible for board membership unless such felon's civil
543 rights have been restored for at least 5 years as of the date
544 such person seeks election to the board. The validity of an
545 action by the board is not affected if it is later determined
546 that a board member is ineligible for board membership due to
547 having been convicted of a felony. This subparagraph does not
548 limit the term of a member of the board of a nonresidential
549 condominium.

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

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552 include an agenda, must be mailed, hand delivered, or
553 electronically transmitted to each unit owner at least 14 days
554 before the annual meeting, and must be posted in a conspicuous
555 place on the condominium property at least 14 continuous days
556 before the annual meeting. Upon notice to the unit owners, the
557 board shall, by duly adopted rule, designate a specific location
558 on the condominium property or association property where all
559 notices of unit owner meetings shall be posted. This requirement
560 does not apply if there is no condominium property or
561 association property for posting notices. In lieu of, or in
562 addition to, the physical posting of meeting notices, the
563 association may, by reasonable rule, adopt a procedure for
564 conspicuously posting and repeatedly broadcasting the notice and
565 the agenda on a closed-circuit cable television system serving
566 the condominium association. However, if broadcast notice is
567 used in lieu of a notice posted physically on the condominium
568 property, the notice and agenda must be broadcast at least four
569 times every broadcast hour of each day that a posted notice is
570 otherwise required under this section. If broadcast notice is
571 provided, the notice and agenda must be broadcast in a manner
572 and for a sufficient continuous length of time so as to allow an
573 average reader to observe the notice and read and comprehend the
574 entire content of the notice and the agenda. Unless a unit owner
575 waives in writing the right to receive notice of the annual
576 meeting, such notice must be hand delivered, mailed, or
577 electronically transmitted to each unit owner. Notice for
578 meetings and notice for all other purposes must be mailed to
579 each unit owner at the address last furnished to the association
580 by the unit owner, or hand delivered to each unit owner.

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581 However, if a unit is owned by more than one person, the
582 association must provide notice to the address that the
583 developer identifies for that purpose and thereafter as one or
584 more of the owners of the unit advise the association in
585 writing, or if no address is given or the owners of the unit do
586 not agree, to the address provided on the deed of record. An
587 officer of the association, or the manager or other person
588 providing notice of the association meeting, must provide an
589 affidavit or United States Postal Service certificate of
590 mailing, to be included in the official records of the
591 association affirming that the notice was mailed or hand
592 delivered in accordance with this provision.

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

600 a. At least 60 days before a scheduled election, the
601 association shall mail, deliver, or electronically transmit, by
602 separate association mailing or included in another association
603 mailing, delivery, or transmission, including regularly
604 published newsletters, to each unit owner entitled to a vote, a
605 first notice of the date of the election. A unit owner or other
606 eligible person desiring to be a candidate for the board must
607 give written notice of his or her intent to be a candidate to
608 the association at least 40 days before a scheduled election.
609 Together with the written notice and agenda as set forth in

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610 subparagraph 3., the association shall mail, deliver, or
611 electronically transmit a second notice of the election to all
612 unit owners entitled to vote, together with a ballot that lists
613 all candidates. Upon request of a candidate, an information
614 sheet, no larger than 8 1/2 inches by 11 inches, which must be
615 furnished by the candidate at least 35 days before the election,
616 must be included with the mailing, delivery, or transmission of
617 the ballot, with the costs of mailing, delivery, or electronic
618 transmission and copying to be borne by the association. The
619 association is not liable for the contents of the information
620 sheets prepared by the candidates. In order to reduce costs, the
621 association may print or duplicate the information sheets on
622 both sides of the paper. The division shall by rule establish
623 voting procedures consistent with this sub-subparagraph,
624 including rules establishing procedures for giving notice by
625 electronic transmission and rules providing for the secrecy of
626 ballots. Elections shall be decided by a plurality of ballots
627 cast. There is no quorum requirement; however, at least 20
628 percent of the eligible voters must cast a ballot in order to
629 have a valid election. A unit owner may not permit any other
630 person to vote his or her ballot, and any ballots improperly
631 cast are invalid. A unit owner who violates this provision may
632 be fined by the association in accordance with s. 718.303. A
633 unit owner who needs assistance in casting the ballot for the
634 reasons stated in s. 101.051 may obtain such assistance. The
635 regular election must occur on the date of the annual meeting.
636 Notwithstanding this sub-subparagraph, an election is not
637 required unless more candidates file notices of intent to run or
638 are nominated than board vacancies exist.

