



Careers & Competition Subcommittee

**Tuesday, January 23, 2018
8:00 AM – 11:00 AM
Webster Hall (212 Knott)**

Meeting Packet

**Richard Corcoran
Speaker**

**Halsey Beshears
Chair**



The Florida House of Representatives

Commerce Committee

Careers & Competition Subcommittee

Richard Corcoran
Speaker

Halsey Beshears
Chair

AGENDA

Tuesday, January 23, 2018

Webster Hall (212 Knott)

8:00 AM – 11:00 AM

- I. Call to Order & Roll Call
- II. Welcoming Remarks
- III. Consideration of the following bills(s):
 - CS/HB 725 by *Rep. Williamson*
Permit Fees
 - HB 841 by *Rep. Moraitis*
Community Associations
 - HB 1231 by *Rep. Trumbull*
Sales Tax Refund for Eligible Job Training Organizations
 - HB 1251 by *Rep. Porter*
Florida Construction Workforce Task Force
 - HB 1285 by *Rep. Albritton*
Florida Business Corporation Act
- IV. Adjournment

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Careers & Competition Subcommittee

Start Date and Time: Tuesday, January 23, 2018 08:00 am
End Date and Time: Tuesday, January 23, 2018 11:00 am
Location: Webster Hall (212 Knott)
Duration: 3.00 hrs

Consideration of the following bill(s):

CS/HB 725 Permit Fees by Local, Federal & Veterans Affairs Subcommittee, Williamson
HB 841 Community Associations by Moraitis
HB 1231 Sales Tax Refund for Eligible Job Training Organizations by Trumbull
HB 1251 Florida Construction Workforce Task Force by Porter
HB 1285 Florida Business Corporation Act by Albritton

Pursuant to rule 7.11, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Monday, January 22, 2018.

By request of Chair Beshears, all Careers & Competition Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, January 22, 2018.

NOTICE FINALIZED on 01/19/2018 4:00PM by Rigas.Amanda

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 725 Permit Fees
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Williamson
TIED BILLS: IDEN./SIM. **BILLS:** SB 1144

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	13 Y, 1 N, As CS	Renner	Miller
2) Careers & Competition Subcommittee		Brackett <i>DB</i>	Anstead <i>La</i>
3) Government Accountability Committee			

SUMMARY ANALYSIS

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act (Act)." The purpose and intent of the Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Florida Building Code must be applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction. It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare. Under current law, each county has the authority to enforce the Florida Building Code, issue building permits, and post each type of building permit application on its website.

The bill requires the governing body of a county and a municipality to post its building permit and inspection fee schedules on its website. The bill also requires that before making any adjustment to a fee schedule, a governing body of a local government must complete and publish a building permit and inspection utilization report and post the report on its website. The report must be updated annually on the website and be easily accessible to the public.

The bill has an indeterminate fiscal impact on local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

The Florida Building Code

In 1974, Florida adopted legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met. Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes, as they desired.¹

In 1992, Hurricane Andrew demonstrated that Florida's system of local codes did not work. Hurricane Andrew easily destroyed those structures that were allegedly built according to the strongest code. After the state filled the property insurer void left by failed and fleeing private insurance companies, and the federal government poured billions of dollars of aid into disaster areas, the Governor appointed a study commission to review the system of local codes and make recommendations for modernizing the system. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhancing the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Florida Building Code, and that first edition replaced all local codes on March 1, 2002.² The current edition of the Florida Building Code is the 6th edition, which is referred to as the 2017 Florida Building Code.³

The Florida Building Commission was statutorily created to implement the Code. The Commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.⁴ The Commission reviews the International I-Codes and the National Electric Code every three years to determine if the Florida Building Code needs to be updated.⁵

Enforcement of the Florida Building Code

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.⁶

Every local government entity must enforce the Florida Building Code and to issue building permits.⁷ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government entity, or from such persons as may by resolution be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the board.⁸

¹ The Florida Building Commission Report to the 2006 Legislature, *Florida Department of Community Affairs*, p. 4, available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Jan. 20, 2018).

² *Id.* & DBPR, *Overview of the Florida Building Code*, <https://www.floridahousing.org/.../aboutflorida/.../overview-of-the-florida-building-commission-and-standard.pptx> (last visited on Jan. 20, 2018).

³ Florida Building Commission Homepage, <https://floridabuilding.org/c/default.aspx> (last visited Jan. 20, 2018).

⁴ s. 553.74, F.S.

⁵ *Id.*

⁶ *See* s. 553.72(1), F.S.

⁷ ss. 125.56(1), 125.01(1)(bb), & 553.80(1), F.S.

⁸ *See* s. 125.56(4)(a), & 553.79(1), F.S.

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.⁹ A building official is a local government employee who supervises building code activities, including plans review, enforcement, and inspection.¹⁰ Any construction work that requires a building permit also requires plans and inspections by the local building official to ensure the work complies with the Florida Building Code. The Florida Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections. In addition to required inspections, a local building official may require other inspections of any work to ensure it complies with the Florida Building Code.¹¹

Local Government Fees

Each local government entity may provide a schedule of reasonable inspection fees¹² in order to defer the costs of inspection and enforcement of the Building Code.¹³ A local government entity that issues building permits must post each type of building permit application on its website. Completed applications must be submitted electronically to the local enforcement agency building department, which must provide accepted methods of electronic submission. However, payments, attachments, or drawings required as part of the permit application may be submitted in person in a nonelectronic format, at the discretion of the building official.¹⁴

A local government entity's fees must be used solely for carrying out that local government entity's responsibilities in enforcing the Florida Building Code.¹⁵ The basis for the fee structure must relate to the level of service provided by the local government.¹⁶ Fees charged must be consistently applied.¹⁷ Local enforcement agencies, independent special districts,¹⁸ or dependent special districts¹⁹ may not require additional fees, charges, or expenses for:

- Providing proof of licensure pursuant to ch. 489, F.S.;
- Recording or filing a license issued; and
- Providing, recording, or filing evidence of workers' compensation insurance coverage required by ch. 440, F.S.²⁰

⁹ Section 202 of the 6th edition of the Florida Building Code (Building).

¹⁰ s. 468.603(1), F.S.

¹¹ Section 110.1, 107, & 110.3 of the 6th edition of the Florida Building Code (Building).

¹² See, e.g., Broward County website on *Impact and Concurrency Fees*, available at <http://www.broward.org/Planning/Development/FAQs/Pages/Impact-and-Concurrency-Fees.aspx> (accessed 12/27/2017).

¹³ ss. 125.56(2), 166.222, 553.80(7) F.S.

¹⁴ s. 125.56(4)(b), & 553.79(1)(b), F.S.

¹⁵ The phrase "enforcing the Building Code" includes the direct costs and reasonable indirect costs associated with review of building plans, building inspections, reinspections, and building permit processing; building code enforcement; and fire inspections associated with new construction. See s. 553.80(7)(a), F.S.

¹⁶ s. 553.80(7), F.S.

¹⁷ *Id.*

¹⁸ s. 189.012(3), F.S., defines an "independent special district" as having a governing board comprised of members which are not identical in membership to, nor all appointed by, nor any removable at will by, the governing body of a single county or municipality, and the district budget cannot be affirmed or vetoed by the governing body of a single county or municipality. Additionally, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

¹⁹ A dependent special district has a governing board comprised of members which are identical in membership to, or all appointed by or any removable at will by, the governing body of a single county or municipality, or the district budget may be affirmed or vetoed by the governing body of a single county or municipality. See s. 189.012(2), F.S. A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. See *2017-2018 Local Gov't Formation Manual* at pg. 64, available at <http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911>

²⁰ s. 553.80(7)(d), F.S.

A “local enforcement agency” means the agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for the design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.²¹

Fire Prevention Code

Florida’s fire prevention and control law, ch. 633, F.S., designates the state’s Chief Financial Officer as the State Fire Marshal. The State Fire Marshal, through the Division of State Fire Marshal within the Department of Financial Services (DFS), must adopt, by rule, the Florida Fire Prevention Code (Florida Fire Code), which contains all fire safety laws and rules that pertain to the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such fire safety laws and rules. A new edition is adopted every three years.²²

State law requires all municipalities, counties, and special districts with fire safety responsibilities to enforce the Fire Code as the minimum fire prevention code to operate uniformly among local governments and in conjunction with the Florida Building Code.²³

The chiefs of local government fire service providers (or their designees) are authorized to enforce ch. 633, F.S., and rules within their respective jurisdictions as agents of those jurisdictions, not agents of the State Fire Marshal.²⁴ Each county, municipality, and special district with fire safety enforcement responsibilities is also required to employ or contract with a fire safety inspector (certified by the State Fire Marshal) to conduct all fire safety inspections required by law.²⁵

Effect of Proposed Changes

The bill requires the governing body of a county and a municipality to post its permit and inspection fee schedules on its website.

The bill also provides that before making any adjustment to a fee schedule, the governing body of a local government is required to publish a building permit and inspection utilization report and post it on the local government’s website. The report must be updated annually on the website and easily accessible to the public. The report must include the following:

- Direct and indirect costs incurred by the local government to implement the Florida Building Code, including costs related to the review of:
 - Building plans;
 - Building inspections;
 - Building re-inspections;
 - Building permit processing;
 - Building code enforcement; and
 - Building fire inspections.
- Number of building permits requested;
- Number of building permits issued;
- Number of building inspections and re-inspections conducted;
- Number of personnel employed by the local government to implement the Florida Building Code, issued by building permits, and conduct inspections;

²¹ s. 553.71(5), F.S.

²² s. 633.202(1), F.S.

²³ ss. 633.108 and 633.208, F.S.

²⁴ s. 633.118, F.S.

²⁵ s. 633.216(1), F.S.

- Salary related employee benefit costs incurred by the local government to implement the Florida Building Code, issue building permits, and conduct inspections;
- Revenue derived from fees pursuant to this section;
- Revenue derived from fines pursuant to this section;
- Investment earnings derived from the local government's investment of revenue derived from fees and fines pursuant to this section;
- Balances carried forward by the local government pursuant to this section; and
- Balances refunded by the local government pursuant to this section.

B. SECTION DIRECTORY:

- Section 1 Amends s. 125.56, F.S., requiring the governing body of a county to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website.
- Section 2 Amends s. 166.222, F.S., requiring the governing body of a municipality to post its permit and inspection fee schedules and a link to an annual building permit and inspection report on its website.
- Section 3 Amends s. 553.80, F.S., requiring a governing body of a local government to publish a report and post it on the local government's website; providing reporting requirements.
- Section 4 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
Indeterminate. Some local governments that do not currently post any documents on their website may have to make initial expenditures of funds to revise the local government's existing website to include the ability to post permit and inspection fee schedules as well as a report on the local government's website or use document sharing products such as DropBox or GoogleDocs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Requiring a local government to post its permit and inspection fee schedules as well as a building permit and inspection utilization report on its website will help applicants for building permits assess the associated costs of the permit.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18 of the Florida Constitution may apply because this bill requires local governments to revise their websites and post their permit and inspection fee schedules with a link to the building permit and inspection utilization report on their websites. This may result in additional expenditures to comply with the statute. However, an exemption may apply because the fiscal impact is likely to be insignificant since local governments must post each type of building permit application on their websites.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Sections 1 and 2 of the bill require each local government to include on its website a link to the building permit and inspection utilization report required under s. 553.80(7), F.S. However, section 3 of the bill requires publication of such a report before the local government makes any adjustment to a fee schedule. The bill is not clear as to whether a local government is required to prepare such a report, and update it annually, if the local government makes no adjustments to a fee schedule.

Section 3 of the bill requires that the building permit and inspection utilization report must include the direct and indirect costs incurred by the local government to implement the Florida Building Code, which currently includes costs related to the review of building fire inspections. However, building fire inspections are performed by fire safety inspectors to ensure compliance with the Florida Fire Code. It is unclear whether the bill intends to include publication of fees associated with fire inspections under the Florida Fire Code and costs related to the Fire Code inspections.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment adds the permit and inspection fee schedule requirements in s. 125.56, F.S., which only applies to a board of commissioners of a county, to municipalities with authority under s. 166.222, F.S., to avoid confusion as to the applicability of the new requirements to non-county local governments.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Subcommittee.

1 A bill to be entitled
 2 An act relating to permit fees; amending ss. 125.56
 3 and 166.222, F.S.; requiring the governing body of a
 4 county and of a municipality to post its permit and
 5 inspection fee schedules and a link to an annual
 6 building permit and inspection utilization report on
 7 its website; amending s. 553.80, F.S.; requiring the
 8 governing body of a local government to publish such
 9 report and post it on its website; providing reporting
 10 requirements; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (c) is added to subsection (4) of
 15 section 125.56, Florida Statutes, to read:

16 125.56 Enforcement and amendment of the Florida Building
 17 Code and the Florida Fire Prevention Code; inspection fees;
 18 inspectors; etc.—

19 (4)

20 (c) The governing body of a county authorized under this
 21 section or s. 553.80 to issue fees shall post its permit and
 22 inspection fee schedules on its website with a link to the
 23 building permit and inspection utilization report required under
 24 s. 553.80(7).

25 Section 2. Section 166.222, Florida Statutes, is amended

26 to read:

27 166.222 Building code inspection fees.—

28 (1) The governing body of a municipality may provide a
 29 schedule of reasonable inspection fees in order to defer the
 30 costs of inspection and enforcement of the provisions of its
 31 building code.

32 (2) The governing body of a municipality authorized under
 33 s. 553.80 to issue fees shall post its permit and inspection fee
 34 schedules on its website with a link to the building permit and
 35 inspection utilization report required under s. 553.80(7).

36 Section 3. Subsection (7) of section 553.80, Florida
 37 Statutes, is amended to read:

38 553.80 Enforcement.—

39 (7) (a) The governing bodies of local governments may
 40 provide a schedule of reasonable fees, as authorized by s.
 41 125.56(2) or s. 166.222 and this section, for enforcing this
 42 part. These fees, and any fines or investment earnings related
 43 to the fees, shall be used solely for carrying out the local
 44 government's responsibilities in enforcing the Florida Building
 45 Code. When providing a schedule of reasonable fees, the total
 46 estimated annual revenue derived from fees, and the fines and
 47 investment earnings related to the fees, may not exceed the
 48 total estimated annual costs of allowable activities. Any
 49 unexpended balances shall be carried forward to future years for
 50 allowable activities or shall be refunded at the discretion of

51 | the local government. The basis for a fee structure for
 52 | allowable activities shall relate to the level of service
 53 | provided by the local government and shall include consideration
 54 | for refunding fees due to reduced services based on services
 55 | provided as prescribed by s. 553.791, but not provided by the
 56 | local government. Fees charged shall be consistently applied.

57 | 1.~~(a)~~ As used in this subsection, the phrase "enforcing
 58 | the Florida Building Code" includes the direct costs and
 59 | reasonable indirect costs associated with review of building
 60 | plans, building inspections, reinspections, and building permit
 61 | processing; building code enforcement; and fire inspections
 62 | associated with new construction. The phrase may also include
 63 | training costs associated with the enforcement of the Florida
 64 | Building Code and enforcement action pertaining to unlicensed
 65 | contractor activity to the extent not funded by other user fees.

66 | 2.~~(b)~~ The following activities may not be funded with fees
 67 | adopted for enforcing the Florida Building Code:

68 | a.1.~~1.~~ Planning and zoning or other general government
 69 | activities.

70 | b.2.~~2.~~ Inspections of public buildings for a reduced fee or
 71 | no fee.

72 | c.3.~~3.~~ Public information requests, community functions,
 73 | boards, and any program not directly related to enforcement of
 74 | the Florida Building Code.

75 | d.4.~~4.~~ Enforcement and implementation of any other local

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

76 ordinance, excluding validly adopted local amendments to the
 77 Florida Building Code and excluding any local ordinance directly
 78 related to enforcing the Florida Building Code as defined in
 79 subparagraph 1. paragraph (a).

80 3.(e) A local government shall use recognized management,
 81 accounting, and oversight practices to ensure that fees, fines,
 82 and investment earnings generated under this subsection are
 83 maintained and allocated or used solely for the purposes
 84 described in subparagraph 1. paragraph (a).

85 4.(d) The local enforcement agency, independent district,
 86 or special district may not require at any time, including at
 87 the time of application for a permit, the payment of any
 88 additional fees, charges, or expenses associated with:

89 a.1- Providing proof of licensure pursuant to chapter 489;

90 b.2- Recording or filing a license issued pursuant to this
 91 chapter; or

92 c.3- Providing, recording, or filing evidence of workers'
 93 compensation insurance coverage as required by chapter 440.

94 (b) Before making any adjustment to a fee schedule, the
 95 governing body of a local government shall publish a building
 96 permit and inspection utilization report and post it on the
 97 local government's website. The report shall be updated annually
 98 on such website and be easily accessible to the public. The
 99 report shall include:

100 1. Direct and indirect costs incurred by the local

101 government to implement the Florida Building Code, including
 102 costs related to the review of:

- 103 a. Building plans.
- 104 b. Building inspections.
- 105 c. Building reinspections.
- 106 d. Building permit processing.
- 107 e. Building code enforcement.
- 108 f. Building fire inspections.
- 109 2. Number of building permits requested.
- 110 3. Number of building permits issued.
- 111 4. Number of building inspections and reinspections
 112 conducted.
- 113 5. Number of personnel employed by the local government to
 114 implement the Florida Building Code, issue building permits, and
 115 conduct inspections.
- 116 6. Salary and related employee benefit costs incurred by
 117 the local government to implement the Florida Building Code,
 118 issue building permits, and conduct inspections.
- 119 7. Revenue derived from fees pursuant to s. 553.80(7).
- 120 8. Revenue derived from fines pursuant to s. 553.80(7).
- 121 9. Investment earnings derived from the local government's
 122 investment of revenue derived from fees and fines pursuant to s.
 123 533.80(7).
- 124 10. Balances carried forward by the local government
 125 pursuant to s. 553.80(7).

126 11. Balances refunded by the local government pursuant to
127 s. 553.80(7).

128 Section 4. This act shall take effect July 1, 2018.

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CAREERS AND COMPETITION SUBCOMMITTEE

**HB 725 by Rep. Williamson
PERMIT FEES**

**AMENDMENT SUMMARY
January 23, 2018**

Amendment 1 by Rep. Williamson (Strike-all amendment):

- Provides that the governing body of a local government with a schedule of reasonable fees must post its building permit and inspection utilization report on its website instead of posting a link to the report on its website.
- Provides that the governing body of a local government must post its building permit and inspection utilization report on its website by December 31, 2019.
- Provides that a governing body of a local government must amend its building permit and inspection utilization report before adjusting its fee schedule.
- Removes the provision that a building permit and inspection utilization report must include the costs related to the review of building fire inspections.



Amendment No. 1.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Careers & Competition
 2 Subcommittee

3 Representative Williamson offered the following:

4
 5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (c) is added to subsection (4) of
 8 section 125.56, Florida Statutes, to read:

9 125.56 Enforcement and amendment of the Florida Building
 10 Code and the Florida Fire Prevention Code; inspection fees;
 11 inspectors; etc.—

12 (4)

13 (c) Any county authorized under this section or s. 553.80
 14 to issue fees shall post its permit and inspection fee schedules
 15 and its inspection utilization report required under s.
 16 553.80(7) on its website.



Amendment No. 1.

17 Section 2. Section 166.222, Florida Statutes, is amended
18 to read:

19 166.222 Building code inspection fees.—

20 (1) The governing body of a municipality may provide a
21 schedule of reasonable inspection fees in order to defer the
22 costs of inspection and enforcement of the provisions of its
23 building code.

24 (2) The governing body of a municipality authorized under
25 s. 553.80 to issue fees shall post its permit and inspection fee
26 schedules and its inspection utilization report required under
27 s. 553.80(7) on its website.

28 Section 3. Subsection (7) of section 553.80, Florida
29 Statutes, is amended to read:

30 553.80 Enforcement.—

31 (7) (a) The governing bodies of local governments may
32 provide a schedule of reasonable fees, as authorized by s.
33 125.56(2) or s. 166.222 and this section, for enforcing this
34 part. These fees, and any fines or investment earnings related
35 to the fees, shall be used solely for carrying out the local
36 government's responsibilities in enforcing the Florida Building
37 Code. When providing a schedule of reasonable fees, the total
38 estimated annual revenue derived from fees, and the fines and
39 investment earnings related to the fees, may not exceed the
40 total estimated annual costs of allowable activities. Any
41 unexpended balances shall be carried forward to future years for



Amendment No. 1.

42 allowable activities or shall be refunded at the discretion of
43 the local government. The basis for a fee structure for
44 allowable activities shall relate to the level of service
45 provided by the local government and shall include consideration
46 for refunding fees due to reduced services based on services
47 provided as prescribed by s. 553.791, but not provided by the
48 local government. Fees charged shall be consistently applied.

49 ~~1.(a)~~ As used in this subsection, the phrase "enforcing
50 the Florida Building Code" includes the direct costs and
51 reasonable indirect costs associated with review of building
52 plans, building inspections, reinspections, and building permit
53 processing; building code enforcement; and fire inspections
54 associated with new construction. The phrase may also include
55 training costs associated with the enforcement of the Florida
56 Building Code and enforcement action pertaining to unlicensed
57 contractor activity to the extent not funded by other user fees.

58 ~~2.(b)~~ The following activities may not be funded with fees
59 adopted for enforcing the Florida Building Code:

60 ~~a.1.~~ Planning and zoning or other general government
61 activities.

62 ~~b.2.~~ Inspections of public buildings for a reduced fee or
63 no fee.

64 ~~c.3.~~ Public information requests, community functions,
65 boards, and any program not directly related to enforcement of
66 the Florida Building Code.

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Amendment No. 1.

67 ~~d.4.~~ Enforcement and implementation of any other local
68 ordinance, excluding validly adopted local amendments to the
69 Florida Building Code and excluding any local ordinance directly
70 related to enforcing the Florida Building Code as defined in
71 subparagraph 1. ~~paragraph (a).~~

72 ~~3.(e)~~ A local government shall use recognized management,
73 accounting, and oversight practices to ensure that fees, fines,
74 and investment earnings generated under this subsection are
75 maintained and allocated or used solely for the purposes
76 described in subparagraph 1. ~~paragraph (a).~~

77 ~~4.(d)~~ The local enforcement agency, independent district,
78 or special district may not require at any time, including at
79 the time of application for a permit, the payment of any
80 additional fees, charges, or expenses associated with:

81 ~~a.1.~~ Providing proof of licensure pursuant to chapter 489;

82 ~~b.2.~~ Recording or filing a license issued pursuant to this
83 chapter; or

84 ~~c.3.~~ Providing, recording, or filing evidence of workers'
85 compensation insurance coverage as required by chapter 440.

86 (b) By December 31, 2019, the governing body of a local
87 government with a schedule of reasonable fees shall post its
88 building permit and inspection utilization report on its
89 website. The report shall be based on the information available
90 in the most recently completed financial audit. Before making
91 any adjustment to the fee schedule, the governing body of a



Amendment No. 1.

92 local government shall amend its building permit and inspection
93 utilization report. The report shall include:

94 1. Direct and indirect costs incurred by the local
95 government to implement the Florida Building Code, including
96 costs related to the review of:

97 a. Building plans.

98 b. Building inspections.

99 c. Building reinspections.

100 d. Building permit processing.

101 e. Building code enforcement.

102 2. Number of building permits requested.

103 3. Number of building permits issued.

104 4. Number of building inspections and reinspections
105 conducted.

106 5. Number of personnel employed by the local government to
107 implement the Florida Building Code, issue building permits, and
108 conduct inspections.

109 6. Salary and related employee benefit costs incurred by
110 the local government to implement the Florida Building Code,
111 issue building permits, and conduct inspections.

112 7. Revenue derived from fees pursuant to s. 553.80(7).

113 8. Revenue derived from fines pursuant to s. 553.80(7).

114 9. Investment earnings derived from the local government's
115 investment of revenue derived from fees and fines pursuant to s.
116 533.80(7).

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Amendment No. 1.

117 10. Balances carried forward by the local government
118 pursuant to s. 553.80(7).

119 11. Balances refunded by the local government pursuant to
120 s. 553.80(7).

121 Section 4. This act shall take effect July 1, 2018.

122

123

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

125 Remove everything before the enacting clause and insert:

126 An act relating to permit fees; amending ss. 125.56
127 and 166.222, F.S.; requiring the governing body of a
128 county and of a municipality to post its permit and
129 inspection fee schedules and building permit and
130 inspection utilization report on its website; amending
131 s. 553.80, F.S.; requiring the governing body of a
132 local government to publish such report and post it on
133 its website; providing reporting requirements;
134 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 841 Community Associations
SPONSOR(S): Moraitis, Jr.
TIED BILLS: IDEN./SIM. BILLS: SB 1274

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Brackett <i>OB</i>	Anstead <i>For</i>
2) Civil Justice & Claims Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Division of Florida Condominiums, Timeshares, and Mobile Homes (Division), located within the Department of Business and Professional Regulation, has regulatory authority over condominium and cooperative associations. The Division has limited authority regarding homeowner's associations (HOA).

The bill:

- Removes the time limit on acquisition for classification as a bulk buyer, extending indefinitely the applicability of bulk buyer provisions previously limited to a specific time period.
- Allows condominiums to hire attorneys who represent the condominium's management company.
- Provides that condominium board members are recalled if the board determines the recall is facially valid; provides attorney's fees for a recalled board member who prevails in arbitration, and attorney's fees for condominium associations if the arbitrator determines the recalled board member's petition is frivolous.
- Provides that a condominium association may not waive the financial reporting requirements for two years if it fails to respond to the Division's request to provide a financial report to a unit owner.
- Increases the time in which a condominium or cooperative must respond to a unit owners' request to inspect records; requires electronic records related to voting to be retained as official records, and allows notice of board meetings by website.
- Requires that a vote authorizing an alteration or addition to a condominium be held prior to beginning work.
- Amends co-op law to mirror condominium law regarding removal of board members who are 90 days or more delinquent on payments and restricting co-owners from serving on the board of directors.
- Allows HOAs to provide electronic notice to any member who has provided a fax number or email.
- Amends cooperative common expenses to include communication and information services in bulk contracts.
- Clarifies that HOAs may apply payments for late assessments to interest, fines, and fees before applying the payments to assessments.
- Requires HOA's to have reserve funds for all items with deferred maintenance costs over \$100,000 and restricts the use of reserve funds to only authorized reserved expenditures.

The bill is not expected to have a fiscal impact on state or local government.

The effective date of the bill is July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Division of Condominiums, Timeshares and Mobile Homes (the Division), a division within the Department of Business and Professional Regulation (DBPR), provides consumer protection for Florida residents living in regulated communities through education, complaint resolution, mediation and arbitration, and developer disclosure. The Division has regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations (limited to arbitration of election and recall disputes).

A condominium is a form of ownership of real property created pursuant to ch. 718, F.S., comprised of units which may be owned by one or more persons but have an undivided share of access to common facilities.¹ A condominium is created by recording a declaration of condominium in the public records of the county in which the condominium will be located.² A declaration governs the relationships among condominium unit owners and the condominium association. All unit owners are members of the condominium association, an entity responsible for the operation of the common elements owned by the unit owners, which operates or maintains real property in which unit owners have use rights. The condominium association is overseen by an elected board of directors, commonly referred to as a "board of administration." The association enacts condominium association bylaws, which govern the administration of the association, including quorum, voting rights, and election and removal of board members.

A cooperative is a form of property ownership created pursuant to ch. 719, F.S. The real property is owned by the cooperative association, and individual units are leased to the residents who own shares in the cooperative association.³ The lease payment amount is the pro-rata share of the operational expenses of the cooperative. Cooperatives operate similarly to condominiums and the laws regulating cooperatives are in many instances nearly identical.

A homeowners' association (HOA) is an association of residential property owners in which voting membership is made up of parcel owners, in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.⁴ Only HOAs whose covenants and restrictions include mandatory assessments are regulated by ch. 720, F.S. Like a condominium or cooperative, an HOA is administered by an elected board of directors. The powers and duties of an HOA includes the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include the recorded covenants and restrictions, together with the bylaws, articles of incorporation, and duly adopted amendments to those documents. No state agency has direct oversight of HOAs. Florida law provides procedures and minimum requirements for operating and provides for a mandatory binding arbitration program, administered by the Division, only for certain election disputes.

¹ s. 718.103(11), F.S.

² s. 718.104(2), F.S.

³ s. 719.103(2)(26), F.S.

⁴ s. 720.301(9), F.S.

Official Records – Current Situation

Condominium and cooperative associations are required to maintain official records for at least 7 years. The official records must include:

- A copy of the articles of incorporation, declaration, bylaws of and rules of the association;
- Meeting minutes;
- A roster of all unit owners or members, including the electronic mailing addresses and fax numbers of unit owners consenting to receive notice by electronic transmission;
- A copy of any contracts to which the association is a party or under which the association or the unit owners or members have an obligation;
- Accounting records for the association;
- All contracts for work to be performed including bids;
- All other written records which are related to the operation of the association; and
- All ballots, sign-in sheets, voting proxies, and all other papers relating to voting by unit owners.⁵

Unit owners are able to inspect the official records, and a condominium or cooperative must have the records available for inspection within 5 working days of receiving a request to inspect them.⁶

Official Records – Effect of the Bill

The bill:

- Extends the deadline condominium and cooperative associations have to make records available to unit owners from 5 working days to 10 working days.
- Includes electronic records relating to voting to the list of official records that must be kept by condominium and cooperative associations.

Condominium websites – Current Situation and Effect of the Bill

By July 1, 2018, a condominium association with 150 or more units that does not manage timeshare units must post certain documents on a website that is only accessible to unit owners and employees of the condominium association. The condominium association's website must include:

- The recorded declaration of condominium of each condominium operated by the condominium association and each amendment to each declaration;
- The recorded bylaws of the condominium association and each amendment to the bylaws;
- The articles of incorporation of the condominium association, or other documents creating the condominium association and each amendment thereto. The copy posted must be a copy of the articles of incorporation filed with the Department of State;
- The rules of the condominium association;
- Any management agreement, lease, or other contract to which the condominium association is a party or under which the condominium association or the unit owners have an obligation or responsibility. Summaries of bids for materials, equipment, or services must be maintained on the website for 1 year;
- The annual budget and any proposed budget to be considered at the annual meeting;
- The financial report and any proposed financial report to be considered at a meeting;
- The certification of each director;
- All contracts or transactions between the condominium association and any director, corporation, firm, or condominium association that is not an affiliated condominium association or any other entity in which an condominium association director is also a director or officer and financially interested;

⁵ s. 718.111(12)(a), F.S. and s. 719.104(2), F.S.

⁶ *Id.*

- Any contract or document regarding a conflict of interest or possible conflict of interest by a community association manager or a board member;
- The notice of any unit owner meeting and the agenda for the meeting, posted at least 14 days before the meeting. The notice must be posted in plain view on the front page of the website or on a separate subpage of the website labeled “Notices” which is conspicuously visible and linked from the front page; and
- Any documents to be considered during a meeting or listed on the agenda for a meeting. These must be posted at least 7 days before the meeting where the document will be considered.⁷

The bill provides that a condominium association may post the complete copies of the bids for materials, equipment, or services in lieu of summaries of bids for materials, equipment, or services.

The bill also provides a condominium association does not have to post any contract or document regarding a conflict of interest by a board member on its website.

Condominium Financial Reporting – Current Situation and Effect of the Bill

Condominium associations are required to complete an annual financial report of the previous year’s financial activities and provide the report to their unit owners. To comply with financial reporting requirements associations must:

- Complete an annual financial report for the previous fiscal year within 90 days after the end of the fiscal year, calendar year, or annually on a date provided in the bylaws;
- Provide unit or parcel owners the financial report or notice that the report is available upon request without charge within 21 days after the final financial report is completed by the condominium or received from the third party, but not later than 120 days after the end of the fiscal year or calendar year, or other date as provided in the bylaws; and
- Prepare financial statements according to generally accepted accounting principles and in a manner dictated by the total revenue of the association, namely:
 - A condominium having total annual revenues between \$150,000 and less than \$300,000 must prepare compiled financial statements;
 - A condominium having total annual revenues of at least \$300,000 but less than \$500,000 must prepare reviewed financial statements;
 - An association having total revenues of \$500,000 or more must prepare audited financial statements; and
 - An association with total annual revenue of less than \$150,000 must prepare a report of cash receipts and expenditures.⁸

An association may vote to waive the annual financial reporting requirements and prepare a report of cash receipts and expenditures by approval of a majority of voting interests.

If a unit owner does not receive the financial report, he or she may contact the Division to report an association’s failure to provide a copy of the financial report within the required time. If the Division determines that the association failed to provide the financial report in a timely manner, the Division will require the association to provide the financial report to the unit owner and the Division within five business days. If the association fails to comply with the Division’s request the association may not waive the financial annual financial reporting requirements.

The bill provides that if an association fails to comply with the Division’s request the association may not waive the financial annual financial reporting requirements for the fiscal year in which the unit owner’s request is made and the following fiscal year.

⁷ s. 718.112(12)(g), F.S.

⁸ s. 718.111(13), F.S.,

Alterations or Additions to Condominium Property-Current Situation and Effect of the Bill

Condominiums are required to maintain the property of the condominium. In order to maintain condominium property, condominiums may provide a specific procedure to approve material alterations or additions to condominium property in the condominium's declaration, which is the document creating the condominium. If a condominium's declaration does not provide a procedure to approve material alterations or additions then approval by 75 percent of the voting interests is required to approve any material alterations or additions. It is not clear in current statute if the approval must occur before work begins on the additions or alterations.

The bill provides that approval by 75 percent of voting interests must be obtained prior to work beginning on the material alterations or additions of condominium property.

Condominium Conflicts of Interest – Current Law and Effect of the Bill

Current law provides that a condominium may not hire an attorney who represents the condominium's management company.⁹

The bill repeals the provision that a condominium may not hire an attorney who represents the condominium's management company.

Condominium, Cooperative, HOA Fines and Suspension – Current Law and Effect of the Bill

Condominium and cooperative associations and HOAs may levy fines and suspensions against a unit or parcel owner, the unit or parcel's occupant, or a guest of the unit owner for failing to comply with any provision in the condominium's declaration, bylaws, or the condominium's rules.¹⁰

A board may not impose a fine or suspension unless it gives at least 14 days written notice of the imposed fine or suspension, and the opportunity for a hearing. The hearing must be held before a committee of unit owners who are not board members or residing in a board member's household. The role of the committee is to determine whether to confirm or reject the fine or suspension. For condominiums, the committee must approve the fine or suspension by a majority vote otherwise the board may not impose the fine or suspension. The committee for cooperative associations must agree with the fine or suspension otherwise the cooperative may not approve the fine or suspension.¹¹ HOAs must provide written notice of any fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.¹² Current law does not provide a date for when a fine is due once the committee has approved the fine.

The bill provides that a fine approved by the committee is due five days after the date of the committee meeting.

The bill provides that the committee for a condominium and cooperative association must be made up of at least three members who are appointed by the board, and are not officers, board members, employees of the association, or a spouse, parent, child, brother, or sister of an officer, board member, or employee of the association.

The committee for a cooperative association must approve the fine or suspension by majority vote otherwise the association may not impose the fine or suspension.

⁹ s. 718.111(3), F.S.

¹⁰ ss. 718.303(3), 719.303(3), & 720.305(2), F.S.

¹¹ s. 719.303(3), F.S.

¹² s. 720.305(2), F.S.

The condominium or cooperative must provide written notice of any fine or suspension by mail or hand delivery to the unit owner and, if applicable, to any tenant, licensee, or guest of the unit owner.

Notice of Board Meetings for Condominiums, Cooperatives, and HOAs – Current Situation

Associations are required to notice all board meetings by posting notice in a conspicuous place on the association's property for at least 48 hours. Notice must be posted 14 days before meetings where a nonemergency special assessment or an amendment to the rules regarding unit use is considered.¹³

If a parcel owner in a HOA provides written consent, the HOA may provide the parcel owner notice by electronic transmission for board meetings, committee meetings, annual meetings, and special meetings.¹⁴

Condominium and cooperative associations are required to notice all member meetings by mailing, hand delivering, or electronically transmitting notice at least 14 days before the meeting. They must also post notice in a conspicuous place at least 14 days before the meeting. If a condominium or cooperative association opts to broadcast notice in lieu of posting notice it must broadcast notice at least four times every broadcast hour of each day for 14 days.¹⁵

Notice of Board Meetings – Effect of the Bill

The bill allows condominium and cooperative associations to adopt rules for noticing all board and unit owner meetings on a website if the time requirements for physically posting the board meetings are met. Any rule adopted for website notice must include a requirement that the association send an electronic notice providing a hyperlink to the website where the notice is posted, to all unit owners whose email addresses are part of the official records, and in the same manner as notice for a meeting of the members. Notice by website must be in addition to the other notice requirements.

Any owner who consents to receiving notice for a meeting by electronic transmission is responsible for removing or bypassing any filters that block receipt of mass emails sent to members by an association for the purpose of giving notice.

The bill allows a HOA to give notice by electronic transmission to any parcel owner who provided written consent and a fax number or email address to the HOA.

Communication by Board Members for Cooperatives and HOAs – Current Situation and Effect of the Bill

It is not clear if board members for cooperative associations and HOAs may use email as a form of communication. Board members for condominium associations may use email as a form of communication.¹⁶

The bill allows members of the board of directors for cooperative associations and HOAs to use email as a form of communication. However, a board member may not cast a vote via email.

Cooperative Common Expenses and Bulk Contracts – Current Situation and Effect of the Bill

Common expenses are normal costs incurred by a cooperative association and include:

- Costs for the operation, maintenance, repair, or replacement of cooperative property;
- Costs of carrying out the powers and duties of the cooperative; or

¹³ ss. 718.112(2)(c), 720.303(2)(c), & 719.106(1)(c)(1), F.S.

¹⁴ s. 720.303(2)(c), F.S.

¹⁵ ss. 718.112(2)(d) & 719.106(1)(d), F.S.

¹⁶ s. 718.112(2)(c), F.S.

- Costs designated by the cooperative as a common expense.¹⁷

Common expenses are paid by the unit owners of a cooperative association and are included in a cooperative association's annual budget to its members.¹⁸

Cooperative associations may provide in their bylaws that bulk contracts for the cost of a master antenna television system or franchised cable television service are common expenses. Unlike condominiums, cooperatives may not provide bulk contracts for the cost of communication services defined in ch. 202, F.S., information services, or internet services as common expenses.¹⁹

Chapter 202, F.S., defines communication services to mean the transmission, conveyance, or routing of:

- voice, data, audio, video; or
- any other information or signals, including:
 - video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave; or
 - other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance.
- The term also includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added.

Examples of communication services include:

- Cable and satellite television
- Video and music streaming
- Telephones
- Mobile communications, and similar services²⁰

Information service is defined as the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, using or making available information via communications services.²¹ The term also includes data processing and other services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a purchaser whose primary purpose for the underlying transaction is the processed data or information. The term does not include video service.

The bill amends cooperative association law to mirror condominium association law by providing that bulk contracts for communication services defined in ch. 202, F.S., internet services, and information services may be considered a common expense.

Cooperatives' Board of Directors and Board Members – Current Situation and Effect of the Bill

Cooperative associations are administered by a board of directors whose members are elected. The board consists of unit owners who have been elected to serve on the board. Directors of the board nominate officers, including president, secretary, and treasurer. The officers are responsible for the duties that are customarily performed by their counterparts in corporations.²²

¹⁷ ss. 719.103(9), & 719.107, F.S.

¹⁸ s. 719.103(1), & 719.106(1)(j), F.S.

¹⁹ ss. 719.107, & 718.115(1)(d), F.S.

²⁰ Florida Department of Revenue, *Florida Communications Services Tax*, <http://floridarevenue.com/taxes/taxesfees/Pages/cst.aspx> (last visited on Jan. 20, 2018).

²¹ s. 202.11(5), F.S.

²² s. 719.106(1), F.S.

Unlike condominiums, cooperative associations are not required to have a provision that a director or officer is deemed to have abandoned their post if the officer or director is more than 90 days delinquent in the payment of any monetary obligation to the association.²³

Additionally, cooperative associations do not have a provision that prevents co-owners of a unit in residential condominiums that are more than 10 units from serving on the board at the same time unless the co-owners own more than one unit or there are not enough eligible candidates to fill vacancies on the board.²⁴

The bill amends cooperative association law to mirror condominium association law by providing that:

- A director or officer is deemed to have abandoned their office if the officer or director is more than 90 days delinquent in the payment of any monetary obligation to the association; and
- In residential cooperatives that are more than 10 units, co-owners of a unit may not serve as members on the board at the same time unless the co-owners own more than one unit or there are not enough eligible candidates to fill vacancies on the board.

Board Member Recall – Current Situation

A member of a condominium association board may be recalled and removed from office by a majority of all the voting interests of the association at a special meeting or by an agreement in writing by a majority of all voting interests.²⁵

If a recall is approved by a majority of all voting interests by vote at a special meeting, the board must notice and hold a board meeting within 5 business days of the special meeting to recall the board member or members. The recall is effective immediately and the recalled member or members must turn any records and association property in their possession to the board within 10 days of the vote.²⁶

If a recall is approved in writing by a majority of all voting interests, the agreement or a copy of the agreement must be served on the condominium by certified mail or personnel service. The board must notice and hold a meeting to recall the board member or members within 5 business days of being served. The recall is effective immediately and the recalled member or members must turn any records and association property in their possession to the board within 10 days.²⁷

If a board fails to notice and hold a meeting within 5 business days of the unit owner's vote or receiving the written agreement, the recall is deemed effective and the recalled board member or members must turn over any records and association property to the board within 10 days.²⁸

If the board fails to notice and hold the required meeting or fails to file the required petition, the unit owner representative may file a petition to the Division for arbitration challenging the board's failure to act. The petition must be filed within 60 days after the expiration of the applicable 5 business day period. However, the Division may not accept the petition if there are 60 days or fewer until the reelection of the board member or 60 days or less have elapsed since the election of the board member. The review of a petition is limited to the sufficiency of service on the board and the facial validity of the written agreement or ballots filed.²⁹

²³ s. 718.112(2), F.S.

²⁴ *Id.*

²⁵ 718.112(2)(j), F.S.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

A recalled board member may file a petition to the Division for arbitration challenging the validity of the recall. The petition must be filed within 60 days of the recall. The petition must name the condominium and the unit owner as the respondents.³⁰

The prevailing party in arbitration shall be awarded attorney's fees in the amount determined by the arbitrator.³¹

Board Member Recall – Effect of the Bill

The bill provides the requirement that a board must hold a meeting within 5 days of the unit owners' vote or receiving a written agreement, in order to determine if the vote or written agreement is facially valid. If the board determines the vote or written agreement is facially valid, the recall becomes effective upon the conclusion of the meeting.

The bill provides that a recalled board member may challenge the facial validity of the written agreement to recall, the ballots filed, or the substantial compliance with the procedural requirements for the recall.

If an arbitrator determines a board member's recall is invalid, the recall is null and void and the board member must be immediately reinstated. A board member who successfully challenges a recall is entitled to reasonable costs and attorney's fees from the respondents. An arbitrator may award reasonable costs and attorney's fees to the respondents if the arbitrator determines a recalled board member's request for arbitration is frivolous.

Bulk Assignees and Bulk Buyer – Current Situation

In 2010, the Legislature passed the Distressed Condominium Relief Act (Act) in order to relieve developers, lenders, unit owners, and condominium associations from certain provisions of the Florida Condominium Act. The Act was intended to relieve specific parties from certain liabilities so as to enable economic opportunities for successor purchasers of distressed condominiums.

Specifically, the Act created categories of "bulk buyers" and "bulk assignees." A bulk assignee is a person who acquires more than seven condominium parcels as provided in s. 718.703, F.S., and receives an assignment of some or all of the rights of the developer under specified recording documents. Similarly, a bulk buyer is a person who acquires more than seven condominium parcels, but who does not receive an assignment of developer rights other than the right to: conduct sales, leasing, and marketing activities within the condominium; be exempt from payment of working capital contributions; and be exempt from rights of first refusal.³²

Because the Act was created in reaction to the "massive downturn in the condominium market which has occurred throughout the state," it was not intended to be open-ended. Rather, the intent of the Legislature was to enact the relief only for a specific and defined period:³³

"The Legislature further finds and declares that this situation cannot be open-ended without potentially prejudicing the rights of unit owners and condominium associations, and thereby declares that the provisions of this part may be used by purchasers of condominium inventory for only a specific and defined period."

³⁰ *Id.*

³¹ 718.1255(4)(k), F.S.

³² s. 718.703, F.S.

³³ s. 718.702, F.S.

Originally, the time limitation for classification as a bulk assignee or bulk buyer was until July 1, 2012.³⁴ In 2012, the Legislature extended the time limitation to July 1, 2015.³⁵ In 2014, the legislature again amended s. 718.707, F.S., to extend to July 1, 2016.

Finally, in 2015, the legislature again amended s. 718.707, F.S., to provide that a person acquiring condominium parcels may not be classified as a bulk assignee or bulk buyer unless the parcels were acquired between July 1, 2010, and July 1, 2018.

Bulk Assignees and Bulk Buyer – Effect of the Bill

The bill removes the time limit on acquisition for classification as a bulk buyer, extending the applicability of the bulk buyer provisions indefinitely.

HOA Budgets and Reserve Accounts – Current Situation

HOAs are required to prepare an annual budget for the coming year. The budget must include:

- Estimated revenues and expenses;
- Estimated surplus or deficits; and
- Fees for the association.³⁶

Once the annual budget is adopted, it becomes the basis for allocating assessments among the parcel owners.³⁷ Assessments are sums of money owed by parcel owners to an HOA to fund the HOA.³⁸

Unlike condominiums, HOAs have no provisions to call special meetings if an HOA's assessments exceed its annual budget by 115% whereas in condominiums a special meeting to consider a substitute budget may be called if 10 percent of the voting interests petition for the meeting within 21 days of the adoption of the budget. The meeting must take place within 60 days of the adoption of the annual budget, and notice must be delivered by mail or hand at least 14 days before the meeting.