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639 b. Within 90 days after being elected or appointed to the
640 board of an association of a residential condominium, each newly
641 elected or appointed director shall certify in writing to the
642 secretary of the association that he or she has read the
643 association's declaration of condominium, articles of
644 incorporation, bylaws, and current written policies; that he or
645 she will work to uphold such documents and policies to the best
646 of his or her ability; and that he or she will faithfully
647 discharge his or her fiduciary responsibility to the
648 association's members. In lieu of this written certification,
649 within 90 days after being elected or appointed to the board,
650 the newly elected or appointed director may submit a certificate
651 of having satisfactorily completed the educational curriculum
652 administered by a division-approved condominium education
653 provider within 1 year before or 90 days after the date of
654 election or appointment. The written certification or
655 educational certificate is valid and does not have to be
656 resubmitted as long as the director serves on the board without
657 interruption. A director of an association of a residential
658 condominium who fails to timely file the written certification
659 or educational certificate is suspended from service on the
660 board until he or she complies with this sub-subparagraph. The
661 board may temporarily fill the vacancy during the period of
662 suspension. The secretary shall cause the association to retain
663 a director's written certification or educational certificate
664 for inspection by the members for 5 years after a director's
665 election or the duration of the director's uninterrupted tenure,
666 whichever is longer. Failure to have such written certification
667 or educational certificate on file does not affect the validity

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668 of any board action.

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

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

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

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

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

695 9. Unless otherwise provided in the bylaws, any vacancy
696 occurring on the board before the expiration of a term may be

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

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

715
716 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
717 association of 10 or fewer units may, by affirmative vote of a
718 majority of the total voting interests, provide for different
719 voting and election procedures in its bylaws, which may be by a
720 proxy specifically delineating the different voting and election
721 procedures. The different voting and election procedures may
722 provide for elections to be conducted by limited or general
723 proxy.

724 (j) *Recall of board members.*—Subject to s. 718.301, any
725 member of the board of administration may be recalled and

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726 removed from office with or without cause by the vote or
727 agreement in writing by a majority of all the voting interests.
728 A special meeting of the unit owners to recall a member or
729 members of the board of administration may be called by 10
730 percent of the voting interests giving notice of the meeting as
731 required for a meeting of unit owners, and the notice shall
732 state the purpose of the meeting. Electronic transmission may
733 not be used as a method of giving notice of a meeting called in
734 whole or in part for this purpose.

735 1. If the recall is approved by a majority of all voting
736 interests by a vote at a meeting, the recall will be effective
737 as provided in this paragraph. The board shall duly notice and
738 hold a board meeting within 5 full business days after the
739 adjournment of the unit owner meeting to recall one or more
740 board members. ~~At the meeting, the board shall either certify~~
741 ~~the recall, in which case~~ Such member or members shall be
742 recalled effective immediately and shall turn over to the board
743 within 10 ~~5~~ full business days after the vote any and all
744 records and property of the association in their possession, ~~or~~
745 ~~shall proceed as set forth in subparagraph 3.~~

746 2. If the proposed recall is by an agreement in writing by
747 a majority of all voting interests, the agreement in writing or
748 a copy thereof shall be served on the association by certified
749 mail or by personal service in the manner authorized by chapter
750 48 and the Florida Rules of Civil Procedure. The board of
751 administration shall duly notice and hold a meeting of the board
752 within 5 full business days after receipt of the agreement in
753 writing. ~~At the meeting, the board shall either certify the~~
754 ~~written agreement to recall a member or members of the board, in~~

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755 ~~which case such member or members shall be recalled effective~~
756 ~~immediately and shall turn over to the board within 5 full~~
757 ~~business days any and all records and property of the~~
758 ~~association in their possession, or proceed as described in~~
759 ~~subparagraph 3.~~

760 ~~3. If the board determines not to certify the written~~
761 ~~agreement to recall a member or members of the board, or does~~
762 ~~not certify the recall by a vote at a meeting, The board shall,~~
763 ~~within 5 full business days after the meeting, file with the~~
764 ~~division a petition for arbitration pursuant to the procedures~~
765 ~~in s. 718.1255. For the purposes of this section, the unit~~
766 ~~owners who voted at the meeting or who executed the agreement in~~
767 ~~writing shall constitute one party under the petition for~~
768 ~~arbitration. If the arbitrator certifies the recall as to any~~
769 ~~member or members of the board, the recall will be effective~~
770 ~~upon mailing of the final order of arbitration to the~~
771 ~~association. If the association fails to comply with the order~~
772 ~~of the arbitrator, the division may take action pursuant to s.~~
773 ~~718.501. Any member or members so recalled shall deliver to the~~
774 ~~board any and all records of the association in their possession~~
775 ~~within 5 full business days after the effective date of the~~
776 ~~recall.~~

777 ~~3.4.~~ 3.4. If the board fails to duly notice and hold a board
778 meeting within 5 full business days after service of an
779 agreement in writing or within 5 full business days after the
780 adjournment of the unit owner recall meeting, the recall shall
781 be deemed effective and the board members so recalled shall
782 ~~immediately~~ turn over to the board within 10 full business days
783 after the vote any and all records and property of the

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784 association.