A reserve account is in effect a savings account whereby a HOA collects periodic advance payments to cover future anticipated capital expenditures and deferred maintenance items. Monies in a reserve account, including interest, must be spent for maintenance, repair and replacement of the reserve item. Examples include but are not limited to roof replacement, building painting, pavement resurfacing, and for any other items for which the deferred maintenance expense or replacement costs exceed \$10,000.³⁹

Unlike condominiums, an HOA may include reserve accounts in an annual budget by a majority vote of all voting interests whereas condominiums must provide for reserve accounts. If an HOA or developer establishes a reserve account the HOA must maintain and budget the reserve account.⁴⁰

There are two types of reserve accounts:

1. Separate reserve accounts which are accounts that may only be used for one item or expense such as a roof or building painting; and
2. Pooled reserve accounts which is an account for a group of capital expenditures that are pooled together. For example, an HOA may have a pooled reserve account for roof replacement, building painting, and pavement resurfacing, instead of three separate reserved accounts.⁴¹

³⁴ Ch. 10-174, Laws of Fla.

³⁵ Ch. 12-61, Laws of Fla.

³⁶ s. 720.303(6)(a), F.S.

³⁷ Charles F. Dudley & Peter Dunbar, *The Law of Florida Homeowners Associations*, 47 (9th ed. 2012-13).

³⁸ *Id.* at 5.

³⁹ *Id.*

⁴⁰ s. 720.303(6), F.S.

⁴¹ Rule 61B-22.005 of the Florida Administrative Code.

If an HOA decides to include separate reserve accounts in the annual budget then the HOA must:

- Determine the amount for the reserve account using a specific formula based upon the estimated remaining life of the item and estimated cost to replace or maintain the item.
 - For example, the estimated cost to replace a roof is \$86,000. The account balance for the roof is \$50,000. The estimated remaining useful life of the roof is four years. ($\$86,000 \text{ minus } \$50,000 = \$36,000$. $\$36,000 \text{ divided by } 4 = \$9,000$.) The current years funding requirement for reserve for the roof would be \$9,000.⁴²

If an HOA has a pooled reserve account in the annual budget then the HOA will use a separate method to calculate the amount to fund the pooled reserve account. The formula to calculate the amount to fund a pooled account must reflect the remaining useful life and estimated replacement cost for each item and expenditure in the pooled reserve account.⁴³

HOA Budgets and Reserve Accounts – Effect of the Bill

The bill provides:

- If HOA assessments for an annual budget exceed 115 percent of assessments for the preceding year and 10 percent of the voting interests request a special meeting within 21 days of the adoption of the budget then the board must:
 - Conduct a special meeting of the unit owners to consider a substitute budget within 60 days of adopting the annual budget.
 - Hand deliver or mail notice of the meeting to each parcel owner at least 14 days prior to such special meeting.
 - An officer or manager of the association, or other person providing notice of such meeting shall execute an affidavit evidencing compliance with this notice requirement, and file the affidavit among the official records of the association.
- Parcel owners may consider and adopt a substitute budget at the special meeting. A substitute budget is adopted if approved by a majority of all voting interests unless the bylaws require adoption by a greater percentage of voting interests. If there is not a quorum at the special meeting or a substitute budget is not adopted, the annual budget will take effect.
- Any determination of whether assessments exceed 115 percent of assessments for the prior fiscal year shall exclude any authorized provision for reasonable reserves for repair, replacement of property, anticipated expenses which the board does not expect to be incurred on a regular basis, or assessments to improve the property.
- If the developer controls the board, assessments shall not exceed 115 percent of assessments for the prior fiscal year unless approved by a majority of all voting interests.

The bill amends HOA reserve accounts to provide:

- All HOAs incorporated after July 1, 2018 and any HOA incorporated before July 1, 2018, which has voted by a majority to conform to the amended HOA reserve account laws, must include reserve accounts in the annual budget for items with deferred maintenance costs that exceed \$100,000, instead of having the option to include reserve accounts in the annual budget.
- Boards may elect to reserve money for any item with deferred maintenance expense exceeding \$25,000. Boards may elect to reserve money for any item with a deferred maintenance item that is less than \$25,000 if approved by a majority vote.
- HOAs must use the pool reserve account funding formula to determine the funding for reserve accounts. However, HOAs may vote to use the funding formula for separate accounts.
- Voting interests mean parcel owners who are subject to fund the reserves in question.
- Proxy questions relating to waiving, reducing, or terminating funding of reserve accounts must contain a statement in conspicuous type that waiving funding for reserve accounts may result in unanticipated special assessments.

⁴² DBPR, Budgets & Reserves Schedules: A Self-Study Training Manual, 41-42, 2010.

⁴³ Charles F. Dudley & Peter Dunbar, The Law of Florida Homeowners Associations, 47 (9th ed. 2012-13).

- Before turning control over to an association a developer may vote to waive or reduce reserve funds by using the voting interests allocated to the parcels owned by the developer. Reserve funds must be held in a separate bank account established for such funds and may not be used for any purpose other than reserved expenditure.
- HOAs may vote to provide no reserves or reserves less than required by a majority vote.

Reserve funds do not apply to mandatory reserve accounts required by any local authority, water or drainage district, community development district, or political subdivision that has authority to approve and control subdivision infrastructure.

HOA Elections – Current Situation and Effect of the Bill

HOAs are administered by a board of directors whose members are elected.⁴⁴ HOAs are required to hold board of director elections at its annual meeting or as provided in its governing documents.⁴⁵ Elections are conducted in accordance with the procedures set forth in the governing documents of the association. An election is not required unless more candidates are nominated than vacancies exist.⁴⁶

The bill provides that if an election is not required because there are fewer or equal candidates than vacancies, and nominations from the floor are not required, then write-in nominations are not permitted. The candidates will commence service on the board of directors regardless of whether a quorum was attained at the annual meeting.

Payment of HOA Assessments – Current Situation and Effect of the Bill

HOAs are authorized to impose assessments on owners. Assessments are sums of money owed by parcel owners to an HOA to fund the HOA.⁴⁷ If assessments or installments of assessments are not paid timely, then they will accrue interest. Any payment received by a HOA for payment of an assessment or installment that accrued interest will first be applied to the interest accrued, then to any administrative late fee, then to any costs and reasonable attorney fees, and then to the delinquent assessment.⁴⁸ The order of payments is the same as condominium law.

The Florida Uniform Commercial Code (UCC) allows a debtor to make a restrictive notation on a payment instrument. Accepting the payment instrument with the notation may then be considered an accord and satisfaction of the outstanding debt.⁴⁹

The bill provides that this application of the payment in HOA law applies notwithstanding the UCC. The bill further provides that this is intended to clarify existing law.

Prospective Purchaser – Current Situation and Effect of the Bill

HOAs are required to provide a disclosure summary to a property purchaser prior to the purchaser signing a contract. The disclosure summary must include provisions that provide that:

- The purchaser is obligated to be a member of the HOA;
- There are or will be recorded restrictive covenants governing the use and occupancy of HOA property;
- The purchaser is obligated to pay assessments;

⁴⁴ ss. 720.303 & 720.307, F.S.

⁴⁵ s. 720.306(2), F.S.

⁴⁶ *Id.*

⁴⁷ Charles F. Dudley & Peter Dunbar, *The Law of Florida Homeowners Associations*, 5 (9th ed. 2012-13).

⁴⁸ s. 720.3085(3), F.S.

⁴⁹ s. 673.3111, F.S. The UCC is a set of regulations adopted by all 50 states with the goal of harmonizing the laws of commercial transactions throughout the United States. Duke Law, *Uniform Commercial Code*, <https://law.duke.edu/lib/researchguides/ucc/> (last visited on Jan. 20, 2018).

- The purchaser may be obligated to pay special assessments;
- Failure to pay assessments or special assessments may result in a lien on the purchaser's property;
- There may be an obligation to pay rent or land use fees for recreational or other commonly used facilities;
- The developer may have the right to amend the restrictive covenants without the approval of the association or the purchaser;
- The disclosure is only a summary and the purchaser should refer to the covenants and governing documents before purchasing the property; and
- The covenants and governing documents are public record and may be obtained from the county record office.⁵⁰

The bill provides that the disclosure summary must also include a provision providing that:

- The HOA may not include sufficient reserved funds to cover the cost of deferred maintenance of common areas; and
- The purchaser should review the budget to determine the level of reserve funding.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 718.111, F.S., providing that attorneys may represent condominiums and management companies, amending requirements of official records for condominiums, and amending penalties for condominiums who fail to provide financial reports to unit owners.
- Section 2.** Amends s. 718.112, F.S., providing for meeting notices by website and amending the provisions for the recall of condominium board members.
- Section 3.** Amends s. 718.113, F.S., amending voting requirements for alterations or additions to condominium property.
- Section 4.** Amends s. 718.3026, F.S. removing requirements relating to conflicts of interest for condominiums.
- Section 5.** Amends s. 718.3027, F.S., providing requirements relating to conflicts of interest for condominiums.
- Section 6.** Amends s. 718.303, F.S., revising requirements for fines or suspensions for condominiums.
- Section 7.** Amends s. 718.707, F.S., revising the time period for classifications of bulk buyer and assignee for condominiums.
- Section 8.** Amends s. 719.104, F.S., amending requirements of official records for cooperatives.
- Section 9.** Amends s. 719.106, F.S., providing for meeting notices by website and revising requirements for cooperative board members.
- Section 10.** Amends s. 719.107, F.S., revising requirements for cooperative common expenses.
- Section 11.** Amends s. 719.303, F.S., revising requirements for cooperative fines and suspensions.

- Section 12.** Amends s. 720.303, F.S., revising email requirements for board members, revising requirements for HOA annual budgets, and providing requirements for HOA meetings to consider a substitute budget.
- Section 13.** Amends s. 720.305, F.S., revising requirements for HOA fines and suspensions.
- Section 14.** Amends 720.306, F.S., revising HOA board member election requirements.
- Section 15.** Amends s. 720.3085, F.S., providing for the payment of HOA assessments.
- Section 16.** Amends s. 720.401, F.S., revising required disclosure summaries for prospective members of HOAs.
- Section 17.** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to community associations; amending s.
 3 718.111, F.S.; revising condominium association
 4 recordkeeping and financial reporting requirements;
 5 amending s. 718.112, F.S.; revising provisions
 6 relating to required association bylaws; authorizing
 7 an association to adopt rules for posting certain
 8 notices on a website; providing responsibilities for
 9 unit owners who receive electronic notices; revising
 10 and providing board member recall and challenge
 11 requirements; authorizing the recovery of attorney
 12 fees and costs in an action to challenge the validity
 13 of a board member recall; amending s. 718.113, F.S.;
 14 revising voting requirements relating to alterations
 15 and additions to certain common elements or
 16 association property; amending s. 718.3026, F.S.;
 17 removing a provision relating to certain contracts or
 18 transactions regarding conflicts of interest; amending
 19 s. 718.3027, F.S.; providing requirements for proposed
 20 activity that is identified as a conflict of interest;
 21 amending s. 718.303, F.S.; revising fine and
 22 suspension requirements; amending s. 718.707, F.S.;
 23 revising the time period for classification as a bulk
 24 assignee or bulk buyer; amending s. 719.104, F.S.;
 25 revising cooperative association recordkeeping

26 requirements; amending s. 719.106, F.S.; revising
 27 requirements to serve as a board member; prohibiting a
 28 board member from voting via e-mail; authorizing an
 29 association to adopt rules for posting certain notices
 30 on a website; providing responsibilities for unit
 31 owners who receive electronic notices; providing that
 32 directors or officers who are delinquent in certain
 33 payments owed in excess of certain periods of time be
 34 deemed to have abandoned their offices; amending s.
 35 719.107, F.S.; specifying that certain services which
 36 are obtained pursuant to a bulk contract are deemed a
 37 common expense; amending s. 719.303, F.S.; revising
 38 fine and suspension requirements; amending s. 720.303,
 39 F.S.; prohibiting a board member from voting via e-
 40 mail; revising and providing reserve account
 41 requirements; providing requirements for special
 42 meetings to consider a substitute annual budget;
 43 amending s. 720.305, F.S.; revising fine and
 44 suspension requirements; amending s. 720.306, F.S.;;
 45 revising election requirements; amending s. 720.3085,
 46 F.S.; providing applicability; amending s. 720.401,
 47 F.S.; revising required statements in the disclosure
 48 summary; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (3), paragraphs (a), (b), and (g) of subsection (12), and paragraph (e) of subsection (13) of section 718.111, Florida Statutes, are amended to read:

718.111 The association.—

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

~~(a)~~ The association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the condominium property. After control of the association is obtained by unit owners other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners, including, but not limited to, the common elements; the roof and structural components of a building or other improvements; mechanical, electrical, and plumbing elements serving an improvement or a building; representations of the developer pertaining to any existing or proposed commonly used facilities; and protesting ad valorem taxes on commonly used facilities and on units; and may defend actions in eminent domain or bring inverse condemnation actions. If the association has the authority to maintain a class action, the association may be

76 | joined in an action as representative of that class with
 77 | reference to litigation and disputes involving the matters for
 78 | which the association could bring a class action. Nothing herein
 79 | limits any statutory or common-law right of any individual unit
 80 | owner or class of unit owners to bring any action without
 81 | participation by the association which may otherwise be
 82 | available.

83 | ~~(b) An association may not hire an attorney who represents~~
 84 | ~~the management company of the association.~~

85 | (12) OFFICIAL RECORDS.—

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

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

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

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

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

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

100 | 6. A book or books that contain the minutes of all

101 meetings of the association, the board of administration, and
 102 the unit owners, ~~which minutes must be retained for at least 7~~
 103 ~~years.~~

104 7. A current roster of all unit owners and their mailing
 105 addresses, unit identifications, voting certifications, and, if
 106 known, telephone numbers. The association shall also maintain
 107 the electronic mailing addresses and facsimile numbers of unit
 108 owners consenting to receive notice by electronic transmission.
 109 The electronic mailing addresses and facsimile numbers are not
 110 accessible to unit owners if consent to receive notice by
 111 electronic transmission is not provided in accordance with sub-
 112 subparagraph (c)3.e. However, the association is not liable for
 113 an inadvertent disclosure of the electronic mail address or
 114 facsimile number for receiving electronic transmission of
 115 notices.

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

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

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

124 11. Accounting records for the association and separate
 125 accounting records for each condominium that the association

126 operates. ~~All accounting records must be maintained for at least~~
 127 ~~7 years.~~ Any person who knowingly or intentionally defaces or
 128 destroys such records, or who knowingly or intentionally fails
 129 to create or maintain such records, with the intent of causing
 130 harm to the association or one or more of its members, is
 131 personally subject to a civil penalty pursuant to s.

132 718.501(1)(d). The accounting records must include, but are not
 133 limited to:

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

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

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

142 d. All contracts for work to be performed. Bids for work
 143 to be performed are also considered official records and must be
 144 maintained by the association.

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

150 13. All rental records if the association is acting as

151 agent for the rental of condominium units.

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

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

157 16. A copy of the inspection report as described in s.
 158 718.301(4) (p).

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

160 (b) The official records of the association must be
 161 maintained within the state for at least 7 years. The records of
 162 the association shall be made available to a unit owner within
 163 45 miles of the condominium property or within the county in
 164 which the condominium property is located within 10 ~~5~~ working
 165 days after receipt of a written request by the board or its
 166 designee. However, such distance requirement does not apply to
 167 an association governing a timeshare condominium. This paragraph
 168 may be complied with by having a copy of the official records of
 169 the association available for inspection or copying on the
 170 condominium property or association property, or the association
 171 may offer the option of making the records available to a unit
 172 owner electronically via the Internet or by allowing the records
 173 to be viewed in electronic format on a computer screen and
 174 printed upon request. The association is not responsible for the
 175 use or misuse of the information provided to an association

176 member or his or her authorized representative pursuant to the
 177 compliance requirements of this chapter unless the association
 178 has an affirmative duty not to disclose such information
 179 pursuant to this chapter.

180 (g)1. By July 1, 2018, an association managing a
 181 condominium with 150 or more units which does not contain ~~manage~~
 182 timeshare units shall post digital copies of the documents
 183 specified in subparagraph 2. on its website.

184 a. The association's website must be:

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

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

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

198 c. Upon a unit owner's written request, the association
 199 must provide the unit owner with a username and password and
 200 access to the protected sections of the association's website

201 that contain any notices, records, or documents that must be
 202 electronically provided.

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

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

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

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

215 d. The rules of the association.

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

219 Summaries of bids for materials, equipment, or services must be
 220 maintained on the website for 1 year. In lieu of summaries,
 221 complete copies of the bids may be posted.

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

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

226 h. The certification of each director required by s.
 227 718.112(2)(d)4.b.

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

233 j. Any contract or document regarding a conflict of
 234 interest or possible conflict of interest as provided in s.
 235 468.436(2) ~~ss. 468.436(2) and 718.3026(3)~~.

236 k. The notice of any unit owner meeting and the agenda for
 237 the meeting, as required by s. 718.112(2)(d)3., no later than 14
 238 days before the meeting. The notice must be posted in plain view
 239 on the front page of the website, or on a separate subpage of
 240 the website labeled "Notices" which is conspicuously visible and
 241 linked from the front page. The association must also post on
 242 its website any document to be considered and voted on by the
 243 owners during the meeting or any document listed on the agenda
 244 at least 7 days before the meeting at which the document or the
 245 information within the document will be considered.

246 l. Notice of any board meeting, the agenda, and any other
 247 document required for the meeting as required by s.
 248 718.112(2)(c), which must be posted no later than the date
 249 required for notice pursuant to s. 718.112(2)(c).

250 3. The association shall ensure that the information and

251 records described in paragraph (c), which are not permitted to
 252 be accessible to unit owners, are not posted on the
 253 association's website. If protected information or information
 254 restricted from being accessible to unit owners is included in
 255 documents that are required to be posted on the association's
 256 website, the association shall ensure the information is
 257 redacted before posting the documents online.

258 (13) FINANCIAL REPORTING.—Within 90 days after the end of
 259 the fiscal year, or annually on a date provided in the bylaws,
 260 the association shall prepare and complete, or contract for the
 261 preparation and completion of, a financial report for the
 262 preceding fiscal year. Within 21 days after the final financial
 263 report is completed by the association or received from the
 264 third party, but not later than 120 days after the end of the
 265 fiscal year or other date as provided in the bylaws, the
 266 association shall mail to each unit owner at the address last
 267 furnished to the association by the unit owner, or hand deliver
 268 to each unit owner, a copy of the most recent financial report
 269 or a notice that a copy of the most recent financial report will
 270 be mailed or hand delivered to the unit owner, without charge,
 271 within 5 business days after receipt of a written request from
 272 the unit owner. The division shall adopt rules setting forth
 273 uniform accounting principles and standards to be used by all
 274 associations and addressing the financial reporting requirements
 275 for multicondominium associations. The rules must include, but

276 | not be limited to, standards for presenting a summary of
 277 | association reserves, including a good faith estimate disclosing
 278 | the annual amount of reserve funds that would be necessary for
 279 | the association to fully fund reserves for each reserve item
 280 | based on the straight-line accounting method. This disclosure is
 281 | not applicable to reserves funded via the pooling method. In
 282 | adopting such rules, the division shall consider the number of
 283 | members and annual revenues of an association. Financial reports
 284 | shall be prepared as follows:

285 | (e) A unit owner may provide written notice to the
 286 | division of the association's failure to mail or hand deliver
 287 | him or her a copy of the most recent financial report within 5
 288 | business days after he or she submitted a written request to the
 289 | association for a copy of such report. If the division
 290 | determines that the association failed to mail or hand deliver a
 291 | copy of the most recent financial report to the unit owner, the
 292 | division shall provide written notice to the association that
 293 | the association must mail or hand deliver a copy of the most
 294 | recent financial report to the unit owner and the division
 295 | within 5 business days after it receives such notice from the
 296 | division. An association that fails to comply with the
 297 | division's request may not waive the financial reporting
 298 | requirement provided in paragraph (d) for the fiscal year in
 299 | which the unit owner's request was made and the following fiscal
 300 | year. A financial report received by the division pursuant to

301 this paragraph shall be maintained, and the division shall
 302 provide a copy of such report to an association member upon his
 303 or her request.

304 Section 2. Paragraphs (a), (c), (d), and (j) of subsection
 305 (2) of section 718.112, Florida Statutes, are amended to read:

306 718.112 Bylaws.—

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

310 (a) Administration.—

311 1. The form of administration of the association shall be
 312 described indicating the title of the officers and board of
 313 administration and specifying the powers, duties, manner of
 314 selection and removal, and compensation, if any, of officers and
 315 boards. In the absence of such a provision, the board of
 316 administration shall be composed of five members, unless the
 317 ~~except in the case of a condominium which~~ has five or fewer
 318 units. The board shall consist of not fewer than three members
 319 in condominiums with five or fewer units that are not-for-profit
 320 ~~corporations, in which case in a not-for-profit corporation the~~
 321 ~~board shall consist of not fewer than three members.~~ In the
 322 absence of provisions to the contrary in the bylaws, the board
 323 of administration shall have a president, a secretary, and a
 324 treasurer, who shall perform the duties of such officers
 325 customarily performed by officers of corporations. Unless

326 prohibited in the bylaws, the board of administration may
327 appoint other officers and grant them the duties it deems
328 appropriate. Unless otherwise provided in the bylaws, the
329 officers shall serve without compensation and at the pleasure of
330 the board of administration. Unless otherwise provided in the
331 bylaws, the members of the board shall serve without
332 compensation.

333 2. When a unit owner of a residential condominium files a
334 written inquiry by certified mail with the board of
335 administration, the board shall respond in writing to the unit
336 owner within 30 days after receipt of the inquiry. The board's
337 response shall either give a substantive response to the
338 inquirer, notify the inquirer that a legal opinion has been
339 requested, or notify the inquirer that advice has been requested
340 from the division. If the board requests advice from the
341 division, the board shall, within 10 days after its receipt of
342 the advice, provide in writing a substantive response to the
343 inquirer. If a legal opinion is requested, the board shall,
344 within 60 days after the receipt of the inquiry, provide in
345 writing a substantive response to the inquiry. The failure to
346 provide a substantive response to the inquiry as provided herein
347 precludes the board from recovering attorney fees and costs in
348 any subsequent litigation, administrative proceeding, or
349 arbitration arising out of the inquiry. The association may
350 through its board of administration adopt reasonable rules and

351 regulations regarding the frequency and manner of responding to
 352 unit owner inquiries, one of which may be that the association
 353 is only obligated to respond to one written inquiry per unit in
 354 any given 30-day period. In such a case, any additional inquiry
 355 or inquiries must be responded to in the subsequent 30-day
 356 period, or periods, as applicable.

357 (c) Board of administration meetings.—Meetings of the
 358 board of administration at which a quorum of the members is
 359 present are open to all unit owners. Members of the board of
 360 administration may use e-mail as a means of communication but
 361 may not cast a vote on an association matter via e-mail. A unit
 362 owner may tape record or videotape the meetings. The right to
 363 attend such meetings includes the right to speak at such
 364 meetings with reference to all designated agenda items. The
 365 division shall adopt reasonable rules governing the tape
 366 recording and videotaping of the meeting. The association may
 367 adopt written reasonable rules governing the frequency,
 368 duration, and manner of unit owner statements.