785 ~~4.5.~~ If the board fails to duly notice and hold the
786 required meeting or fails to file the required petition, the
787 unit owner representative may file a petition pursuant to s.
788 718.1255 challenging the board's failure to act. The petition
789 must be filed within 60 days after the expiration of the
790 applicable 5-full-business-day period. The review of a petition
791 under this subparagraph is limited to the sufficiency of service
792 on the board and the facial validity of the written agreement or
793 ballots filed.

794 ~~5.6.~~ If a vacancy occurs on the board as a result of a
795 recall or removal and less than a majority of the board members
796 are removed, the vacancy may be filled by the affirmative vote
797 of a majority of the remaining directors, notwithstanding any
798 provision to the contrary contained in this subsection. If
799 vacancies occur on the board as a result of a recall and a
800 majority or more of the board members are removed, the vacancies
801 shall be filled in accordance with procedural rules to be
802 adopted by the division, which rules need not be consistent with
803 this subsection. The rules must provide procedures governing the
804 conduct of the recall election as well as the operation of the
805 association during the period after a recall but before the
806 recall election.

807 ~~6.7.~~ A board member who has been recalled may file a
808 petition pursuant to s. 718.1255 challenging the validity of the
809 recall. The petition must be filed within 60 days after the
810 recall ~~is deemed certified~~. The association and the unit owner
811 representative shall be named as the respondents.

812 ~~7.8.~~ The division may not accept for filing a recall

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813 petition, whether filed pursuant to subparagraph 1.,
814 subparagraph 2., subparagraph 4. ~~5.~~, or subparagraph 6. ~~7.~~ and
815 ~~regardless of whether the recall was certified,~~ when there are
816 60 or fewer days until the scheduled reelection of the board
817 member sought to be recalled or when 60 or fewer days have
818 elapsed since the election of the board member sought to be
819 recalled.

820 (p) Service providers; conflicts of interest.—An
821 association may not employ or contract with any service provider
822 that is owned or operated by a board member or any person who
823 has a financial relationship with a board member.

824 Section 3. Subsection (4) of section 718.1255, Florida
825 Statutes, is amended to read:

826 718.1255 Alternative dispute resolution; voluntary
827 mediation; mandatory nonbinding arbitration; legislative
828 findings.—

829 (4) MANDATORY NONBINDING ARBITRATION AND MEDIATION OF
830 DISPUTES.—The Division of Florida Condominiums, Timeshares, and
831 Mobile Homes of the Department of Business and Professional
832 Regulation may ~~shall~~ employ full-time attorneys to act as
833 arbitrators to conduct the arbitration hearings provided by this
834 chapter. The division may also certify attorneys who are not
835 employed by the division to act as arbitrators to conduct the
836 arbitration hearings provided by this chapter ~~section~~. No person
837 may be employed by the department as a full-time arbitrator
838 unless he or she is a member in good standing of The Florida
839 Bar. A person may only be certified by the division to act as an
840 arbitrator if he or she has been a member in good standing of
841 The Florida Bar for at least 5 years and has mediated or

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842 arbitrated at least 10 disputes involving condominiums in this
843 state during the 3 years immediately preceding the date of
844 application, mediated or arbitrated at least 30 disputes in any
845 subject area in this state during the 3 years immediately
846 preceding the date of application, or attained board
847 certification in real estate law or condominium and planned
848 development law from The Florida Bar. Arbitrator certification
849 is valid for 1 year. An arbitrator who does not maintain the
850 minimum qualifications for initial certification may not have
851 his or her certification renewed. The department may not enter
852 into a legal services contract for an arbitration hearing under
853 this chapter with an attorney who is not a certified arbitrator
854 unless a certified arbitrator is not available within 50 miles
855 of the dispute. The department shall adopt rules of procedure to
856 govern such arbitration hearings including mediation incident
857 thereto. The decision of an arbitrator shall be final; however,
858 a decision shall not be deemed final agency action. Nothing in
859 this provision shall be construed to foreclose parties from
860 proceeding in a trial de novo unless the parties have agreed
861 that the arbitration is binding. If judicial proceedings are
862 initiated, the final decision of the arbitrator shall be
863 admissible in evidence in the trial de novo.

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

870 (b) The petition must recite, and have attached thereto,

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871 supporting proof that the petitioner gave the respondents:

872 1. Advance written notice of the specific nature of the
873 dispute;

874 2. A demand for relief, and a reasonable opportunity to
875 comply or to provide the relief; and

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

879

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

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

893 (d) Upon determination by the division that a dispute
894 exists and that the petition substantially meets the
895 requirements of paragraphs (a) and (b) and any other applicable
896 rules, the division shall assign or enter into a contract with
897 an arbitrator and serve a copy of the petition ~~shall be served~~
898 ~~by the division~~ upon all respondents. The arbitrator shall
899 conduct a hearing within 30 days after being assigned or

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900 entering into a contract unless the petition is withdrawn or a
901 continuance is granted for good cause shown.

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

911 (f) Upon referral of a case to mediation, the parties must
912 select a mutually acceptable mediator. To assist in the
913 selection, the arbitrator shall provide the parties with a list
914 of both volunteer and paid mediators that have been certified by
915 the division under s. 718.501. If the parties are unable to
916 agree on a mediator within the time allowed by the arbitrator,
917 the arbitrator shall appoint a mediator from the list of
918 certified mediators. If a case is referred to mediation, the
919 parties shall attend a mediation conference, as scheduled by the
920 parties and the mediator. If any party fails to attend a duly
921 noticed mediation conference, without the permission or approval
922 of the arbitrator or mediator, the arbitrator must impose
923 sanctions against the party, including the striking of any
924 pleadings filed, the entry of an order of dismissal or default
925 if appropriate, and the award of costs and attorneys' fees
926 incurred by the other parties. Unless otherwise agreed to by the
927 parties or as provided by order of the arbitrator, a party is
928 deemed to have appeared at a mediation conference by the

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929 physical presence of the party or its representative having full
930 authority to settle without further consultation, provided that
931 an association may comply by having one or more representatives
932 present with full authority to negotiate a settlement and
933 recommend that the board of administration ratify and approve
934 such a settlement within 5 days from the date of the mediation
935 conference. The parties shall share equally the expense of
936 mediation, unless they agree otherwise.

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

941 (h) Mediation proceedings must generally be conducted in
942 accordance with the Florida Rules of Civil Procedure, and these
943 proceedings are privileged and confidential to the same extent
944 as court-ordered mediation. Persons who are not parties to the
945 dispute are not allowed to attend the mediation conference
946 without the consent of all parties, with the exception of
947 counsel for the parties and corporate representatives designated
948 to appear for a party. If the mediator declares an impasse after
949 a mediation conference has been held, the arbitration proceeding
950 terminates, unless all parties agree in writing to continue the
951 arbitration proceeding, in which case the arbitrator's decision
952 shall be binding or nonbinding, as agreed upon by the parties;
953 in the arbitration proceeding, the arbitrator shall not consider
954 any evidence relating to the unsuccessful mediation except in a
955 proceeding to impose sanctions for failure to appear at the
956 mediation conference. If the parties do not agree to continue
957 arbitration, the arbitrator shall enter an order of dismissal,

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958 and either party may institute a suit in a court of competent
959 jurisdiction. The parties may seek to recover any costs and
960 attorneys' fees incurred in connection with arbitration and
961 mediation proceedings under this section as part of the costs
962 and fees that may be recovered by the prevailing party in any
963 subsequent litigation.

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

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

981 (k) The arbitration decision shall be rendered within 30
982 days after the hearing and presented to the parties in writing.
983 An arbitration decision is final in those disputes in which the
984 parties have agreed to be bound. An arbitration decision is also
985 final if a complaint for a trial de novo is not filed in a court
986 of competent jurisdiction in which the condominium is located

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987 within 30 days. The right to file for a trial de novo entitles
988 the parties to file a complaint in the appropriate trial court
989 for a judicial resolution of the dispute. The prevailing party
990 in an arbitration proceeding shall be awarded the costs of the
991 arbitration and reasonable attorney's fees in an amount
992 determined by the arbitrator. Such an award shall include the
993 costs and reasonable attorney's fees incurred in the arbitration
994 proceeding as well as the costs and reasonable attorney's fees
995 incurred in preparing for and attending any scheduled mediation.
996 An arbitrator's failure to render a written decision within 30
997 days after the hearing may result in the cancellation of his or
998 her arbitration certification.