369 1. Adequate notice of all board meetings, which must
 370 specifically identify all agenda items, must be posted
 371 conspicuously on the condominium property at least 48 continuous
 372 hours before the meeting except in an emergency. If 20 percent
 373 of the voting interests petition the board to address an item of
 374 business, the board, within 60 days after receipt of the
 375 petition, shall place the item on the agenda at its next regular

376 board meeting or at a special meeting called for that purpose.
 377 An item not included on the notice may be taken up on an
 378 emergency basis by a vote of at least a majority plus one of the
 379 board members. Such emergency action must be noticed and
 380 ratified at the next regular board meeting. ~~However,~~ Written
 381 notice of a meeting at which a nonemergency special assessment
 382 or an amendment to rules regarding unit use will be considered
 383 must be mailed, delivered, or electronically transmitted to the
 384 unit owners and posted conspicuously on the condominium property
 385 at least 14 days before the meeting. Evidence of compliance with
 386 this 14-day notice requirement must be made by an affidavit
 387 executed by the person providing the notice and filed with the
 388 official records of the association. Notice of any meeting in
 389 which regular or special assessments against unit owners are to
 390 be considered must specifically state that assessments will be
 391 considered and provide the estimated cost and description of the
 392 purposes for such assessments. Upon notice to the unit owners,
 393 the board shall, by duly adopted rule, designate a specific
 394 location on the condominium ~~or association~~ property where all
 395 notices of board meetings must be posted. If there is no
 396 condominium property ~~or association property~~ where notices can
 397 be posted, notices shall be mailed, delivered, or electronically
 398 transmitted to each unit owner at least 14 days before the
 399 meeting. In lieu of or in addition to the physical posting of
 400 the notice on the condominium property, the association may, by

401 reasonable rule, adopt a procedure for conspicuously posting and
402 repeatedly broadcasting the notice and the agenda on a closed-
403 circuit cable television system serving the condominium
404 association. However, if broadcast notice is used in lieu of a
405 notice physically posted on condominium property, the notice and
406 agenda must be broadcast at least four times every broadcast
407 hour of each day that a posted notice is otherwise required
408 under this section. If broadcast notice is provided, the notice
409 and agenda must be broadcast in a manner and for a sufficient
410 continuous length of time so as to allow an average reader to
411 observe the notice and read and comprehend the entire content of
412 the notice and the agenda. In addition to any of the authorized
413 means of providing notice of a meeting of the board, the
414 association may, by rule, adopt a procedure for conspicuously
415 posting the meeting notice and the agenda on a website serving
416 the condominium association for at least the minimum period of
417 time for which a notice of a meeting is also required to be
418 physically posted on the condominium property. Any rule adopted
419 shall, in addition to other matters, include a requirement that
420 the association send an electronic notice in the same manner as
421 a notice for a meeting of the members, which must include a
422 hyperlink to the website where the notice is posted, to unit
423 owners whose e-mail addresses are included in the association's
424 official records. ~~Notice of any meeting in which regular or~~
425 ~~special assessments against unit owners are to be considered~~

426 ~~must specifically state that assessments will be considered and~~
 427 ~~provide the nature, estimated cost, and description of the~~
 428 ~~purposes for such assessments.~~

429 2. Meetings of a committee to take final action on behalf
 430 of the board or make recommendations to the board regarding the
 431 association budget are subject to this paragraph. Meetings of a
 432 committee that does not take final action on behalf of the board
 433 or make recommendations to the board regarding the association
 434 budget are subject to this section, unless those meetings are
 435 exempted from this section by the bylaws of the association.

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

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

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

445 (d) Unit owner meetings.—

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

451 a timeshare condominium.

452 2. Unless the bylaws provide otherwise, a vacancy on the
 453 board caused by the expiration of a director's term shall be
 454 filled by electing a new board member, and the election must be
 455 by secret ballot. An election is not required if the number of
 456 vacancies equals or exceeds the number of candidates. For
 457 purposes of this paragraph, the term "candidate" means an
 458 eligible person who has timely submitted the written notice, as
 459 described in sub-subparagraph 4.a., of his or her intention to
 460 become a candidate. Except in a timeshare or nonresidential
 461 condominium, or if the staggered term of a board member does not
 462 expire until a later annual meeting, or if all members' terms
 463 would otherwise expire but there are no candidates, the terms of
 464 all board members expire at the annual meeting, and such members
 465 may stand for reelection unless prohibited by the bylaws. Board
 466 members may serve 2-year terms if permitted by the bylaws or
 467 articles of incorporation. A board member may not serve more
 468 than four consecutive 2-year terms, unless approved by an
 469 affirmative vote of two-thirds of the total voting interests of
 470 the association or unless there are not enough eligible
 471 candidates to fill the vacancies on the board at the time of the
 472 vacancy. If the number of board members whose terms expire at
 473 the annual meeting equals or exceeds the number of candidates,
 474 the candidates become members of the board effective upon the
 475 adjournment of the annual meeting. Unless the bylaws provide

476 otherwise, any remaining vacancies shall be filled by the
 477 affirmative vote of the majority of the directors making up the
 478 newly constituted board even if the directors constitute less
 479 than a quorum or there is only one director. In a residential
 480 condominium association of more than 10 units or in a
 481 residential condominium association that does not include
 482 timeshare units or timeshare interests, coowners of a unit may
 483 not serve as members of the board of directors at the same time
 484 unless they own more than one unit or unless there are not
 485 enough eligible candidates to fill the vacancies on the board at
 486 the time of the vacancy. A unit owner in a residential
 487 condominium desiring to be a candidate for board membership must
 488 comply with sub-subparagraph 4.a. and must be eligible to be a
 489 candidate to serve on the board of directors at the time of the
 490 deadline for submitting a notice of intent to run in order to
 491 have his or her name listed as a proper candidate on the ballot
 492 or to serve on the board. A person who has been suspended or
 493 removed by the division under this chapter, or who is delinquent
 494 in the payment of any monetary obligation due to the
 495 association, is not eligible to be a candidate for board
 496 membership and may not be listed on the ballot. A person who has
 497 been convicted of any felony in this state or in a United States
 498 District or Territorial Court, or who has been convicted of any
 499 offense in another jurisdiction which would be considered a
 500 felony if committed in this state, is not eligible for board

501 membership unless such felon's civil rights have been restored
 502 for at least 5 years as of the date such person seeks election
 503 to the board. The validity of an action by the board is not
 504 affected if it is later determined that a board member is
 505 ineligible for board membership due to having been convicted of
 506 a felony. This subparagraph does not limit the term of a member
 507 of the board of a nonresidential or timeshare condominium.

508 3. The bylaws must provide the method of calling meetings
 509 of unit owners, including annual meetings. Written notice must
 510 include an agenda, must be mailed, hand delivered, or
 511 electronically transmitted to each unit owner at least 14 days
 512 before the annual meeting, and must be posted in a conspicuous
 513 place on the condominium property at least 14 continuous days
 514 before the annual meeting. Upon notice to the unit owners, the
 515 board shall, by duly adopted rule, designate a specific location
 516 on the condominium property ~~or association property~~ where all
 517 notices of unit owner meetings shall be posted. This requirement
 518 does not apply if there is no condominium property ~~or~~
 519 ~~association property~~ for posting notices. In lieu of, or in
 520 addition to, the physical posting of meeting notices, the
 521 association may, by reasonable rule, adopt a procedure for
 522 conspicuously posting and repeatedly broadcasting the notice and
 523 the agenda on a closed-circuit cable television system serving
 524 the condominium association. However, if broadcast notice is
 525 used in lieu of a notice posted physically on the condominium

526 | property, the notice and agenda must be broadcast at least four
 527 | times every broadcast hour of each day that a posted notice is
 528 | otherwise required under this section. If broadcast notice is
 529 | provided, the notice and agenda must be broadcast in a manner
 530 | and for a sufficient continuous length of time so as to allow an
 531 | average reader to observe the notice and read and comprehend the
 532 | entire content of the notice and the agenda. In addition to any
 533 | of the authorized means of providing notice of a meeting of the
 534 | board, the association may, by rule, adopt a procedure for
 535 | conspicuously posting the meeting notice and the agenda on a
 536 | website serving the condominium association for at least the
 537 | minimum period of time for which a notice of a meeting is also
 538 | required to be physically posted on the condominium property.
 539 | Any rule adopted shall, in addition to other matters, include a
 540 | requirement that the association send an electronic notice in
 541 | the same manner as a notice for a meeting of the members, which
 542 | must include a hyperlink to the website where the notice is
 543 | posted, to unit owners whose e-mail addresses are included in
 544 | the association's official records. Unless a unit owner waives
 545 | in writing the right to receive notice of the annual meeting,
 546 | such notice must be hand delivered, mailed, or electronically
 547 | transmitted to each unit owner. Notice for meetings and notice
 548 | for all other purposes must be mailed to each unit owner at the
 549 | address last furnished to the association by the unit owner, or
 550 | hand delivered to each unit owner. However, if a unit is owned

551 by more than one person, the association must provide notice to
 552 the address that the developer identifies for that purpose and
 553 thereafter as one or more of the owners of the unit advise the
 554 association in writing, or if no address is given or the owners
 555 of the unit do not agree, to the address provided on the deed of
 556 record. An officer of the association, or the manager or other
 557 person providing notice of the association meeting, must provide
 558 an affidavit or United States Postal Service certificate of
 559 mailing, to be included in the official records of the
 560 association affirming that the notice was mailed or hand
 561 delivered in accordance with this provision.

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

569 a. At least 60 days before a scheduled election, the
 570 association shall mail, deliver, or electronically transmit, by
 571 separate association mailing or included in another association
 572 mailing, delivery, or transmission, including regularly
 573 published newsletters, to each unit owner entitled to a vote, a
 574 first notice of the date of the election. A unit owner or other
 575 eligible person desiring to be a candidate for the board must

576 give written notice of his or her intent to be a candidate to
 577 the association at least 40 days before a scheduled election.
 578 Together with the written notice and agenda as set forth in
 579 subparagraph 3., the association shall mail, deliver, or
 580 electronically transmit a second notice of the election to all
 581 unit owners entitled to vote, together with a ballot that lists
 582 all candidates. Upon request of a candidate, an information
 583 sheet, no larger than 8 1/2 inches by 11 inches, which must be
 584 furnished by the candidate at least 35 days before the election,
 585 must be included with the mailing, delivery, or transmission of
 586 the ballot, with the costs of mailing, delivery, or electronic
 587 transmission and copying to be borne by the association. The
 588 association is not liable for the contents of the information
 589 sheets prepared by the candidates. In order to reduce costs, the
 590 association may print or duplicate the information sheets on
 591 both sides of the paper. The division shall by rule establish
 592 voting procedures consistent with this sub-subparagraph,
 593 including rules establishing procedures for giving notice by
 594 electronic transmission and rules providing for the secrecy of
 595 ballots. Elections shall be decided by a plurality of ballots
 596 cast. There is no quorum requirement; however, at least 20
 597 percent of the eligible voters must cast a ballot in order to
 598 have a valid election. A unit owner may not permit any other
 599 person to vote his or her ballot, and any ballots improperly
 600 cast are invalid. A unit owner who violates this provision may

601 be fined by the association in accordance with s. 718.303. A
 602 unit owner who needs assistance in casting the ballot for the
 603 reasons stated in s. 101.051 may obtain such assistance. The
 604 regular election must occur on the date of the annual meeting.
 605 Notwithstanding this sub-subparagraph, an election is not
 606 required unless more candidates file notices of intent to run or
 607 are nominated than board vacancies exist.

608 b. Within 90 days after being elected or appointed to the
 609 board of an association of a residential condominium, each newly
 610 elected or appointed director shall certify in writing to the
 611 secretary of the association that he or she has read the
 612 association's declaration of condominium, articles of
 613 incorporation, bylaws, and current written policies; that he or
 614 she will work to uphold such documents and policies to the best
 615 of his or her ability; and that he or she will faithfully
 616 discharge his or her fiduciary responsibility to the
 617 association's members. In lieu of this written certification,
 618 within 90 days after being elected or appointed to the board,
 619 the newly elected or appointed director may submit a certificate
 620 of having satisfactorily completed the educational curriculum
 621 administered by a division-approved condominium education
 622 provider within 1 year before or 90 days after the date of
 623 election or appointment. The written certification or
 624 educational certificate is valid and does not have to be
 625 resubmitted as long as the director serves on the board without

626 interruption. A director of an association of a residential
 627 condominium who fails to timely file the written certification
 628 or educational certificate is suspended from service on the
 629 board until he or she complies with this sub-subparagraph. The
 630 board may temporarily fill the vacancy during the period of
 631 suspension. The secretary shall cause the association to retain
 632 a director's written certification or educational certificate
 633 for inspection by the members for 5 years after a director's
 634 election or the duration of the director's uninterrupted tenure,
 635 whichever is longer. Failure to have such written certification
 636 or educational certificate on file does not affect the validity
 637 of any board action.

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

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

650 6. Unit owners may waive notice of specific meetings if

651 allowed by the applicable bylaws or declaration or any law.
 652 Notice of meetings of the board of administration, unit owner
 653 meetings, except unit owner meetings called to recall board
 654 members under paragraph (j), and committee meetings may be given
 655 by electronic transmission to unit owners who consent to receive
 656 notice by electronic transmission. A unit owner who consents to
 657 receiving notices by electronic transmission is solely
 658 responsible for removing or bypassing filters that block receipt
 659 of mass emails sent to members on behalf of the association in
 660 the course of giving electronic notices.

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

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

668 9. Unless otherwise provided in the bylaws, any vacancy
 669 occurring on the board before the expiration of a term may be
 670 filled by the affirmative vote of the majority of the remaining
 671 directors, even if the remaining directors constitute less than
 672 a quorum, or by the sole remaining director. In the alternative,
 673 a board may hold an election to fill the vacancy, in which case
 674 the election procedures must conform to sub-subparagraph 4.a.
 675 unless the association governs 10 units or fewer and has opted

676 out of the statutory election process, in which case the bylaws
 677 of the association control. Unless otherwise provided in the
 678 bylaws, a board member appointed or elected under this section
 679 shall fill the vacancy for the unexpired term of the seat being
 680 filled. Filling vacancies created by recall is governed by
 681 paragraph (j) and rules adopted by the division.

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

688
 689 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
 690 association of 10 or fewer units may, by affirmative vote of a
 691 majority of the total voting interests, provide for different
 692 voting and election procedures in its bylaws, which may be by a
 693 proxy specifically delineating the different voting and election
 694 procedures. The different voting and election procedures may
 695 provide for elections to be conducted by limited or general
 696 proxy.

697 (j) Recall of board members.—Subject to s. 718.301, any
 698 member of the board of administration may be recalled and
 699 removed from office with or without cause by the vote or
 700 agreement in writing by a majority of all the voting interests.

701 A special meeting of the unit owners to recall a member or
 702 members of the board of administration may be called by 10
 703 percent of the voting interests giving notice of the meeting as
 704 required for a meeting of unit owners, and the notice shall
 705 state the purpose of the meeting. Electronic transmission may
 706 not be used as a method of giving notice of a meeting called in
 707 whole or in part for this purpose.

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

719 2. If the proposed recall is by an agreement in writing by
 720 a majority of all voting interests, the agreement in writing or
 721 a copy thereof shall be served on the association by certified
 722 mail or by personal service in the manner authorized by chapter
 723 48 and the Florida Rules of Civil Procedure. The board of
 724 administration shall duly notice and hold a meeting of the board
 725 within 5 full business days after receipt of the agreement in

726 writing. Such member or members shall be recalled effective
 727 immediately upon the conclusion of the board meeting provided
 728 that the recall is facially valid. A recalled member must ~~and~~
 729 ~~shall~~ turn over to the board, within 10 full business days, any
 730 and all records and property of the association in their
 731 possession.

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

739 4. If the board fails to duly notice and hold the required
 740 meeting ~~or fails to file the required petition,~~ the unit owner
 741 representative may file a petition pursuant to s. 718.1255
 742 challenging the board's failure to act. The petition must be
 743 filed within 60 days after the expiration of the applicable 5-
 744 full-business-day period. The review of a petition under this
 745 subparagraph is limited to the sufficiency of service on the
 746 board and the facial validity of the written agreement or
 747 ballots filed.

748 5. If a vacancy occurs on the board as a result of a
 749 recall or removal and less than a majority of the board members
 750 are removed, the vacancy may be filled by the affirmative vote

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

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

776 7. The division may not accept for filing a recall
 777 petition, whether filed pursuant to subparagraph 1.,
 778 subparagraph 2., subparagraph 4., or subparagraph 6. when there
 779 are 60 or fewer days until the scheduled reelection of the board
 780 member sought to be recalled or when 60 or fewer days have
 781 elapsed since the election of the board member sought to be
 782 recalled.

783 Section 3. Subsection (2) of section 718.113, Florida
 784 Statutes, is amended to read:

785 718.113 Maintenance; limitation upon improvement; display
 786 of flag; hurricane shutters and protection; display of religious
 787 decorations.—

788 (2)(a) Except as otherwise provided in this section, there
 789 shall be no material alteration or substantial additions to the
 790 common elements or to real property which is association
 791 property, except in a manner provided in the declaration as
 792 originally recorded or as amended under the procedures provided
 793 therein. If the declaration as originally recorded or as amended
 794 under the procedures provided therein does not specify the
 795 procedure for approval of material alterations or substantial
 796 additions, 75 percent of the total voting interests of the
 797 association must approve the alterations or additions before the
 798 material alterations or substantial additions are commenced.

799 This paragraph is intended to clarify existing law and applies
 800 to associations existing on July 1, 2018 ~~October 1, 2008~~.

801 (b) There shall not be any material alteration of, or
 802 substantial addition to, the common elements of any condominium
 803 operated by a multicondominium association unless approved in
 804 the manner provided in the declaration of the affected
 805 condominium or condominiums as originally recorded or as amended
 806 under the procedures provided therein. If a declaration as
 807 originally recorded or as amended under the procedures provided
 808 therein does not specify a procedure for approving such an
 809 alteration or addition, the approval of 75 percent of the total
 810 voting interests of each affected condominium is required before
 811 the material alterations or substantial additions are commenced.

812 This subsection does not prohibit a provision in any
 813 declaration, articles of incorporation, or bylaws as originally
 814 recorded or as amended under the procedures provided therein
 815 requiring the approval of unit owners in any condominium
 816 operated by the same association or requiring board approval
 817 before a material alteration or substantial addition to the
 818 common elements is permitted. This paragraph is intended to
 819 clarify existing law and applies to associations existing on
 820 July 1, 2018 ~~the effective date of this act.~~

821 (c) There shall not be any material alteration or
 822 substantial addition made to association real property operated
 823 by a multicondominium association, except as provided in the
 824 declaration, articles of incorporation, or bylaws as originally
 825 recorded or as amended under the procedures provided therein. If

826 the declaration, articles of incorporation, or bylaws as
 827 originally recorded or as amended under the procedures provided
 828 therein do not specify the procedure for approving an alteration
 829 or addition to association real property, the approval of 75
 830 percent of the total voting interests of the association is
 831 required before the material alterations or substantial
 832 additions are commenced. This paragraph is intended to clarify
 833 existing law and applies to associations existing on July 1,
 834 2018 ~~the effective date of this act.~~

835 Section 4. Subsection (3) of section 718.3026, Florida
 836 Statutes, is amended to read:

837 718.3026 Contracts for products and services; in writing;
 838 bids; exceptions.—Associations with 10 or fewer units may opt
 839 out of the provisions of this section if two-thirds of the unit
 840 owners vote to do so, which opt-out may be accomplished by a
 841 proxy specifically setting forth the exception from this
 842 section.

843 ~~(3) As to any contract or other transaction between an~~
 844 ~~association and one or more of its directors or any other~~
 845 ~~corporation, firm, association, or entity in which one or more~~
 846 ~~of its directors are directors or officers or are financially~~
 847 ~~interested:~~

848 ~~(a) The association shall comply with the requirements of~~
 849 ~~s. 617.0832.~~

850 ~~(b) The disclosures required by s. 617.0832 shall be~~

851 ~~entered into the written minutes of the meeting.~~

852 ~~(c) Approval of the contract or other transaction shall~~
 853 ~~require an affirmative vote of two thirds of the directors~~
 854 ~~present.~~

855 ~~(d) At the next regular or special meeting of the members,~~
 856 ~~the existence of the contract or other transaction shall be~~
 857 ~~disclosed to the members. Upon motion of any member, the~~
 858 ~~contract or transaction shall be brought up for a vote and may~~
 859 ~~be canceled by a majority vote of the members present. Should~~
 860 ~~the members cancel the contract, the association shall only be~~
 861 ~~liable for the reasonable value of goods and services provided~~
 862 ~~up to the time of cancellation and shall not be liable for any~~
 863 ~~termination fee, liquidated damages, or other form of penalty~~
 864 ~~for such cancellation.~~

865 Section 5. Section 718.3027, Florida Statutes, is amended
 866 to read:

867 718.3027 Conflicts of interest.-

868 (1) Directors and officers of a board of an association
 869 that is not a timeshare condominium association, and the
 870 relatives of such directors and officers, must disclose to the
 871 board any activity that may reasonably be construed to be a
 872 conflict of interest. A rebuttable presumption of a conflict of
 873 interest exists if any of the following occurs without prior
 874 notice, as required in subsection (5)~~(4)~~:

875 (a) A director or an officer, or a relative of a director

876 or an officer, enters into a contract for goods or services with
 877 the association.

878 (b) A director or an officer, or a relative of a director
 879 or an officer, holds an interest in a corporation, limited
 880 liability corporation, partnership, limited liability
 881 partnership, or other business entity that conducts business
 882 with the association or proposes to enter into a contract or
 883 other transaction with the association.

884 (2) If a director or an officer, or a relative of a
 885 director or an officer, proposes to engage in an activity that
 886 is a conflict of interest, as described in subsection (1), the
 887 proposed activity must be listed on, and all contracts and
 888 transactional documents related to the proposed activity must be
 889 attached to, the meeting agenda. The association shall comply
 890 with the requirements of s. 617.0832, and the disclosures
 891 required by s. 617.0832 shall be entered into the written
 892 minutes of the meeting. Approval of the contract or other
 893 transaction requires an affirmative vote of two-thirds of all
 894 other directors present. At the next regular or special meeting
 895 of the members, the existence of the contract or other
 896 transaction shall be disclosed to the members. Upon motion of
 897 any member, the contract or transaction shall be brought up for
 898 a vote and may be canceled by a majority vote of the members
 899 present. If the contract is canceled, the association is only
 900 liable for the reasonable value of the goods and services

901 provided up to the time of cancellation and is not liable for
 902 any termination fee, liquidated damages, or other form of
 903 penalty for such cancellation.

904 (3) If the board votes against the proposed activity, the
 905 director or officer, or the relative of the director or officer,
 906 must notify the board in writing of his or her intention not to
 907 pursue the proposed activity or to withdraw from office. If the
 908 board finds that an officer or a director has violated this
 909 subsection, the officer or director shall be deemed removed from
 910 office. The vacancy shall be filled according to general law.

911 (4)~~(3)~~ A director or an officer, or a relative of a
 912 director or an officer, who is a party to, or has an interest
 913 in, an activity that is a possible conflict of interest, as
 914 described in subsection (1), may attend the meeting at which the
 915 activity is considered by the board and is authorized to make a
 916 presentation to the board regarding the activity. After the
 917 presentation, the director or officer, or the relative of the
 918 director or officer, must leave the meeting during the
 919 discussion of, and the vote on, the activity. A director or an
 920 officer who is a party to, or has an interest in, the activity
 921 must recuse himself or herself from the vote.

922 (5)~~(4)~~ A contract entered into between a director or an
 923 officer, or a relative of a director or an officer, and the
 924 association, which is not a timeshare condominium association,
 925 that has not been properly disclosed as a conflict of interest

926 or potential conflict of interest as required by s.
 927 718.111(12)(g) is voidable and terminates upon the filing of a
 928 written notice terminating the contract with the board of
 929 directors which contains the consent of at least 20 percent of
 930 the voting interests of the association.

931 (6)~~(5)~~ As used in this section, the term "relative" means
 932 a relative within the third degree of consanguinity by blood or
 933 marriage.

934 Section 6. Paragraph (b) of subsection (3) of section
 935 718.303, Florida Statutes, is amended to read:

936 718.303 Obligations of owners and occupants; remedies.—

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

946 (b) A fine or suspension levied by the board of
 947 administration may not be imposed unless the board first
 948 provides at least 14 days' written notice ~~and an opportunity for~~
 949 ~~a hearing~~ to the unit owner and, if applicable, any its
 950 occupant, licensee, or invitee of the unit owner sought to be

951 fined or suspended and an opportunity for a hearing. The hearing
 952 must be held before a committee of at least three members
 953 appointed by the board who are not officers, directors, or
 954 employees of the association, or the spouse, parent, child,
 955 brother, or sister of an officer, director, or employee other
 956 unit owners who are neither board members nor persons residing
 957 in a board member's household. The role of the committee is
 958 limited to determining whether to confirm or reject the fine or
 959 suspension levied by the board. If the committee does not
 960 approve agree, the proposed fine or suspension by majority vote,
 961 the fine or suspension may not be imposed. If the proposed fine
 962 or suspension is approved by the committee, the fine payment is
 963 due 5 days after the date of the committee meeting at which the
 964 fine is approved. The association must provide written notice of
 965 such fine or suspension by mail or hand delivery to the unit
 966 owner and, if applicable, to any tenant, licensee, or invitee of
 967 the unit owner.

968 Section 7. Section 718.707, Florida Statutes, is amended
 969 to read:

970 718.707 Time limitation for classification as bulk
 971 assignee or bulk buyer.—A person acquiring condominium parcels
 972 may not be classified as a bulk assignee or bulk buyer unless
 973 the condominium parcels were acquired on or after July 1, 2010,
 974 ~~but before July 1, 2018.~~ The date of such acquisition shall be
 975 determined by the date of recording a deed or other instrument

976 of conveyance for such parcels in the public records of the
 977 county in which the condominium is located, or by the date of
 978 issuing a certificate of title in a foreclosure proceeding with
 979 respect to such condominium parcels.

980 Section 8. Paragraphs (a) and (b) of subsection (2) of
 981 section 719.104, Florida Statutes, are amended to read:

982 719.104 Cooperatives; access to units; records; financial
 983 reports; assessments; purchase of leases.—

984 (2) OFFICIAL RECORDS.—

985 (a) From the inception of the association, the association
 986 shall maintain a copy of each of the following, where
 987 applicable, which shall constitute the official records of the
 988 association:

989 1. The plans, permits, warranties, and other items
 990 provided by the developer pursuant to s. 719.301(4).

991 2. A photocopy of the cooperative documents.

992 3. A copy of the current rules of the association.

993 4. A book or books containing the minutes of all meetings
 994 of the association, of the board of directors, and of the unit
 995 owners, ~~which minutes shall be retained for a period of not less~~
 996 ~~than 7 years.~~

997 5. A current roster of all unit owners and their mailing
 998 addresses, unit identifications, voting certifications, and, if
 999 known, telephone numbers. The association shall also maintain
 1000 the electronic mailing addresses and the numbers designated by

1001 unit owners for receiving notice sent by electronic transmission
 1002 of those unit owners consenting to receive notice by electronic
 1003 transmission. The electronic mailing addresses and numbers
 1004 provided by unit owners to receive notice by electronic
 1005 transmission shall be removed from association records when
 1006 consent to receive notice by electronic transmission is revoked.
 1007 However, the association is not liable for an erroneous
 1008 disclosure of the electronic mail address or the number for
 1009 receiving electronic transmission of notices.

1010 6. All current insurance policies of the association.

1011 7. A current copy of any management agreement, lease, or
 1012 other contract to which the association is a party or under
 1013 which the association or the unit owners have an obligation or
 1014 responsibility.

1015 8. Bills of sale or transfer for all property owned by the
 1016 association.

1017 9. Accounting records for the association and separate
 1018 accounting records for each unit it operates, according to good
 1019 accounting practices. ~~All accounting records shall be maintained~~
 1020 ~~for a period of not less than 7 years.~~ The accounting records
 1021 shall include, but not be limited to:

1022 a. Accurate, itemized, and detailed records of all
 1023 receipts and expenditures.

1024 b. A current account and a monthly, bimonthly, or
 1025 quarterly statement of the account for each unit designating the

1026 name of the unit owner, the due date and amount of each
 1027 assessment, the amount paid upon the account, and the balance
 1028 due.

1029 c. All audits, reviews, accounting statements, and
 1030 financial reports of the association.

1031 d. All contracts for work to be performed. Bids for work
 1032 to be performed shall also be considered official records and
 1033 shall be maintained for a period of 1 year.

1034 10. Ballots, sign-in sheets, voting proxies, and all other
 1035 papers and electronic records relating to voting by unit owners,
 1036 which shall be maintained for a period of 1 year after the date
 1037 of the election, vote, or meeting to which the document relates.

1038 11. All rental records where the association is acting as
 1039 agent for the rental of units.

1040 12. A copy of the current question and answer sheet as
 1041 described in s. 719.504.

1042 13. All other written records of the association not
 1043 specifically included in the foregoing which are related to the
 1044 operation of the association.

1045 (b) The official records of the association must be
 1046 maintained within the state for at least 7 years. The records of
 1047 the association shall be made available to a unit owner within
 1048 45 miles of the cooperative property or within the county in
 1049 which the cooperative property is located within 10 ~~5~~ working
 1050 days after receipt of written request by the board or its

1051 designee. This paragraph may be complied with by having a copy
 1052 of the official records of the association available for
 1053 inspection or copying on the cooperative property or the
 1054 association may offer the option of making the records available
 1055 to a unit owner electronically via the Internet or by allowing
 1056 the records to be viewed in an electronic format on a computer
 1057 screen and printed upon request. The association is not
 1058 responsible for the use or misuse of the information provided to
 1059 an association member or his or her authorized representative
 1060 pursuant to the compliance requirements of this chapter unless
 1061 the association has an affirmative duty not to disclose such
 1062 information pursuant to this chapter.

1063 Section 9. Paragraphs (a), (c), and (d) of subsection (1)
 1064 of section 719.106, Florida Statutes, are amended, and paragraph
 1065 (m) is added to that subsection, to read:

1066 719.106 Bylaws; cooperative ownership.—

1067 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1068 documents shall provide for the following, and if they do not,
 1069 they shall be deemed to include the following:

1070 (a) Administration.—

1071 1. The form of administration of the association shall be
 1072 described, indicating the titles of the officers and board of
 1073 administration and specifying the powers, duties, manner of
 1074 selection and removal, and compensation, if any, of officers and
 1075 board members. In the absence of such a provision, the board of

1076 administration shall be composed of five members, unless the
 1077 cooperative ~~except in the case of cooperatives~~ has having five
 1078 or fewer units., ~~in which case in not-for-profit corporations,~~
 1079 The board shall consist of not fewer than three members in
 1080 cooperatives with five or fewer units that are not-for-profit
 1081 corporations. In a residential cooperative association of more
 1082 than 10 units, co-owners of a unit may not serve as members of
 1083 the board of directors at the same time unless the co-owners own
 1084 more than one unit or unless there are not enough eligible
 1085 candidates to fill the vacancies on the board at the time of the
 1086 vacancy. In the absence of provisions to the contrary, the board
 1087 of administration shall have a president, a secretary, and a
 1088 treasurer, who shall perform the duties of those offices
 1089 customarily performed by officers of corporations. Unless
 1090 prohibited in the bylaws, the board of administration may
 1091 appoint other officers and grant them those duties it deems
 1092 appropriate. Unless otherwise provided in the bylaws, the
 1093 officers shall serve without compensation and at the pleasure of
 1094 the board. Unless otherwise provided in the bylaws, the members
 1095 of the board shall serve without compensation.

1096 2. A person who has been suspended or removed by the
 1097 division under this chapter, or who is delinquent in the payment
 1098 of any monetary obligation due to the association, is not
 1099 eligible to be a candidate for board membership and may not be
 1100 listed on the ballot. A director or officer charged by

1101 information or indictment with a felony theft or embezzlement
 1102 offense involving the association's funds or property is
 1103 suspended from office. The board shall fill the vacancy
 1104 according to general law until the end of the period of the
 1105 suspension or the end of the director's term of office,
 1106 whichever occurs first. However, if the charges are resolved
 1107 without a finding of guilt or without acceptance of a plea of
 1108 guilty or nolo contendere, the director or officer shall be
 1109 reinstated for any remainder of his or her term of office. A
 1110 member who has such criminal charges pending may not be
 1111 appointed or elected to a position as a director or officer. A
 1112 person who has been convicted of any felony in this state or in
 1113 any United States District Court, or who has been convicted of
 1114 any offense in another jurisdiction which would be considered a
 1115 felony if committed in this state, is not eligible for board
 1116 membership unless such felon's civil rights have been restored
 1117 for at least 5 years as of the date such person seeks election
 1118 to the board. The validity of an action by the board is not
 1119 affected if it is later determined that a board member is
 1120 ineligible for board membership due to having been convicted of
 1121 a felony.

1122 3. When a unit owner files a written inquiry by certified
 1123 mail with the board of administration, the board shall respond
 1124 in writing to the unit owner within 30 days of receipt of the
 1125 inquiry. The board's response shall either give a substantive

1126 response to the inquirer, notify the inquirer that a legal
 1127 opinion has been requested, or notify the inquirer that advice
 1128 has been requested from the division. If the board requests
 1129 advice from the division, the board shall, within 10 days of its
 1130 receipt of the advice, provide in writing a substantive response
 1131 to the inquirer. If a legal opinion is requested, the board
 1132 shall, within 60 days after the receipt of the inquiry, provide
 1133 in writing a substantive response to the inquirer. The failure
 1134 to provide a substantive response to the inquirer as provided
 1135 herein precludes the board from recovering attorney's fees and
 1136 costs in any subsequent litigation, administrative proceeding,
 1137 or arbitration arising out of the inquiry. The association may,
 1138 through its board of administration, adopt reasonable rules and
 1139 regulations regarding the frequency and manner of responding to
 1140 the unit owners' inquiries, one of which may be that the
 1141 association is obligated to respond to only one written inquiry
 1142 per unit in any given 30-day period. In such case, any
 1143 additional inquiry or inquiries must be responded to in the
 1144 subsequent 30-day period, or periods, as applicable.

1145 (c) Board of administration meetings.—Members of the board
 1146 of administration may use e-mail as a means of communication but
 1147 may not cast a vote on an association matter via e-mail.

1148 Meetings of the board of administration at which a quorum of the
 1149 members is present shall be open to all unit owners. Any unit
 1150 owner may tape record or videotape meetings of the board of

1151 administration. The right to attend such meetings includes the
 1152 right to speak at such meetings with reference to all designated
 1153 agenda items. The division shall adopt reasonable rules
 1154 governing the tape recording and videotaping of the meeting. The
 1155 association may adopt reasonable written rules governing the
 1156 frequency, duration, and manner of unit owner statements.
 1157 Adequate notice of all meetings shall be posted in a conspicuous
 1158 place upon the cooperative property at least 48 continuous hours
 1159 preceding the meeting, except in an emergency. Any item not
 1160 included on the notice may be taken up on an emergency basis by
 1161 at least a majority plus one of the members of the board. Such
 1162 emergency action shall be noticed and ratified at the next
 1163 regular meeting of the board. Notice of any meeting in which
 1164 regular or special assessments against unit owners are to be
 1165 considered must specifically state that assessments will be
 1166 considered and provide the estimated cost and description of the
 1167 purpose for such assessments. ~~However,~~ Written notice of any
 1168 meeting at which nonemergency special assessments, or at which
 1169 amendment to rules regarding unit use, will be considered shall
 1170 be mailed, delivered, or electronically transmitted to the unit
 1171 owners and posted conspicuously on the cooperative property not
 1172 less than 14 days before the meeting. Evidence of compliance
 1173 with this 14-day notice shall be made by an affidavit executed
 1174 by the person providing the notice and filed among the official
 1175 records of the association. Upon notice to the unit owners, the

1176 board shall by duly adopted rule designate a specific location
 1177 on the cooperative property upon which all notices of board
 1178 meetings shall be posted. In lieu of or in addition to the
 1179 physical posting of notice of any meeting of the board of
 1180 administration on the cooperative property, the association may,
 1181 by reasonable rule, adopt a procedure for conspicuously posting
 1182 and repeatedly broadcasting the notice and the agenda on a
 1183 closed-circuit cable television system serving the cooperative
 1184 association. However, if broadcast notice is used in lieu of a
 1185 notice posted physically on the cooperative property, the notice
 1186 and agenda must be broadcast at least four times every broadcast
 1187 hour of each day that a posted notice is otherwise required
 1188 under this section. When broadcast notice is provided, the
 1189 notice and agenda must be broadcast in a manner and for a
 1190 sufficient continuous length of time so as to allow an average
 1191 reader to observe the notice and read and comprehend the entire
 1192 content of the notice and the agenda. In addition to any of the
 1193 authorized means of providing notice of a meeting of the board,
 1194 the association may, by rule, adopt a procedure for
 1195 conspicuously posting the meeting notice and the agenda on a
 1196 website serving the cooperative association for at least the
 1197 minimum period of time for which a notice of a meeting is also
 1198 required to be physically posted on the cooperative property.
 1199 Any rule adopted shall, in addition to other matters, include a
 1200 requirement that the association send an electronic notice in

1201 the same manner as a notice for a meeting of the members, which
 1202 must include a hyperlink to the website where the notice is
 1203 posted, to unit owners whose e-mail addresses are included in
 1204 the association's official records. ~~Notice of any meeting in~~
 1205 ~~which regular assessments against unit owners are to be~~
 1206 ~~considered for any reason shall specifically contain a statement~~
 1207 ~~that assessments will be considered and the nature of any such~~
 1208 ~~assessments.~~ Meetings of a committee to take final action on
 1209 behalf of the board or to make recommendations to the board
 1210 regarding the association budget are subject to the provisions
 1211 of this paragraph. Meetings of a committee that does not take
 1212 final action on behalf of the board or make recommendations to
 1213 the board regarding the association budget are subject to the
 1214 provisions of this section, unless those meetings are exempted
 1215 from this section by the bylaws of the association.
 1216 Notwithstanding any other law to the contrary, the requirement
 1217 that board meetings and committee meetings be open to the unit
 1218 owners does not apply to board or committee meetings held for
 1219 the purpose of discussing personnel matters or meetings between
 1220 the board or a committee and the association's attorney, with
 1221 respect to proposed or pending litigation, if the meeting is
 1222 held for the purpose of seeking or rendering legal advice.
 1223 (d) Shareholder meetings.—There shall be an annual meeting
 1224 of the shareholders. All members of the board of administration
 1225 shall be elected at the annual meeting unless the bylaws provide

1226 for staggered election terms or for their election at another
 1227 meeting. Any unit owner desiring to be a candidate for board
 1228 membership must comply with subparagraph 1. The bylaws must
 1229 provide the method for calling meetings, including annual
 1230 meetings. Written notice, which must incorporate an
 1231 identification of agenda items, shall be given to each unit
 1232 owner at least 14 days before the annual meeting and posted in a
 1233 conspicuous place on the cooperative property at least 14
 1234 continuous days preceding the annual meeting. Upon notice to the
 1235 unit owners, the board must by duly adopted rule designate a
 1236 specific location on the cooperative property upon which all
 1237 notice of unit owner meetings are posted. In lieu of or in
 1238 addition to the physical posting of the meeting notice, the
 1239 association may, by reasonable rule, adopt a procedure for
 1240 conspicuously posting and repeatedly broadcasting the notice and
 1241 the agenda on a closed-circuit cable television system serving
 1242 the cooperative association. However, if broadcast notice is
 1243 used in lieu of a posted notice, the notice and agenda must be
 1244 broadcast at least four times every broadcast hour of each day
 1245 that a posted notice is otherwise required under this section.
 1246 If broadcast notice is provided, the notice and agenda must be
 1247 broadcast in a manner and for a sufficient continuous length of
 1248 time to allow an average reader to observe the notice and read
 1249 and comprehend the entire content of the notice and the agenda.
 1250 In addition to any of the authorized means of providing notice

1251 of a meeting of the shareholders, the association may, by rule,
 1252 adopt a procedure for conspicuously posting the meeting notice
 1253 and the agenda on a website serving the cooperative association
 1254 for at least the minimum period of time for which a notice of a
 1255 meeting is also required to be physically posted on the
 1256 cooperative property. Any rule adopted shall, in addition to
 1257 other matters, include a requirement that the association send
 1258 an electronic notice in the same manner as a notice for a
 1259 meeting of the members, which must include a hyperlink to the
 1260 website where the notice is posted, to unit owners whose e-mail
 1261 addresses are included in the association's official records.

1262 Unless a unit owner waives in writing the right to receive
 1263 notice of the annual meeting, the notice of the annual meeting
 1264 must be sent by mail, hand delivered, or electronically
 1265 transmitted to each unit owner. An officer of the association
 1266 must provide an affidavit or United States Postal Service
 1267 certificate of mailing, to be included in the official records
 1268 of the association, affirming that notices of the association
 1269 meeting were mailed, hand delivered, or electronically
 1270 transmitted, in accordance with this provision, to each unit
 1271 owner at the address last furnished to the association.

1272 1. The board of administration shall be elected by written
 1273 ballot or voting machine. A proxy may not be used in electing
 1274 the board of administration in general elections or elections to
 1275 fill vacancies caused by recall, resignation, or otherwise

1276 unless otherwise provided in this chapter.
 1277 a. At least 60 days before a scheduled election, the
 1278 association shall mail, deliver, or transmit, whether by
 1279 separate association mailing, delivery, or electronic
 1280 transmission or included in another association mailing,
 1281 delivery, or electronic transmission, including regularly
 1282 published newsletters, to each unit owner entitled to vote, a
 1283 first notice of the date of the election. Any unit owner or
 1284 other eligible person desiring to be a candidate for the board
 1285 of administration must give written notice to the association at
 1286 least 40 days before a scheduled election. Together with the
 1287 written notice and agenda as set forth in this section, the
 1288 association shall mail, deliver, or electronically transmit a
 1289 second notice of election to all unit owners entitled to vote,
 1290 together with a ballot that lists all candidates. Upon request
 1291 of a candidate, the association shall include an information
 1292 sheet, no larger than 8 1/2 inches by 11 inches, which must be
 1293 furnished by the candidate at least 35 days before the election,
 1294 to be included with the mailing, delivery, or electronic
 1295 transmission of the ballot, with the costs of mailing, delivery,
 1296 or transmission and copying to be borne by the association. The
 1297 association is not liable for the contents of the information
 1298 sheets provided by the candidates. In order to reduce costs, the
 1299 association may print or duplicate the information sheets on
 1300 both sides of the paper. The division shall by rule establish

1301 voting procedures consistent with this subparagraph, including
 1302 rules establishing procedures for giving notice by electronic
 1303 transmission and rules providing for the secrecy of ballots.
 1304 Elections shall be decided by a plurality of those ballots cast.
 1305 There is no quorum requirement. However, at least 20 percent of
 1306 the eligible voters must cast a ballot in order to have a valid
 1307 election. A unit owner may not permit any other person to vote
 1308 his or her ballot, and any such ballots improperly cast are
 1309 invalid. A unit owner who needs assistance in casting the ballot
 1310 for the reasons stated in s. 101.051 may obtain assistance in
 1311 casting the ballot. Any unit owner violating this provision may
 1312 be fined by the association in accordance with s. 719.303. The
 1313 regular election must occur on the date of the annual meeting.
 1314 This subparagraph does not apply to timeshare cooperatives.
 1315 Notwithstanding this subparagraph, an election and balloting are
 1316 not required unless more candidates file a notice of intent to
 1317 run or are nominated than vacancies exist on the board. Any
 1318 challenge to the election process must be commenced within 60
 1319 days after the election results are announced.

1320 b. Within 90 days after being elected or appointed to the
 1321 board, each new director shall certify in writing to the
 1322 secretary of the association that he or she has read the
 1323 association's bylaws, articles of incorporation, proprietary
 1324 lease, and current written policies; that he or she will work to
 1325 uphold such documents and policies to the best of his or her

1326 ability; and that he or she will faithfully discharge his or her
 1327 fiduciary responsibility to the association's members. Within 90
 1328 days after being elected or appointed to the board, in lieu of
 1329 this written certification, the newly elected or appointed
 1330 director may submit a certificate of having satisfactorily
 1331 completed the educational curriculum administered by an
 1332 education provider as approved by the division pursuant to the
 1333 requirements established in chapter 718 within 1 year before or
 1334 90 days after the date of election or appointment. The
 1335 educational certificate is valid and does not have to be
 1336 resubmitted as long as the director serves on the board without
 1337 interruption. A director who fails to timely file the written
 1338 certification or educational certificate is suspended from
 1339 service on the board until he or she complies with this sub-
 1340 subparagraph. The board may temporarily fill the vacancy during
 1341 the period of suspension. The secretary of the association shall
 1342 cause the association to retain a director's written
 1343 certification or educational certificate for inspection by the
 1344 members for 5 years after a director's election or the duration
 1345 of the director's uninterrupted tenure, whichever is longer.
 1346 Failure to have such written certification or educational
 1347 certificate on file does not affect the validity of any board
 1348 action.

1349 2. Any approval by unit owners called for by this chapter,
 1350 or the applicable cooperative documents, must be made at a duly

1351 noticed meeting of unit owners and is subject to this chapter or
 1352 the applicable cooperative documents relating to unit owner
 1353 decisionmaking, except that unit owners may take action by
 1354 written agreement, without meetings, on matters for which action
 1355 by written agreement without meetings is expressly allowed by
 1356 the applicable cooperative documents or law which provides for
 1357 the unit owner action.

1358 3. Unit owners may waive notice of specific meetings if
 1359 allowed by the applicable cooperative documents or law. Notice
 1360 of meetings of the board of administration, shareholder
 1361 meetings, except shareholder meetings called to recall board
 1362 members, under paragraph (f), and committee meetings may be given
 1363 by electronic transmission to unit owners who consent to receive
 1364 notice by electronic transmission. A unit owner who consents to
 1365 receiving notices by electronic transmission is solely
 1366 responsible for removing or bypassing filters that may block
 1367 receipt of mass emails sent to members on behalf of the
 1368 association in the course of giving electronic notices.