999 (l) The party who files a complaint for a trial de novo
1000 shall be assessed the other party's arbitration costs, court
1001 costs, and other reasonable costs, including attorney's fees,
1002 investigation expenses, and expenses for expert or other
1003 testimony or evidence incurred after the arbitration hearing if
1004 the judgment upon the trial de novo is not more favorable than
1005 the arbitration decision. If the judgment is more favorable, the
1006 party who filed a complaint for trial de novo shall be awarded
1007 reasonable court costs and attorney's fees.

1008 (m) Any party to an arbitration proceeding may enforce an
1009 arbitration award by filing a petition in a court of competent
1010 jurisdiction in which the condominium is located. A petition may
1011 not be granted unless the time for appeal by the filing of a
1012 complaint for trial de novo has expired. If a complaint for a
1013 trial de novo has been filed, a petition may not be granted with
1014 respect to an arbitration award that has been stayed. If the
1015 petition for enforcement is granted, the petitioner shall

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1016 recover reasonable attorney's fees and costs incurred in
1017 enforcing the arbitration award. A mediation settlement may also
1018 be enforced through the county or circuit court, as applicable,
1019 and any costs and fees incurred in the enforcement of a
1020 settlement agreement reached at mediation must be awarded to the
1021 prevailing party in any enforcement action.

1022 Section 4. Section 718.129, Florida Statutes, is created to
1023 read:

1024 718.129 Fraudulent voting activities related to association
1025 elections; penalties.—The following acts constitute fraudulent
1026 voting activities related to association elections:

1027 (1) A person who willfully, knowingly, and falsely swears
1028 or affirms to an oath or affirmation, or procures another person
1029 to willfully, knowingly, and falsely swear or affirm to an oath
1030 or affirmation, in connection with or arising out of voting or
1031 casting a ballot in an association election commits a felony of
1032 the third degree, punishable as provided in s. 775.082, s.
1033 775.083, or s. 775.084.

1034 (2) A person who willfully and knowingly perpetrates or
1035 attempts to perpetrate, or willfully and knowingly aids another
1036 person in perpetrating or attempting to perpetrate, fraud in
1037 connection with or arising out of a vote or ballot cast, to be
1038 cast, or attempted to be cast by an elector in an association
1039 election commits a felony of the third degree, punishable as
1040 provided in s. 775.082, s. 775.083, or s. 775.084.

1041 (3) A person who willfully, knowingly, and fraudulently
1042 changes or attempts to change a vote or ballot cast, to be cast,
1043 or attempted to be cast by an elector in an association election
1044 to prevent such elector from voting or casting a ballot as he or

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1045 she intended in such election commits a felony of the third
1046 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1047 775.084.

1048 (4) (a) A person who willfully and knowingly aids or advises
1049 another person in committing a violation of this section shall
1050 be punished as if he or she had committed the violation.

1051 (b) A person who willfully and knowingly agrees, conspires,
1052 combines, or confederates with another person in committing a
1053 violation of this section shall be punished as if he or she had
1054 committed the violation.

1055 (c) A person who willfully and knowingly aids or advises a
1056 person who has committed a violation of this section in avoiding
1057 or escaping detection, arrest, trial, or punishment shall be
1058 punished as if he or she had committed the violation. This
1059 paragraph does not prohibit a member of The Florida Bar from
1060 giving legal advice to a client.

1061 Section 5. Subsection (5) is added to section 718.3025,
1062 Florida Statutes, to read:

1063 718.3025 Agreements for operation, maintenance, or
1064 management of condominiums; specific requirements.—

1065 (5) A party contracting to provide maintenance or
1066 management services, or a board member of such party, may not:

1067 (a) Own 50 percent or more of the units in the condominium.

1068 (b) Purchase a property subject to a lien by the
1069 association.

1070 Section 6. Section 718.3027, Florida Statutes, is created
1071 to read:

1072 718.3027 Conflicts of interest.—

1073 (1) Directors and officers of a board of an association

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1074 that is not a timeshare condominium association, and the
1075 relatives of such directors and officers, must disclose to the
1076 board any activity that may reasonably be construed to be a
1077 conflict of interest. A rebuttable presumption of a conflict of
1078 interest exists if any of the following occurs without prior
1079 notice, as required in subsection (4):

1080 (a) Any director, officer, or relative of any director or
1081 officer enters into a contract for goods or services with the
1082 association.