1369 4. Unit owners have the right to participate in meetings
 1370 of unit owners with reference to all designated agenda items.
 1371 However, the association may adopt reasonable rules governing
 1372 the frequency, duration, and manner of unit owner participation.

1373 5. Any unit owner may tape record or videotape meetings of
 1374 the unit owners subject to reasonable rules adopted by the
 1375 division.

1376 6. Unless otherwise provided in the bylaws, a vacancy
 1377 occurring on the board before the expiration of a term may be
 1378 filled by the affirmative vote of the majority of the remaining
 1379 directors, even if the remaining directors constitute less than
 1380 a quorum, or by the sole remaining director. In the alternative,
 1381 a board may hold an election to fill the vacancy, in which case
 1382 the election procedures must conform to the requirements of
 1383 subparagraph 1. unless the association has opted out of the
 1384 statutory election process, in which case the bylaws of the
 1385 association control. Unless otherwise provided in the bylaws, a
 1386 board member appointed or elected under this subparagraph shall
 1387 fill the vacancy for the unexpired term of the seat being
 1388 filled. Filling vacancies created by recall is governed by
 1389 paragraph (f) and rules adopted by the division.

1390
 1391 Notwithstanding subparagraphs (b)2. and (d)1., an association
 1392 may, by the affirmative vote of a majority of the total voting
 1393 interests, provide for a different voting and election procedure
 1394 in its bylaws, which vote may be by a proxy specifically
 1395 delineating the different voting and election procedures. The
 1396 different voting and election procedures may provide for
 1397 elections to be conducted by limited or general proxy.

1398 (m) Director or officer delinquencies.—A director or
 1399 officer more than 90 days delinquent in the payment of any
 1400 monetary obligation due the association shall be deemed to have

1401 abandoned the office, creating a vacancy in the office to be
 1402 filled according to law.

1403 Section 10. Paragraph (b) of subsection (1) of section
 1404 719.107, Florida Statutes, is amended to read:

1405 719.107 Common expenses; assessment.—

1406 (1)

1407 (b) If so provided in the bylaws, the cost of
 1408 communications services as defined in chapter 202, information
 1409 services or Internet services ~~a master antenna television system~~
 1410 ~~or duly franchised cable television service~~ obtained pursuant to
 1411 a bulk contract shall be deemed a common expense, and if not
 1412 obtained pursuant to a bulk contract, such cost shall be
 1413 considered common expense if it is designated as such in a
 1414 written contract between the board of administration and the
 1415 company providing the communications services as defined in
 1416 chapter 202, information services or Internet services ~~master~~
 1417 ~~television antenna system or the cable television service.~~ The
 1418 contract shall be for a term of not less than 2 years.

1419 1. Any contract made by the board after April 2, 1992, for
 1420 a community antenna system or duly franchised cable television
 1421 service, communications services as defined in chapter 22,
 1422 information services or Internet services may be canceled by a
 1423 majority of the voting interests present at the next regular or
 1424 special meeting of the association. Any member may make a motion
 1425 to cancel the contract, but if no motion is made or if such

1426 motion fails to obtain the required majority at the next regular
 1427 or special meeting, whichever is sooner, following the making of
 1428 the contract, then such contract shall be deemed ratified for
 1429 the term therein expressed.

1430 2. Any such contract shall provide, and shall be deemed to
 1431 provide if not expressly set forth, that any hearing impaired or
 1432 legally blind unit owner who does not occupy the unit with a
 1433 nonhearing impaired or sighted person may discontinue the
 1434 service without incurring disconnect fees, penalties, or
 1435 subsequent service charges, and as to such units, the owners
 1436 shall not be required to pay any common expenses charge related
 1437 to such service. If less than all members of an association
 1438 share the expenses of cable television, the expense shall be
 1439 shared equally by all participating unit owners. The association
 1440 may use the provisions of s. 719.108 to enforce payment of the
 1441 shares of such costs by the unit owners receiving cable
 1442 television.

1443 Section 11. Paragraph (b) of subsection (3) of section
 1444 719.303, Florida Statutes, is amended to read:

1445 719.303 Obligations of owners.—

1446 (3) The association may levy reasonable fines for failure
 1447 of the unit owner or the unit's occupant, licensee, or invitee
 1448 to comply with any provision of the cooperative documents or
 1449 reasonable rules of the association. A fine may not become a
 1450 lien against a unit. A fine may be levied by the board on the

1451 basis of each day of a continuing violation, with a single
 1452 notice and opportunity for hearing before a committee as
 1453 provided in paragraph (b). However, the fine may not exceed \$100
 1454 per violation, or \$1,000 in the aggregate.

1455 (b) A fine or suspension levied by the board of
 1456 administration may not be imposed unless the board first
 1457 provides at least 14 days' written notice ~~and an opportunity for~~
 1458 ~~a hearing~~ to the unit owner and, if applicable, any its
 1459 occupant, licensee, or invitee of the unit owner sought to be
 1460 fined or suspended and an opportunity for a hearing. ~~The hearing~~
 1461 ~~must be held~~ before a committee of at least three members
 1462 appointed by the board who are not officers, directors, or
 1463 employees of the association, or the spouse, parent, child,
 1464 brother, or sister of an officer, director, or employee ~~other~~
 1465 ~~unit owners who are neither board members nor persons residing~~
 1466 ~~in a board member's household.~~ The role of the committee is
 1467 limited to determining whether to confirm or reject the fine or
 1468 suspension levied by the board. If the committee does not
 1469 approve ~~agree with~~ the proposed fine or suspension by majority
 1470 vote, the fine or suspension ~~it~~ may not be imposed. If the
 1471 proposed fine or suspension is approved by the committee, the
 1472 fine payment is due 5 days after the date of the committee
 1473 meeting at which the fine is approved. The association must
 1474 provide written notice of such fine or suspension by mail or
 1475 hand delivery to the unit owner and, if applicable, to any

1476 tenant, licensee, or invitee of the unit owner.

1477 Section 12. Paragraphs (a) and (c) of subsection (2) and
 1478 paragraphs (b) through (h) of subsection (6) of section 720.303,
 1479 Florida Statutes, are amended, and new paragraphs (i) and (j)
 1480 are added to subsection (6) of that section, to read:

1481 720.303 Association powers and duties; meetings of board;
 1482 official records; budgets; financial reporting; association
 1483 funds; recalls.—

1484 (2) BOARD MEETINGS.—

1485 (a) Members of the board of administration may use e-mail
 1486 as a means of communication, but may not cast a vote on an
 1487 association matter via e-mail. A meeting of the board of
 1488 directors of an association occurs whenever a quorum of the
 1489 board gathers to conduct association business. Meetings of the
 1490 board must be open to all members, except for meetings between
 1491 the board and its attorney with respect to proposed or pending
 1492 litigation where the contents of the discussion would otherwise
 1493 be governed by the attorney-client privilege. A meeting of the
 1494 board must be held at a location that is accessible to a
 1495 physically handicapped person if requested by a physically
 1496 handicapped person who has a right to attend the meeting. The
 1497 provisions of this subsection shall also apply to the meetings
 1498 of any committee or other similar body when a final decision
 1499 will be made regarding the expenditure of association funds and
 1500 to meetings of any body vested with the power to approve or

1501 disapprove architectural decisions with respect to a specific
 1502 parcel of residential property owned by a member of the
 1503 community.

1504 (c) The bylaws shall provide the following for giving
 1505 notice to parcel owners and members of all board meetings and,
 1506 if they do not do so, shall be deemed to include ~~provide~~ the
 1507 following:

1508 1. Notices of all board meetings must be posted in a
 1509 conspicuous place in the community at least 48 hours in advance
 1510 of a meeting, except in an emergency. In the alternative, if
 1511 notice is not posted in a conspicuous place in the community,
 1512 notice of each board meeting must be mailed or delivered to each
 1513 member at least 7 days before the meeting, except in an
 1514 emergency. Notwithstanding this general notice requirement, for
 1515 communities with more than 100 members, the association bylaws
 1516 may provide for a reasonable alternative to posting or mailing
 1517 of notice for each board meeting, including publication of
 1518 notice, provision of a schedule of board meetings, or the
 1519 conspicuous posting and repeated broadcasting of the notice on a
 1520 closed-circuit cable television system serving the homeowners'
 1521 association. However, if broadcast notice is used in lieu of a
 1522 notice posted physically in the community, the notice must be
 1523 broadcast at least four times every broadcast hour of each day
 1524 that a posted notice is otherwise required. When broadcast
 1525 notice is provided, the notice and agenda must be broadcast in a

1526 manner and for a sufficient continuous length of time so as to
 1527 allow an average reader to observe the notice and read and
 1528 comprehend the entire content of the notice and the agenda. The
 1529 association may provide notice by electronic transmission in a
 1530 manner authorized by law for meetings of the board of directors,
 1531 committee meetings requiring notice under this section, and
 1532 annual and special meetings of the members to any member who has
 1533 provided a facsimile number or e-mail address to the association
 1534 to be used for such purposes; however, a member must consent in
 1535 writing to receiving notice by electronic transmission.

1536 2. An assessment may not be levied at a board meeting
 1537 unless the notice of the meeting includes a statement that
 1538 assessments will be considered and the nature of the
 1539 assessments. Written notice of any meeting at which special
 1540 assessments will be considered or at which amendments to rules
 1541 regarding parcel use will be considered must be mailed,
 1542 delivered, or electronically transmitted to the members and
 1543 parcel owners and posted conspicuously on the property or
 1544 broadcast on closed-circuit cable television not less than 14
 1545 days before the meeting.

1546 3. Directors may not vote by proxy or by secret ballot at
 1547 board meetings, except that secret ballots may be used in the
 1548 election of officers. This subsection also applies to the
 1549 meetings of any committee or other similar body, when a final
 1550 decision will be made regarding the expenditure of association

1551 funds, and to any body vested with the power to approve or
 1552 disapprove architectural decisions with respect to a specific
 1553 parcel of residential property owned by a member of the
 1554 community.

1555 (6) BUDGETS; BUDGET MEETINGS.—

1556 (b) In addition to annual operating expenses, for all
 1557 associations incorporated after July 1, 2018, and any
 1558 association incorporated before that date which, by a majority
 1559 vote of the members of the association who are present at a
 1560 meeting, in person or by proxy, at which a quorum is present,
 1561 affirmatively votes to be bound by the provisions of this
 1562 subsection, the budget must may include reserve accounts for
 1563 capital expenditures and the deferred maintenance of for any
 1564 item with a deferred maintenance expense exceeding \$100,000 and
 1565 that which are the obligation of the association under is
 1566 responsible. If reserve accounts are not established pursuant to
 1567 paragraph (d), funding of such reserves is limited to the extent
 1568 that the governing documents. However, subsequent to the
 1569 transfer of control of the association to its members, other
 1570 than pursuant to s. 720.307, and the developer no longer having
 1571 authority to appoint members to the board of directors, the
 1572 board of directors may elect to reserve money for any item that
 1573 has a deferred maintenance expense exceeding \$25,000. The board
 1574 may elect to reserve money for any item that has a deferred
 1575 maintenance expense of less than \$25,000 if approved by a

1576 majority of the members present at a meeting, in person or by
 1577 proxy, at which a quorum is present. The amount to be reserved
 1578 must be computed using a formula based upon the estimated
 1579 deferred maintenance expense of each reserve item divided by the
 1580 estimated remaining useful life of that item. However, and
 1581 notwithstanding the amount disclosed as being the total required
 1582 reserve amount, each parcel which is obligated to pay reserves
 1583 to the association each year shall be assessed for only the
 1584 amount determined by dividing the total annual reserve amount
 1585 disclosed in the budget by the total number of parcels that will
 1586 ultimately be operated by the association. The assessments
 1587 actually collected shall be less than the full amount of
 1588 required reserves as disclosed in the proposed annual budget
 1589 until all parcels that will ultimately be operated by the
 1590 association are obligated to pay assessments for reserves. The
 1591 association may adjust the deferred maintenance reserve
 1592 assessments annually to take into account any changes in
 1593 estimates or the useful life of a reserve item, the anticipated
 1594 cost of the deferred maintenance, or any changes in the number
 1595 of parcels that will ultimately be operated by the association.
 1596 This paragraph does not apply to an adopted budget where the
 1597 members of the association have determined, by a majority vote
 1598 of the members present at a meeting, in person or by proxy, at
 1599 which a quorum is present, to provide no reserves or reserves in
 1600 an amount less than required by this subsection. ~~limit increases~~

1601 ~~in assessments, including reserves. If the budget of the~~
 1602 ~~association includes reserve accounts established pursuant to~~
 1603 ~~paragraph (d), such reserves shall be determined, maintained,~~
 1604 ~~and waived in the manner provided in this subsection. Once an~~
 1605 ~~association provides for reserve accounts pursuant to paragraph~~
 1606 ~~(d), the association shall thereafter determine, maintain, and~~
 1607 ~~waive reserves in compliance with this subsection. This~~
 1608 paragraph section ~~does not preclude an association from ceasing~~
 1609 to add money to a reserve account established pursuant to this
 1610 paragraph upon a majority vote of the members present at a
 1611 meeting, in person or by proxy, at which a quorum is present.
 1612 Upon such approval, reserves may not be included in the budget
 1613 for that year. Only parcels with completed improvements as
 1614 evidenced by certificates of occupancy for such improvements are
 1615 obligated to pay assessments for reserves. A developer who
 1616 subsidizes the association's budget, under s. 720.308(1), or
 1617 establishes a guarantee under s. 720.308(2), is not obligated to
 1618 include reserve contributions in any such guarantee or subsidy
 1619 payment. ~~the termination of a reserve account established~~
 1620 ~~pursuant to this paragraph upon approval of a majority of the~~
 1621 ~~total voting interests of the association. Upon such approval,~~
 1622 ~~the terminating reserve account shall be removed from the~~
 1623 ~~budget.~~

1624 (c)1. The developer may vote the voting interests
 1625 allocated to its parcels with completed improvements, as

1626 evidenced by certificates of occupancy for such improvements, to
 1627 waive the reserves or reduce the funding of reserves. If a
 1628 meeting of the parcel owners has been called to waive or reduce
 1629 the funding of reserves and such result is not achieved or a
 1630 quorum is not present, the reserves required by paragraph (b)
 1631 must be maintained. ~~If the budget of the association does not~~
 1632 ~~provide for reserve accounts pursuant to paragraph (d) and the~~
 1633 ~~association is responsible for the repair and maintenance of~~
 1634 ~~capital improvements that may result in a special assessment if~~
 1635 ~~reserves are not provided, each financial report for the~~
 1636 ~~preceding fiscal year required by subsection (7) must contain~~
 1637 ~~the following statement in conspicuous type:~~

1638 ~~THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE~~
 1639 ~~ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT~~
 1640 ~~MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE~~
 1641 ~~FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA~~
 1642 ~~STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL~~
 1643 ~~VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A~~
 1644 ~~MEETING OR BY WRITTEN CONSENT.~~

1645 ~~2. If the budget of the association does provide for~~
 1646 ~~funding accounts for deferred expenditures, including, but not~~
 1647 ~~limited to, funds for capital expenditures and deferred~~
 1648 ~~maintenance, but such accounts are not created or established~~
 1649 ~~pursuant to paragraph (d), each financial report for the~~
 1650 ~~preceding fiscal year required under subsection (7) must also~~

1651 ~~contain the following statement in conspicuous type:~~
 1652 ~~THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY~~
 1653 ~~DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES~~
 1654 ~~AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED~~
 1655 ~~IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED~~
 1656 ~~TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),~~
 1657 ~~FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE~~
 1658 ~~RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR~~
 1659 ~~ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

1660 (d) Reserve funds and any interest accruing thereon shall
 1661 remain in the reserve account or accounts and may only be used
 1662 for deferred maintenance and may not be used for any other
 1663 purpose. ~~An association is deemed to have provided for reserve~~
 1664 ~~accounts if reserve accounts have been initially established by~~
 1665 ~~the developer or if the membership of the association~~
 1666 ~~affirmatively elects to provide for reserves. If reserve~~
 1667 ~~accounts are established by the developer, the budget must~~
 1668 ~~designate the components for which the reserve accounts may be~~
 1669 ~~used. If reserve accounts are not initially provided by the~~
 1670 ~~developer, the membership of the association may elect to do so~~
 1671 ~~upon the affirmative approval of a majority of the total voting~~
 1672 ~~interests of the association. Such approval may be obtained by~~
 1673 ~~vote of the members at a duly called meeting of the membership~~
 1674 ~~or by the written consent of a majority of the total voting~~
 1675 ~~interests of the association. The approval action of the~~

1676 ~~membership must state that reserve accounts shall be provided~~
 1677 ~~for in the budget and must designate the components for which~~
 1678 ~~the reserve accounts are to be established. Upon approval by the~~
 1679 ~~membership, the board of directors shall include the required~~
 1680 ~~reserve accounts in the budget in the next fiscal year following~~
 1681 ~~the approval and each year thereafter. Once established as~~
 1682 ~~provided in this subsection, the reserve accounts must be funded~~
 1683 ~~or maintained or have their funding waived in the manner~~
 1684 ~~provided in paragraph (f).~~

1685 (e) The only voting interests that are eligible to vote on
 1686 questions that involve waiving or reducing the funding of
 1687 reserves are the voting interests of the parcels subject to
 1688 assessment to fund the reserves in question. Any vote taken
 1689 pursuant to this subsection to waive or reduce reserves is
 1690 applicable only for one budget year. Proxy questions relating to
 1691 waiving or reducing the funding of reserves must contain the
 1692 following statement in capitalized, bold letters in a font size
 1693 larger than any other used on the face of the proxy ballot:
 1694 WAIVING OF RESERVES, IN WHOLE OR IN PART, MAY RESULT IN PARCEL
 1695 OWNER LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
 1696 REGARDING THOSE ITEMS. ~~The amount to be reserved in any account~~
 1697 ~~established shall be computed by means of a formula that is~~
 1698 ~~based upon estimated remaining useful life and estimated~~
 1699 ~~replacement cost or deferred maintenance expense of each reserve~~
 1700 ~~item. The association may adjust replacement reserve assessments~~

1701 ~~annually to take into account any changes in estimates of cost~~
 1702 ~~or useful life of a reserve item.~~

1703 (f) Funding formulas for reserves required by this section
 1704 shall be based on a pooled analysis method, except as provided
 1705 in paragraph (g), of two or more of the required assets for
 1706 which reserves are required to be accrued. The projected annual
 1707 cash inflows may include estimated earnings from investment of
 1708 principal. The reserve funding formula shall have constant
 1709 funding each year. However, based on the method for calculating
 1710 the assessment for reserves as described in paragraph (b), the
 1711 assessments actually collected may be less than the full amount
 1712 of required reserves disclosed in the proposed annual budget
 1713 until all parcels that will ultimately be operated by the
 1714 association are obligated to pay assessments for reserves. After
 1715 ~~one or more reserve accounts are established, the membership of~~
 1716 ~~the association, upon a majority vote at a meeting at which a~~
 1717 ~~quorum is present, may provide for no reserves or less reserves~~
 1718 ~~than required by this section. If a meeting of the unit owners~~
 1719 ~~has been called to determine whether to waive or reduce the~~
 1720 ~~funding of reserves and such result is not achieved or a quorum~~
 1721 ~~is not present, the reserves as included in the budget go into~~
 1722 ~~effect. After the turnover, the developer may vote its voting~~
 1723 ~~interest to waive or reduce the funding of reserves. Any vote~~
 1724 ~~taken pursuant to this subsection to waive or reduce reserves is~~
 1725 ~~applicable only to one budget year.~~

1726 (g) As an alternative to the pooled analysis method
 1727 described in paragraph (f), if approved by a majority vote of
 1728 the members present at a meeting, in person or by proxy, at
 1729 which a quorum is present, the funding formulas for the
 1730 disclosure of reserves required ~~authorized~~ by this section may
 1731 ~~must~~ be based on a separate analysis of each of the required
 1732 assets under the straight-line accounting method ~~or a pooled~~
 1733 ~~analysis of two or more of the required assets.~~

1734 1. If the association maintains separate reserve accounts
 1735 for each of the required assets, under the straight-line
 1736 accounting method the amount of the contribution to each reserve
 1737 account is the sum of the following two calculations:

1738 1.a. The total amount necessary, if any, to bring a
 1739 negative component balance to zero.

1740 2.b. The total estimated deferred maintenance expense or
 1741 estimated replacement cost of the reserve component less the
 1742 estimated balance of the reserve component as of the beginning
 1743 of the period the budget will be in effect. The remainder, if
 1744 greater than zero, shall be divided by the estimated remaining
 1745 useful life of the component.

1746
 1747 The formula may be adjusted each year for changes in estimates
 1748 and deferred maintenance performed during the year and may
 1749 include factors such as inflation and earnings on invested
 1750 funds. An association may convert its funding formulas from a

1751 straight-line accounting method to a pooled analysis method, as
 1752 described in paragraph (f), and back to a straight-line
 1753 accounting method at any time if approved by a majority vote of
 1754 the members present at a meeting, in person or by proxy, at
 1755 which a quorum is present.

1756 ~~2. If the association maintains a pooled account of two or~~
 1757 ~~more of the required reserve assets, the amount of the~~
 1758 ~~contribution to the pooled reserve account as disclosed on the~~
 1759 ~~proposed budget may not be less than that required to ensure~~
 1760 ~~that the balance on hand at the beginning of the period the~~
 1761 ~~budget will go into effect plus the projected annual cash~~
 1762 ~~inflows over the remaining estimated useful life of all of the~~
 1763 ~~assets that make up the reserve pool are equal to or greater~~
 1764 ~~than the projected annual cash outflows over the remaining~~
 1765 ~~estimated useful lives of all the assets that make up the~~
 1766 ~~reserve pool, based on the current reserve analysis. The~~
 1767 ~~projected annual cash inflows may include estimated earnings~~
 1768 ~~from investment of principal and accounts receivable minus the~~
 1769 ~~allowance for doubtful accounts. The reserve funding formula may~~
 1770 ~~not include any type of balloon payments.~~

1771 (h) 1. Meetings at which a proposed annual budget of an
 1772 association will be considered by the board shall be open to all
 1773 parcel owners. Reserve funds and any interest accruing thereon
 1774 ~~shall remain in the reserve account or accounts and shall be~~
 1775 ~~used only for authorized reserve expenditures unless their use~~

1776 ~~for other purposes is approved in advance by a majority vote at~~
 1777 ~~a meeting at which a quorum is present. Prior to turnover of~~
 1778 ~~control of an association by a developer to parcel owners, the~~
 1779 ~~developer-controlled association shall not vote to use reserves~~
 1780 ~~for purposes other than those for which they were intended~~
 1781 ~~without the approval of a majority of all nondeveloper voting~~
 1782 ~~interests voting in person or by limited proxy at a duly called~~
 1783 ~~meeting of the association.~~

1784 2.a. If a board adopts an annual budget which requires
 1785 assessments against parcel owners that exceed 115 percent of
 1786 assessments for the preceding fiscal year, the board shall
 1787 conduct a special meeting of the parcel owners to consider a
 1788 substitute budget if the board receives, within 21 days after
 1789 adoption of the annual budget, a written request for a special
 1790 meeting from at least 10 percent of all voting interests. The
 1791 special meeting shall be conducted within 60 days after adoption
 1792 of the annual budget. At least 14 days before such special
 1793 meeting, the board shall hand deliver to each parcel owner, or
 1794 mail to each parcel owner at the address last furnished to the
 1795 association, a notice of the meeting. An officer or manager of
 1796 the association, or other person providing notice of such
 1797 meeting, shall execute an affidavit evidencing compliance with
 1798 this notice requirement and file the affidavit among the
 1799 official records of the association. Parcel owners may consider
 1800 and adopt a substitute budget at the special meeting. A

1801 substitute budget is adopted if approved by a majority of all
 1802 voting interests unless the governing documents require adoption
 1803 by a greater percentage of voting interests. If there is not a
 1804 quorum at the special meeting or a substitute budget is not
 1805 adopted, the annual budget previously adopted by the board shall
 1806 take effect as scheduled.

1807 b. Any determination on whether assessments exceed 115
 1808 percent of assessments for the prior fiscal year shall exclude
 1809 any provision for reasonable reserves for repair or deferred
 1810 maintenance of items which are the obligation of the association
 1811 under the governing documents, anticipated expenses of the
 1812 association which the board does not expect to be incurred on a
 1813 regular or annual bases, or assessments for improvements to the
 1814 common areas, association property, or other items which are the
 1815 obligation of the association under the governing documents.

1816 (i) Paragraphs (b)-(g) do not apply to mandatory reserve
 1817 accounts for the deferred maintenance of the infrastructure that
 1818 are required to be established and maintained by an association
 1819 at the direction of a county or municipal government, water or
 1820 drainage management district, community development district, or
 1821 other political subdivision that has the authority to approve
 1822 and control subdivision infrastructure which is being entrusted
 1823 to the care of an association.

1824 (j) Reserve funds must be held in a separate bank account
 1825 established for such funds.

1826 Section 13. Paragraph (b) of subsection (2) of section
 1827 720.305, Florida Statutes, is amended to read:

1828 720.305 Obligations of members; remedies at law or in
 1829 equity; levy of fines and suspension of use rights.-

1830 (2) The association may levy reasonable fines. A fine may
 1831 not exceed \$100 per violation against any member or any member's
 1832 tenant, guest, or invitee for the failure of the owner of the
 1833 parcel or its occupant, licensee, or invitee to comply with any
 1834 provision of the declaration, the association bylaws, or
 1835 reasonable rules of the association unless otherwise provided in
 1836 the governing documents. A fine may be levied by the board for
 1837 each day of a continuing violation, with a single notice and
 1838 opportunity for hearing, except that the fine may not exceed
 1839 \$1,000 in the aggregate unless otherwise provided in the
 1840 governing documents. A fine of less than \$1,000 may not become a
 1841 lien against a parcel. In any action to recover a fine, the
 1842 prevailing party is entitled to reasonable attorney fees and
 1843 costs from the nonprevailing party as determined by the court.

1844 (b) A fine or suspension levied ~~may not be imposed~~ by the
 1845 board of administration may not be imposed unless the board
 1846 first provides ~~without~~ at least 14 days' notice to the parcel
 1847 owner and, if applicable, any occupant, licensee, or invitee of
 1848 the parcel owner, person ~~person~~ sought to be fined or suspended and an
 1849 opportunity for a hearing before a committee of at least three
 1850 members appointed by the board who are not officers, directors,

1851 or employees of the association, or the spouse, parent, child,
 1852 brother, or sister of an officer, director, or employee. If the
 1853 committee, by majority vote, does not approve a proposed fine or
 1854 suspension, the proposed fine or suspension ~~it~~ may not be
 1855 imposed. The role of the committee is limited to determining
 1856 whether to confirm or reject the fine or suspension levied by
 1857 the board. If the proposed board of administration imposes a
 1858 fine or suspension levied by the board is approved by the
 1859 committee, the fine payment is due 5 days after the date of the
 1860 committee meeting at which the fine is approved. The association
 1861 must provide written notice of such fine or suspension by mail
 1862 or hand delivery to the parcel owner and, if applicable, to any
 1863 tenant, licensee, or invitee of the parcel owner.

1864 Section 14. Paragraph (a) of subsection (9) of section
 1865 720.306, Florida Statutes, is amended to read:

1866 720.306 Meetings of members; voting and election
 1867 procedures; amendments.—

1868 (9) ELECTIONS AND BOARD VACANCIES.—

1869 (a) Elections of directors must be conducted in accordance
 1870 with the procedures set forth in the governing documents of the
 1871 association. Except as provided in paragraph (b), all members of
 1872 the association are eligible to serve on the board of directors,
 1873 and a member may nominate himself or herself as a candidate for
 1874 the board at a meeting where the election is to be held;
 1875 provided, however, that if the election process allows

1876 candidates to be nominated in advance of the meeting, the
 1877 association is not required to allow nominations at the meeting.
 1878 An election is not required unless more candidates are nominated
 1879 than vacancies exist. If an election is not required because
 1880 there are either an equal number or fewer qualified candidates
 1881 than vacancies exist, and if nominations from the floor are not
 1882 required pursuant to this section or the bylaws, write-in
 1883 nominations are not permitted and such qualified candidates
 1884 shall commence service on the board of directors, regardless of
 1885 whether a quorum is attained at the annual meeting. Except as
 1886 otherwise provided in the governing documents, boards of
 1887 directors must be elected by a plurality of the votes cast by
 1888 eligible voters. Any challenge to the election process must be
 1889 commenced within 60 days after the election results are
 1890 announced.

1891 Section 15. Paragraph (b) of subsection (3) of section
 1892 720.3085, Florida Statutes, is amended to read:

1893 720.3085 Payment for assessments; lien claims.—

1894 (3) Assessments and installments on assessments that are
 1895 not paid when due bear interest from the due date until paid at
 1896 the rate provided in the declaration of covenants or the bylaws
 1897 of the association, which rate may not exceed the rate allowed
 1898 by law. If no rate is provided in the declaration or bylaws,
 1899 interest accrues at the rate of 18 percent per year.

1900 (b) Any payment received by an association and accepted

1901 shall be applied first to any interest accrued, then to any
 1902 administrative late fee, then to any costs and reasonable
 1903 attorney fees incurred in collection, and then to the delinquent
 1904 assessment. This paragraph applies notwithstanding any
 1905 restrictive endorsement, designation, or instruction placed on
 1906 or accompanying a payment. A late fee is not subject to the
 1907 provisions of chapter 687 and is not a fine. The foregoing is
 1908 applicable notwithstanding s. 673.3111, any purported accord and
 1909 satisfaction, or any restrictive endorsement, designation, or
 1910 instruction placed on or accompanying a payment. The preceding
 1911 sentence is intended to clarify existing law.

1912 Section 16. Paragraph (a) of subsection (1) of section
 1913 720.401, Florida Statutes, is amended to read:

1914 720.401 Prospective purchasers subject to association
 1915 membership requirement; disclosure required; covenants;
 1916 assessments; contract cancellation.-

1917 (1)(a) A prospective parcel owner in a community must be
 1918 presented a disclosure summary before executing the contract for
 1919 sale. The disclosure summary must be in a form substantially
 1920 similar to the following form:

1921 DISCLOSURE SUMMARY

1922 FOR

1923 (NAME OF COMMUNITY)

1924 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL
 1925 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

1926 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
 1927 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS
 1928 COMMUNITY.

1929 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE
 1930 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF
 1931 APPLICABLE, THE CURRENT AMOUNT IS \$.... PER YOU WILL ALSO
 1932 BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE
 1933 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.
 1934 IF APPLICABLE, THE CURRENT AMOUNT IS \$.... PER

1935 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE
 1936 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL
 1937 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

1938 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS
 1939 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION COULD RESULT IN A
 1940 LIEN ON YOUR PROPERTY.

1941 6. THE BUDGET OF THE ASSOCIATION DOES NOT NECESSARILY
 1942 INCLUDE RESERVE FUNDS FOR DEFERRED MAINTENANCE SUFFICIENT TO
 1943 COVER THE FULL COST OF DEFERRED MAINTENANCE OF COMMON AREAS. YOU
 1944 SHOULD REVIEW THE BUDGET TO DETERMINE THE LEVEL OF RESERVE
 1945 FUNDING, IF ANY.

1946 ~~7.6.~~ THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE
 1947 FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN
 1948 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF
 1949 APPLICABLE, THE CURRENT AMOUNT IS \$.... PER

1950 ~~8.7.~~ THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE

HB 841

2018

1951 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION
1952 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

1953 ~~9.8.~~ THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE
1954 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU
1955 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING
1956 DOCUMENTS BEFORE PURCHASING PROPERTY.

1957 ~~10.9.~~ THESE DOCUMENTS ARE EITHER MATTERS OF PUBLIC RECORD
1958 AND CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE
1959 THE PROPERTY IS LOCATED, OR ARE NOT RECORDED AND CAN BE OBTAINED
1960 FROM THE DEVELOPER.

1961 DATE: PURCHASER:
1962 PURCHASER:

1963 The disclosure must be supplied by the developer, or by the
1964 parcel owner if the sale is by an owner that is not the
1965 developer. Any contract or agreement for sale shall refer to and
1966 incorporate the disclosure summary and shall include, in
1967 prominent language, a statement that the potential buyer should
1968 not execute the contract or agreement until they have received
1969 and read the disclosure summary required by this section.

1970 Section 17. This act shall take effect July 1, 2018.

CAREERS AND COMPETITION SUBCOMMITTEE

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HB 841 by Rep. Moraitis
COMMUNITY ASSOCIATIONS

AMENDMENT SUMMARY
January 23, 2018

Amendment 1 by Rep. Moraitis (Strike-all amendment):

- Removes the term limits for condominium association board members and provides that terms are for two years or less.
- Provides that a condominium association or agent of a condominium association is not liable for disclosing protected or restricted information unless the disclosure was made with a knowing or intentional disregard of the protected or restricted nature of the information.
- Provides that a condominium association must permanently maintain certain official records instead of for seven years.
- Extends the deadline for condominium associations required to create a website from July 1, 2018 to January 1, 2019.
- Provides that a condominium association must post any contract or document regarding a conflict of interest by a board member on its website, thereby maintaining current law.
- Provides that a condominium association must post complete copies of bids for materials, equipment, or summaries of bids after the bidding has closed.
- Removes the provision that homeowners' associations must fund reserve accounts, thereby maintaining current law.
- Removes the provision that homeowners' associations must notify potential owners that the budget of an association may not include sufficient funds for reserve funds, thereby maintaining current law.
- Removes the provision that homeowners' associations may call a special meeting if the assessments of the homeowners' association exceed its annual budget, thereby maintaining current law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Careers & Competition
 2 Subcommittee

3 Representative Moraitis offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (3), paragraphs (a), (b), and (g) of
 8 subsection (12), and paragraph (e) of subsection (13) of section
 9 718.111, Florida Statutes, are amended to read:

10 718.111 The association.--

11 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
 12 SUE, AND BE SUED; ~~CONFLICT OF INTEREST.~~--

13 ~~(a)~~ The association may contract, sue, or be sued with
 14 respect to the exercise or nonexercise of its powers. For these
 15 purposes, the powers of the association include, but are not
 16 limited to, the maintenance, management, and operation of the



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17 condominium property. After control of the association is
18 obtained by unit owners other than the developer, the
19 association may institute, maintain, settle, or appeal actions
20 or hearings in its name on behalf of all unit owners concerning
21 matters of common interest to most or all unit owners,
22 including, but not limited to, the common elements; the roof and
23 structural components of a building or other improvements;
24 mechanical, electrical, and plumbing elements serving an
25 improvement or a building; representations of the developer
26 pertaining to any existing or proposed commonly used facilities;
27 and protesting ad valorem taxes on commonly used facilities and
28 on units; and may defend actions in eminent domain or bring
29 inverse condemnation actions. If the association has the
30 authority to maintain a class action, the association may be
31 joined in an action as representative of that class with
32 reference to litigation and disputes involving the matters for
33 which the association could bring a class action. Nothing herein
34 limits any statutory or common-law right of any individual unit
35 owner or class of unit owners to bring any action without
36 participation by the association which may otherwise be
37 available.

38 ~~(b) An association may not hire an attorney who represents~~
39 ~~the management company of the association.~~

40 (12) OFFICIAL RECORDS.-



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

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

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

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

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

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

55 6. A book or books that contain the minutes of all
56 meetings of the association, the board of administration, and
57 the unit owners, ~~which minutes must be retained for at least 7~~
58 ~~years.~~

59 7. A current roster of all unit owners and their mailing
60 addresses, unit identifications, voting certifications, and, if
61 known, telephone numbers. The association shall also maintain
62 the e-mail ~~electronic mailing~~ addresses and facsimile numbers of
63 unit owners consenting to receive notice by electronic
64 transmission. The e-mail ~~electronic mailing~~ addresses and
65 facsimile numbers are not accessible to unit owners if consent

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66 to receive notice by electronic transmission is not provided in
67 accordance with sub-subparagraph (c)3.e. However, the
68 association is not liable for an inadvertent disclosure of the
69 e-mail ~~electronic-mail~~ address or facsimile number for receiving
70 electronic transmission of notices.

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

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

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

79 11. Accounting records for the association and separate
80 accounting records for each condominium that the association
81 operates. ~~All accounting records must be maintained for at least~~
82 ~~7 years.~~ Any person who knowingly or intentionally defaces or
83 destroys such records, or who knowingly or intentionally fails
84 to create or maintain such records, with the intent of causing
85 harm to the association or one or more of its members, is
86 personally subject to a civil penalty pursuant to s.
87 718.501(1)(d). The accounting records must include, but are not
88 limited to:

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

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

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

97 d. All contracts for work to be performed. Bids for work
98 to be performed are also considered official records and must be
99 maintained by the association.

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

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

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

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

112 16. A copy of the inspection report as described in s.
113 718.301(4) (p).

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



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115 (b) The official records specified in subparagraphs (a)1.-
116 6. must be permanently maintained from the inception of the
117 association. All other official records of the association must
118 be maintained within the state for at least 7 years, unless
119 otherwise provided by general law. The records of the
120 association shall be made available to a unit owner within 45
121 miles of the condominium property or within the county in which
122 the condominium property is located within 10 5 working days
123 after receipt of a written request by the board or its designee.
124 However, such distance requirement does not apply to an
125 association governing a timeshare condominium. This paragraph
126 may be complied with by having a copy of the official records of
127 the association available for inspection or copying on the
128 condominium property or association property, or the association
129 may offer the option of making the records available to a unit
130 owner electronically via the Internet or by allowing the records
131 to be viewed in electronic format on a computer screen and
132 printed upon request. The association is not responsible for the
133 use or misuse of the information provided to an association
134 member or his or her authorized representative pursuant to the
135 compliance requirements of this chapter unless the association
136 has an affirmative duty not to disclose such information
137 pursuant to this chapter.

138 (g)1. By January ~~July~~ 1, 2019 ~~2018~~, an association
139 managing a condominium with 150 or more units which does not

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140 contain ~~manage~~ timeshare units shall post digital copies of the
141 documents specified in subparagraph 2. on its website.

142 a. The association's website must be:

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

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

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

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

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



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- 163 a. The recorded declaration of condominium of each
164 condominium operated by the association and each amendment to
165 each declaration.
- 166 b. The recorded bylaws of the association and each
167 amendment to the bylaws.
- 168 c. The articles of incorporation of the association, or
169 other documents creating the association, and each amendment
170 thereto. The copy posted pursuant to this sub-subparagraph must
171 be a copy of the articles of incorporation filed with the
172 Department of State.
- 173 d. The rules of the association.
- 174 e. Any management agreement, lease, or other contract to
175 which the association is a party or under which the association
176 or the unit owners have an obligation or responsibility and,
177 after bidding for the related materials, equipment, or services
178 has closed, a list of bids received by the association within
179 the past year. Summaries of bids for materials, equipment, or
180 services must be maintained on the website for 1 year. In lieu
181 of summaries, complete copies of the bids may be posted.
- 182 f. The annual budget required by s. 718.112(2)(f) and any
183 proposed budget to be considered at the annual meeting.
- 184 g. The financial report required by subsection (13) and
185 any proposed financial report to be considered at a meeting.
- 186 h. The certification of each director required by s.
187 718.112(2)(d)4.b.

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

193 j. Any contract or document regarding a conflict of
194 interest or possible conflict of interest as provided in ss.
195 468.436(2)(b)6. and 718.3027(3) ~~ss. 468.436(2) and 718.3026(3).~~

196 k. The notice of any unit owner meeting and the agenda for
197 the meeting, as required by s. 718.112(2)(d)3., no later than 14
198 days before the meeting. The notice must be posted in plain view
199 on the front page of the website, or on a separate subpage of
200 the website labeled "Notices" which is conspicuously visible and
201 linked from the front page. The association must also post on
202 its website any document to be considered and voted on by the
203 owners during the meeting or any document listed on the agenda
204 at least 7 days before the meeting at which the document or the
205 information within the document will be considered.

206 l. Notice of any board meeting, the agenda, and any other
207 document required for the meeting as required by s.
208 718.112(2)(c), which must be posted no later than the date
209 required for notice pursuant to s. 718.112(2)(c).

210 3. The association shall ensure that the information and
211 records described in paragraph (c), which are not allowed
212 ~~permitted~~ to be accessible to unit owners, are not posted on the

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213 association's website. If protected information or information
214 restricted from being accessible to unit owners is included in
215 documents that are required to be posted on the association's
216 website, the association shall ensure the information is
217 redacted before posting the documents online. Notwithstanding
218 the foregoing, the association or its agent is not liable for
219 disclosing information that is protected or restricted pursuant
220 to this paragraph unless such disclosure was made with a knowing
221 or intentional disregard of the protected or restricted nature
222 of such information.

223 (13) FINANCIAL REPORTING.—Within 90 days after the end of
224 the fiscal year, or annually on a date provided in the bylaws,
225 the association shall prepare and complete, or contract for the
226 preparation and completion of, a financial report for the
227 preceding fiscal year. Within 21 days after the final financial
228 report is completed by the association or received from the
229 third party, but not later than 120 days after the end of the
230 fiscal year or other date as provided in the bylaws, the
231 association shall mail to each unit owner at the address last
232 furnished to the association by the unit owner, or hand deliver
233 to each unit owner, a copy of the most recent financial report
234 or a notice that a copy of the most recent financial report will
235 be mailed or hand delivered to the unit owner, without charge,
236 within 5 business days after receipt of a written request from
237 the unit owner. The division shall adopt rules setting forth

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238 uniform accounting principles and standards to be used by all
239 associations and addressing the financial reporting requirements
240 for multicondominium associations. The rules must include, but
241 not be limited to, standards for presenting a summary of
242 association reserves, including a good faith estimate disclosing
243 the annual amount of reserve funds that would be necessary for
244 the association to fully fund reserves for each reserve item
245 based on the straight-line accounting method. This disclosure is
246 not applicable to reserves funded via the pooling method. In
247 adopting such rules, the division shall consider the number of
248 members and annual revenues of an association. Financial reports
249 shall be prepared as follows:

250 (e) A unit owner may provide written notice to the
251 division of the association's failure to mail or hand deliver
252 him or her a copy of the most recent financial report within 5
253 business days after he or she submitted a written request to the
254 association for a copy of such report. If the division
255 determines that the association failed to mail or hand deliver a
256 copy of the most recent financial report to the unit owner, the
257 division shall provide written notice to the association that
258 the association must mail or hand deliver a copy of the most
259 recent financial report to the unit owner and the division
260 within 5 business days after it receives such notice from the
261 division. An association that fails to comply with the
262 division's request may not waive the financial reporting

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263 requirement provided in paragraph (d) for the fiscal year in
264 which the unit owner's request was made and the following fiscal
265 year. A financial report received by the division pursuant to
266 this paragraph shall be maintained, and the division shall
267 provide a copy of such report to an association member upon his
268 or her request.

269 Section 2. Paragraphs (a), (c), (d), and (j) of subsection
270 (2) of section 718.112, Florida Statutes, are amended to read:

271 718.112 Bylaws.—

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

275 (a) Administration.—

276 1. The form of administration of the association shall be
277 described indicating the title of the officers and board of
278 administration and specifying the powers, duties, manner of
279 selection and removal, and compensation, if any, of officers and
280 boards. In the absence of such a provision, the board of
281 administration shall be composed of five members, unless the
282 ~~except in the case of a condominium which~~ has five or fewer
283 units. The board shall consist of not fewer than three members
284 in condominiums with five or fewer units that are not-for-profit
285 corporations, ~~in which case in a not for profit corporation the~~
286 ~~board shall consist of not fewer than three members.~~ In the
287 absence of provisions to the contrary in the bylaws, the board

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288 of administration shall have a president, a secretary, and a
289 treasurer, who shall perform the duties of such officers
290 customarily performed by officers of corporations. Unless
291 prohibited in the bylaws, the board of administration may
292 appoint other officers and grant them the duties it deems
293 appropriate. Unless otherwise provided in the bylaws, the
294 officers shall serve without compensation and at the pleasure of
295 the board of administration. Unless otherwise provided in the
296 bylaws, the members of the board shall serve without
297 compensation.

298 2. When a unit owner of a residential condominium files a
299 written inquiry by certified mail with the board of
300 administration, the board shall respond in writing to the unit
301 owner within 30 days after receipt of the inquiry. The board's
302 response shall either give a substantive response to the
303 inquirer, notify the inquirer that a legal opinion has been
304 requested, or notify the inquirer that advice has been requested
305 from the division. If the board requests advice from the
306 division, the board shall, within 10 days after its receipt of
307 the advice, provide in writing a substantive response to the
308 inquirer. If a legal opinion is requested, the board shall,
309 within 60 days after the receipt of the inquiry, provide in
310 writing a substantive response to the inquiry. The failure to
311 provide a substantive response to the inquiry as provided herein
312 precludes the board from recovering attorney fees and costs in

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313 any subsequent litigation, administrative proceeding, or
314 arbitration arising out of the inquiry. The association may
315 through its board of administration adopt reasonable rules and
316 regulations regarding the frequency and manner of responding to
317 unit owner inquiries, one of which may be that the association
318 is only obligated to respond to one written inquiry per unit in
319 any given 30-day period. In such a case, any additional inquiry
320 or inquiries must be responded to in the subsequent 30-day
321 period, or periods, as applicable.

322 (c) Board of administration meetings.—Meetings of the
323 board of administration at which a quorum of the members is
324 present are open to all unit owners. Members of the board of
325 administration may use e-mail as a means of communication but
326 may not cast a vote on an association matter via e-mail. A unit
327 owner may tape record or videotape the meetings. The right to
328 attend such meetings includes the right to speak at such
329 meetings with reference to all designated agenda items. The
330 division shall adopt reasonable rules governing the tape
331 recording and videotaping of the meeting. The association may
332 adopt written reasonable rules governing the frequency,
333 duration, and manner of unit owner statements.