1083 (b) Any director, officer, or relative of any director or
1084 officer holds an interest in a corporation, limited liability
1085 corporation, partnership, limited liability partnership, or
1086 other business entity that conducts business with the
1087 association or proposes to enter into a contract or other
1088 transaction with the association.

1089 (2) If any director, officer, or relative of any director
1090 or officer proposes to engage in an activity that is a conflict
1091 of interest, as described in subsection (1), the proposed
1092 activity must be listed on, and all contracts and transactional
1093 documents related to the proposed activity must be attached to,
1094 the meeting agenda. If the board votes against the proposed
1095 activity, the director, officer, or relative must notify the
1096 board in writing of his or her intention not to pursue the
1097 proposed activity, or the director or officer shall withdraw
1098 from office. If the board finds that any officer or director has
1099 violated this subsection, the board must immediately remove the
1100 officer or director from office. The vacancy shall be filled
1101 according to general law.

1102 (3) Any director, officer, or relative of any director or

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1103 officer who is a party to, or has an interest in, an activity
1104 that is a possible conflict of interest, as described in
1105 subsection (1), may attend the meeting at which the activity is
1106 considered by the board, and is authorized to make a
1107 presentation to the board regarding the activity. After the
1108 presentation, the director, officer, or relative must leave the
1109 meeting during the discussion of, and the vote on, the activity.
1110 Any director or officer who is a party to, or has an interest
1111 in, the activity must recuse himself or herself from the vote.

1112 (4) The board must provide notice to unit owners of a
1113 possible conflict of interest, as described in subsection (1),
1114 in accordance with the procedures in s. 718.112(2)(c). All
1115 contracts and transactional documents related to the possible
1116 conflict of interest must be attached to, and made available
1117 with, the meeting agenda.

1118 (5) Any contract entered into between any director,
1119 officer, or relative of any director or officer and the
1120 association that is not properly noticed before consideration in
1121 accordance with the procedures in s. 718.112(2)(c) is null and
1122 void.

1123 Section 7. Subsection (5) of section 718.303, Florida
1124 Statutes, is amended, and subsection (8) is added to that
1125 section, to read:

1126 718.303 Obligations of owners and occupants; remedies.—

1127 (5) An association may suspend the voting rights of a unit
1128 owner or member due to nonpayment of any fee, fine, or other
1129 monetary obligation due to the association which is more than
1130 \$1,000 and more than 90 days delinquent. Proof of such
1131 obligation must be provided to the unit owner or member 30 days

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1132 before such suspension takes effect. A voting interest or
1133 consent right allocated to a unit owner or member which has been
1134 suspended by the association shall be subtracted from the total
1135 number of voting interests in the association, which shall be
1136 reduced by the number of suspended voting interests when
1137 calculating the total percentage or number of all voting
1138 interests available to take or approve any action, and the
1139 suspended voting interests shall not be considered for any
1140 purpose, including, but not limited to, the percentage or number
1141 of voting interests necessary to constitute a quorum, the
1142 percentage or number of voting interests required to conduct an
1143 election, or the percentage or number of voting interests
1144 required to approve an action under this chapter or pursuant to
1145 the declaration, articles of incorporation, or bylaws. The
1146 suspension ends upon full payment of all obligations currently
1147 due or overdue the association. The notice and hearing
1148 requirements under subsection (3) do not apply to a suspension
1149 imposed under this subsection.

1150 (8) A receiver may not exercise voting rights of any unit
1151 owner whose unit is placed in receivership for the benefit of
1152 the association pursuant to this chapter.

1153 Section 8. Subsection (5) of section 718.5012, Florida
1154 Statutes, is amended to read:

1155 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1156 have the powers that are necessary to carry out the duties of
1157 his or her office, including the following specific powers:

1158 (5) To monitor and review procedures and disputes
1159 concerning condominium elections or meetings, including, but not
1160 limited to, recommending that the division pursue enforcement

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1161 action in any manner where there is reasonable cause to believe
1162 that election misconduct has occurred and reviewing secret
1163 ballots cast at a vote of the association.

1164 Section 9. Section 718.71, Florida Statutes, is created to
1165 read:

1166 718.71 Financial reporting.—An association shall provide an
1167 annual report to the department containing the names of all of
1168 the financial institutions with which it maintains accounts, and
1169 a copy of such report may be obtained from the department upon
1170 written request of any association member.

1171 Section 10. This act shall take effect July 1, 2017.