334 1. Adequate notice of all board meetings, which must
335 specifically identify all agenda items, must be posted
336 conspicuously on the condominium property at least 48 continuous
337 hours before the meeting except in an emergency. If 20 percent



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338 of the voting interests petition the board to address an item of
339 business, the board, within 60 days after receipt of the
340 petition, shall place the item on the agenda at its next regular
341 board meeting or at a special meeting called for that purpose.
342 An item not included on the notice may be taken up on an
343 emergency basis by a vote of at least a majority plus one of the
344 board members. Such emergency action must be noticed and
345 ratified at the next regular board meeting. ~~However,~~ Written
346 notice of a meeting at which a nonemergency special assessment
347 or an amendment to rules regarding unit use will be considered
348 must be mailed, delivered, or electronically transmitted to the
349 unit owners and posted conspicuously on the condominium property
350 at least 14 days before the meeting. Evidence of compliance with
351 this 14-day notice requirement must be made by an affidavit
352 executed by the person providing the notice and filed with the
353 official records of the association. Notice of any meeting in
354 which regular or special assessments against unit owners are to
355 be considered must specifically state that assessments will be
356 considered and provide the estimated cost and description of the
357 purposes for such assessments. Upon notice to the unit owners,
358 the board shall, by duly adopted rule, designate a specific
359 location on the condominium ~~or association~~ property where all
360 notices of board meetings must be posted. If there is no
361 condominium property ~~or association property~~ where notices can
362 be posted, notices shall be mailed, delivered, or electronically

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363 transmitted to each unit owner at least 14 days before the
364 meeting. In lieu of or in addition to the physical posting of
365 the notice on the condominium property, the association may, by
366 reasonable rule, adopt a procedure for conspicuously posting and
367 repeatedly broadcasting the notice and the agenda on a closed-
368 circuit cable television system serving the condominium
369 association. However, if broadcast notice is used in lieu of a
370 notice physically posted on condominium property, the notice and
371 agenda must be broadcast at least four times every broadcast
372 hour of each day that a posted notice is otherwise required
373 under this section. If broadcast notice is provided, the notice
374 and agenda must be broadcast in a manner and for a sufficient
375 continuous length of time so as to allow an average reader to
376 observe the notice and read and comprehend the entire content of
377 the notice and the agenda. In addition to any of the authorized
378 means of providing notice of a meeting of the board, the
379 association may, by rule, adopt a procedure for conspicuously
380 posting the meeting notice and the agenda on a website serving
381 the condominium association for at least the minimum period of
382 time for which a notice of a meeting is also required to be
383 physically posted on the condominium property. Any rule adopted
384 shall, in addition to other matters, include a requirement that
385 the association send an electronic notice in the same manner as
386 a notice for a meeting of the members, which must include a
387 hyperlink to the website where the notice is posted, to unit

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388 owners whose e-mail addresses are included in the association's
389 official records. ~~Notice of any meeting in which regular or~~
390 ~~special assessments against unit owners are to be considered~~
391 ~~must specifically state that assessments will be considered and~~
392 ~~provide the nature, estimated cost, and description of the~~
393 ~~purposes for such assessments.~~

394 2. Meetings of a committee to take final action on behalf
395 of the board or make recommendations to the board regarding the
396 association budget are subject to this paragraph. Meetings of a
397 committee that does not take final action on behalf of the board
398 or make recommendations to the board regarding the association
399 budget are subject to this section, unless those meetings are
400 exempted from this section by the bylaws of the association.

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

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

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

410 (d) Unit owner meetings.—

411 1. An annual meeting of the unit owners must ~~shall~~ be held
412 at the location provided in the association bylaws and, if the

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413 bylaws are silent as to the location, the meeting must ~~shall~~ be
414 held within 45 miles of the condominium property. However, such
415 distance requirement does not apply to an association governing
416 a timeshare condominium.

417 2. Unless the bylaws provide otherwise, a vacancy on the
418 board caused by the expiration of a director's term must ~~shall~~
419 be filled by electing a new board member, and the election must
420 be by secret ballot. An election is not required if the number
421 of vacancies equals or exceeds the number of candidates. For
422 purposes of this paragraph, the term "candidate" means an
423 eligible person who has timely submitted the written notice, as
424 described in sub-subparagraph 4.a., of his or her intention to
425 become a candidate. Except in a timeshare or nonresidential
426 condominium, or if the staggered term of a board member does not
427 expire until a later annual meeting, or if all members' terms
428 would otherwise expire but there are no candidates, the terms of
429 all board members expire at the annual meeting, and such members
430 may stand for reelection unless prohibited by the bylaws. Each
431 term may not exceed 2 years, unless a shorter term is specified
432 ~~Board members may serve 2 year terms if permitted by the bylaws~~
433 ~~or articles of incorporation. A board member may not serve more~~
434 ~~than four consecutive 2 year terms, unless approved by an~~
435 ~~affirmative vote of two thirds of the total voting interests of~~
436 ~~the association or unless there are not enough eligible~~
437 ~~candidates to fill the vacancies on the board at the time of the~~

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438 ~~vacaney.~~ If the number of board members whose terms expire at
439 the annual meeting equals or exceeds the number of candidates,
440 the candidates become members of the board effective upon the
441 adjournment of the annual meeting. Unless the bylaws provide
442 otherwise, any remaining vacancies shall be filled by the
443 affirmative vote of the majority of the directors making up the
444 newly constituted board even if the directors constitute less
445 than a quorum or there is only one director. In a residential
446 condominium association of more than 10 units or in a
447 residential condominium association that does not include
448 timeshare units or timeshare interests, coowners of a unit may
449 not serve as members of the board of directors at the same time
450 unless they own more than one unit or unless there are not
451 enough eligible candidates to fill the vacancies on the board at
452 the time of the vacancy. A unit owner in a residential
453 condominium desiring to be a candidate for board membership must
454 comply with sub-subparagraph 4.a. and must be eligible to be a
455 candidate to serve on the board of directors at the time of the
456 deadline for submitting a notice of intent to run in order to
457 have his or her name listed as a proper candidate on the ballot
458 or to serve on the board. A person who has been suspended or
459 removed by the division under this chapter, or who is delinquent
460 in the payment of any monetary obligation due to the
461 association, is not eligible to be a candidate for board
462 membership and may not be listed on the ballot. A person who has

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463 been convicted of any felony in this state or in a United States
464 District or Territorial Court, or who has been convicted of any
465 offense in another jurisdiction which would be considered a
466 felony if committed in this state, is not eligible for board
467 membership unless such felon's civil rights have been restored
468 for at least 5 years as of the date such person seeks election
469 to the board. The validity of an action by the board is not
470 affected if it is later determined that a board member is
471 ineligible for board membership due to having been convicted of
472 a felony. This subparagraph does not limit the term of a member
473 of the board of a nonresidential or timeshare condominium.

474 3. The bylaws must provide the method of calling meetings
475 of unit owners, including annual meetings. Written notice must
476 include an agenda, must be mailed, hand delivered, or
477 electronically transmitted to each unit owner at least 14 days
478 before the annual meeting, and must be posted in a conspicuous
479 place on the condominium property at least 14 continuous days
480 before the annual meeting. Upon notice to the unit owners, the
481 board shall, by duly adopted rule, designate a specific location
482 on the condominium property ~~or association property~~ where all
483 notices of unit owner meetings must ~~shall~~ be posted. This
484 requirement does not apply if there is no condominium property
485 ~~or association property~~ for posting notices. In lieu of, or in
486 addition to, the physical posting of meeting notices, the
487 association may, by reasonable rule, adopt a procedure for

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488 conspicuously posting and repeatedly broadcasting the notice and
489 the agenda on a closed-circuit cable television system serving
490 the condominium association. However, if broadcast notice is
491 used in lieu of a notice posted physically on the condominium
492 property, the notice and agenda must be broadcast at least four
493 times every broadcast hour of each day that a posted notice is
494 otherwise required under this section. If broadcast notice is
495 provided, the notice and agenda must be broadcast in a manner
496 and for a sufficient continuous length of time so as to allow an
497 average reader to observe the notice and read and comprehend the
498 entire content of the notice and the agenda. In addition to any
499 of the authorized means of providing notice of a meeting of the
500 board, the association may, by rule, adopt a procedure for
501 conspicuously posting the meeting notice and the agenda on a
502 website serving the condominium association for at least the
503 minimum period of time for which a notice of a meeting is also
504 required to be physically posted on the condominium property.
505 Any rule adopted shall, in addition to other matters, include a
506 requirement that the association send an electronic notice in
507 the same manner as a notice for a meeting of the members, which
508 must include a hyperlink to the website where the notice is
509 posted, to unit owners whose e-mail addresses are included in
510 the association's official records. Unless a unit owner waives
511 in writing the right to receive notice of the annual meeting,
512 such notice must be hand delivered, mailed, or electronically

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513 transmitted to each unit owner. Notice for meetings and notice
514 for all other purposes must be mailed to each unit owner at the
515 address last furnished to the association by the unit owner, or
516 hand delivered to each unit owner. However, if a unit is owned
517 by more than one person, the association must provide notice to
518 the address that the developer identifies for that purpose and
519 thereafter as one or more of the owners of the unit advise the
520 association in writing, or if no address is given or the owners
521 of the unit do not agree, to the address provided on the deed of
522 record. An officer of the association, or the manager or other
523 person providing notice of the association meeting, must provide
524 an affidavit or United States Postal Service certificate of
525 mailing, to be included in the official records of the
526 association affirming that the notice was mailed or hand
527 delivered in accordance with this provision.

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

535 a. At least 60 days before a scheduled election, the
536 association shall mail, deliver, or electronically transmit, by
537 separate association mailing or included in another association

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538 mailing, delivery, or transmission, including regularly
539 published newsletters, to each unit owner entitled to a vote, a
540 first notice of the date of the election. A unit owner or other
541 eligible person desiring to be a candidate for the board must
542 give written notice of his or her intent to be a candidate to
543 the association at least 40 days before a scheduled election.
544 Together with the written notice and agenda as set forth in
545 subparagraph 3., the association shall mail, deliver, or
546 electronically transmit a second notice of the election to all
547 unit owners entitled to vote, together with a ballot that lists
548 all candidates. Upon request of a candidate, an information
549 sheet, no larger than 8 1/2 inches by 11 inches, which must be
550 furnished by the candidate at least 35 days before the election,
551 must be included with the mailing, delivery, or transmission of
552 the ballot, with the costs of mailing, delivery, or electronic
553 transmission and copying to be borne by the association. The
554 association is not liable for the contents of the information
555 sheets prepared by the candidates. In order to reduce costs, the
556 association may print or duplicate the information sheets on
557 both sides of the paper. The division shall by rule establish
558 voting procedures consistent with this sub-subparagraph,
559 including rules establishing procedures for giving notice by
560 electronic transmission and rules providing for the secrecy of
561 ballots. Elections shall be decided by a plurality of ballots
562 cast. There is no quorum requirement; however, at least 20

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563 percent of the eligible voters must cast a ballot in order to
564 have a valid election. A unit owner may not authorize ~~permit~~ any
565 other person to vote his or her ballot, and any ballots
566 improperly cast are invalid. A unit owner who violates this
567 provision may be fined by the association in accordance with s.
568 718.303. A unit owner who needs assistance in casting the ballot
569 for the reasons stated in s. 101.051 may obtain such assistance.
570 The regular election must occur on the date of the annual
571 meeting. Notwithstanding this sub-subparagraph, an election is
572 not required unless more candidates file notices of intent to
573 run or are nominated than board vacancies exist.

574 b. Within 90 days after being elected or appointed to the
575 board of an association of a residential condominium, each newly
576 elected or appointed director shall certify in writing to the
577 secretary of the association that he or she has read the
578 association's declaration of condominium, articles of
579 incorporation, bylaws, and current written policies; that he or
580 she will work to uphold such documents and policies to the best
581 of his or her ability; and that he or she will faithfully
582 discharge his or her fiduciary responsibility to the
583 association's members. In lieu of this written certification,
584 within 90 days after being elected or appointed to the board,
585 the newly elected or appointed director may submit a certificate
586 of having satisfactorily completed the educational curriculum
587 administered by a division-approved condominium education

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588 provider within 1 year before or 90 days after the date of
589 election or appointment. The written certification or
590 educational certificate is valid and does not have to be
591 resubmitted as long as the director serves on the board without
592 interruption. A director of an association of a residential
593 condominium who fails to timely file the written certification
594 or educational certificate is suspended from service on the
595 board until he or she complies with this sub-subparagraph. The
596 board may temporarily fill the vacancy during the period of
597 suspension. The secretary shall cause the association to retain
598 a director's written certification or educational certificate
599 for inspection by the members for 5 years after a director's
600 election or the duration of the director's uninterrupted tenure,
601 whichever is longer. Failure to have such written certification
602 or educational certificate on file does not affect the validity
603 of any board action.

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

606 5. Any approval by unit owners called for by this chapter
607 or the applicable declaration or bylaws, including, but not
608 limited to, the approval requirement in s. 718.111(8), must be
609 made at a duly noticed meeting of unit owners and is subject to
610 all requirements of this chapter or the applicable condominium
611 documents relating to unit owner decisionmaking, except that
612 unit owners may take action by written agreement, without

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613 meetings, on matters for which action by written agreement
614 without meetings is expressly allowed by the applicable bylaws
615 or declaration or any law that provides for such action.

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

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

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

634 9. Unless otherwise provided in the bylaws, any vacancy
635 occurring on the board before the expiration of a term may be
636 filled by the affirmative vote of the majority of the remaining
637 directors, even if the remaining directors constitute less than

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638 a quorum, or by the sole remaining director. In the alternative,
639 a board may hold an election to fill the vacancy, in which case
640 the election procedures must conform to sub-subparagraph 4.a.
641 unless the association governs 10 units or fewer and has opted
642 out of the statutory election process, in which case the bylaws
643 of the association control. Unless otherwise provided in the
644 bylaws, a board member appointed or elected under this section
645 shall fill the vacancy for the unexpired term of the seat being
646 filled. Filling vacancies created by recall is governed by
647 paragraph (j) and rules adopted by the division.

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

654
655 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
656 association of 10 or fewer units may, by affirmative vote of a
657 majority of the total voting interests, provide for different
658 voting and election procedures in its bylaws, which may be by a
659 proxy specifically delineating the different voting and election
660 procedures. The different voting and election procedures may
661 provide for elections to be conducted by limited or general
662 proxy.

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

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

685 2. If the proposed recall is by an agreement in writing by
686 a majority of all voting interests, the agreement in writing or
687 a copy thereof shall be served on the association by certified

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688 mail or by personal service in the manner authorized by chapter
689 48 and the Florida Rules of Civil Procedure. The board of
690 administration shall duly notice and hold a meeting of the board
691 within 5 full business days after receipt of the agreement in
692 writing. Such member or members shall be recalled effective
693 immediately upon the conclusion of the board meeting provided
694 that the recall is facially valid. A recalled member must and
695 ~~shall~~ turn over to the board, within 10 full business days, any
696 and all records and property of the association in their
697 possession.

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

705 4. If the board fails to duly notice and hold the required
706 meeting ~~or fails to file the required petition,~~ the unit owner
707 representative may file a petition pursuant to s. 718.1255
708 challenging the board's failure to act. The petition must be
709 filed within 60 days after the expiration of the applicable 5-
710 full-business-day period. The review of a petition under this
711 subparagraph is limited to the sufficiency of service on the



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712 board and the facial validity of the written agreement or
713 ballots filed.

714 5. If a vacancy occurs on the board as a result of a
715 recall or removal and less than a majority of the board members
716 are removed, the vacancy may be filled by the affirmative vote
717 of a majority of the remaining directors, notwithstanding any
718 provision to the contrary contained in this subsection. If
719 vacancies occur on the board as a result of a recall and a
720 majority or more of the board members are removed, the vacancies
721 shall be filled in accordance with procedural rules to be
722 adopted by the division, which rules need not be consistent with
723 this subsection. The rules must provide procedures governing the
724 conduct of the recall election as well as the operation of the
725 association during the period after a recall but before the
726 recall election.

727 6. A board member who has been recalled may file a
728 petition pursuant to s. 718.1255 challenging the validity of the
729 recall. The petition must be filed within 60 days after the
730 recall. The association and the unit owner representative shall
731 be named as the respondents. The petition may challenge the
732 facial validity of the written agreement or ballots filed or the
733 substantial compliance with the procedural requirements for the
734 recall. If the arbitrator determines the recall was invalid, the
735 petitioning board member shall immediately be reinstated and the
736 recall is null and void. A board member who is successful in

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737 challenging a recall is entitled to recover reasonable attorney
738 fees and costs from the respondents. The arbitrator may award
739 reasonable attorney fees and costs to the respondents if they
740 prevail, if the arbitrator makes a finding that the petitioner's
741 claim is frivolous.

742 7. The division may not accept for filing a recall
743 petition, whether filed pursuant to subparagraph 1.,
744 subparagraph 2., subparagraph 4., or subparagraph 6. when there
745 are 60 or fewer days until the scheduled reelection of the board
746 member sought to be recalled or when 60 or fewer days have
747 elapsed since the election of the board member sought to be
748 recalled.

749 Section 3. Subsection (2) of section 718.113, Florida
750 Statutes, is amended to read:

751 718.113 Maintenance; limitation upon improvement; display
752 of flag; hurricane shutters and protection; display of religious
753 decorations.—

754 (2)(a) Except as otherwise provided in this section, there
755 shall be no material alteration or substantial additions to the
756 common elements or to real property which is association
757 property, except in a manner provided in the declaration as
758 originally recorded or as amended under the procedures provided
759 therein. If the declaration as originally recorded or as amended
760 under the procedures provided therein does not specify the
761 procedure for approval of material alterations or substantial

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762 additions, 75 percent of the total voting interests of the
763 association must approve the alterations or additions before the
764 material alterations or substantial additions are commenced.

765 This paragraph is intended to clarify existing law and applies
766 to associations existing on July 1, 2018 ~~October 1, 2008~~.

767 (b) There shall not be any material alteration of, or
768 substantial addition to, the common elements of any condominium
769 operated by a multicondominium association unless approved in
770 the manner provided in the declaration of the affected
771 condominium or condominiums as originally recorded or as amended
772 under the procedures provided therein. If a declaration as
773 originally recorded or as amended under the procedures provided
774 therein does not specify a procedure for approving such an
775 alteration or addition, the approval of 75 percent of the total
776 voting interests of each affected condominium is required before
777 the material alterations or substantial additions are commenced.

778 This subsection does not prohibit a provision in any
779 declaration, articles of incorporation, or bylaws as originally
780 recorded or as amended under the procedures provided therein
781 requiring the approval of unit owners in any condominium
782 operated by the same association or requiring board approval
783 before a material alteration or substantial addition to the
784 common elements is permitted. This paragraph is intended to
785 clarify existing law and applies to associations existing on
786 July 1, 2018 ~~the effective date of this act.~~

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787 (c) There shall not be any material alteration or
788 substantial addition made to association real property operated
789 by a multicondominium association, except as provided in the
790 declaration, articles of incorporation, or bylaws as originally
791 recorded or as amended under the procedures provided therein. If
792 the declaration, articles of incorporation, or bylaws as
793 originally recorded or as amended under the procedures provided
794 therein do not specify the procedure for approving an alteration
795 or addition to association real property, the approval of 75
796 percent of the total voting interests of the association is
797 required before the material alterations or substantial
798 additions are commenced. This paragraph is intended to clarify
799 existing law and applies to associations existing on July 1,
800 2018 ~~the effective date of this act.~~

801 Section 4. Subsection (3) of section 718.3026, Florida
802 Statutes, is amended to read:

803 718.3026 Contracts for products and services; in writing;
804 bids; exceptions.—Associations with 10 or fewer units may opt
805 out of the provisions of this section if two-thirds of the unit
806 owners vote to do so, which opt-out may be accomplished by a
807 proxy specifically setting forth the exception from this
808 section.

809 ~~(3) As to any contract or other transaction between an~~
810 ~~association and one or more of its directors or any other~~
811 ~~corporation, firm, association, or entity in which one or more~~

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812 ~~of its directors are directors or officers or are financially~~
813 ~~interested.~~

814 ~~(a) The association shall comply with the requirements of~~
815 ~~s. 617.0832.~~

816 ~~(b) The disclosures required by s. 617.0832 shall be~~
817 ~~entered into the written minutes of the meeting.~~

818 ~~(c) Approval of the contract or other transaction shall~~
819 ~~require an affirmative vote of two thirds of the directors~~
820 ~~present.~~

821 ~~(d) At the next regular or special meeting of the members,~~
822 ~~the existence of the contract or other transaction shall be~~
823 ~~disclosed to the members. Upon motion of any member, the~~
824 ~~contract or transaction shall be brought up for a vote and may~~
825 ~~be canceled by a majority vote of the members present. Should~~
826 ~~the members cancel the contract, the association shall only be~~
827 ~~liable for the reasonable value of goods and services provided~~
828 ~~up to the time of cancellation and shall not be liable for any~~
829 ~~termination fee, liquidated damages, or other form of penalty~~
830 ~~for such cancellation.~~

831 Section 5. Section 718.3027, Florida Statutes, is amended
832 to read:

833 718.3027 Conflicts of interest.-

834 (1) Directors and officers of a board of an association
835 that is not a timeshare condominium association, and the
836 relatives of such directors and officers, must disclose to the

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837 board any activity that may reasonably be construed to be a
838 conflict of interest. A rebuttable presumption of a conflict of
839 interest exists if any of the following occurs without prior
840 notice, as required in subsection (5)-(4):

841 (a) A director or an officer, or a relative of a director
842 or an officer, enters into a contract for goods or services with
843 the association.

844 (b) A director or an officer, or a relative of a director
845 or an officer, holds an interest in a corporation, limited
846 liability corporation, partnership, limited liability
847 partnership, or other business entity that conducts business
848 with the association or proposes to enter into a contract or
849 other transaction with the association.

850 (2) If a director or an officer, or a relative of a
851 director or an officer, proposes to engage in an activity that
852 is a conflict of interest, as described in subsection (1), the
853 proposed activity must be listed on, and all contracts and
854 transactional documents related to the proposed activity must be
855 attached to, the meeting agenda. The association shall comply
856 with the requirements of s. 617.0832, and the disclosures
857 required by s. 617.0832 shall be entered into the written
858 minutes of the meeting. Approval of the contract or other
859 transaction requires an affirmative vote of two-thirds of all
860 other directors present. At the next regular or special meeting
861 of the members, the existence of the contract or other

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862 transaction shall be disclosed to the members. Upon motion of
863 any member, the contract or transaction shall be brought up for
864 a vote and may be canceled by a majority vote of the members
865 present. If the contract is canceled, the association is only
866 liable for the reasonable value of the goods and services
867 provided up to the time of cancellation and is not liable for
868 any termination fee, liquidated damages, or other form of
869 penalty for such cancellation.

870 (3) If the board votes against the proposed activity, the
871 director or officer, or the relative of the director or officer,
872 must notify the board in writing of his or her intention not to
873 pursue the proposed activity or to withdraw from office. If the
874 board finds that an officer or a director has violated this
875 subsection, the officer or director shall be deemed removed from
876 office. The vacancy shall be filled according to general law.

877 ~~(4)~~(3) A director or an officer, or a relative of a
878 director or an officer, who is a party to, or has an interest
879 in, an activity that is a possible conflict of interest, as
880 described in subsection (1), may attend the meeting at which the
881 activity is considered by the board and is authorized to make a
882 presentation to the board regarding the activity. After the
883 presentation, the director or officer, or the relative of the
884 director or officer, must leave the meeting during the
885 discussion of, and the vote on, the activity. A director or an



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886 officer who is a party to, or has an interest in, the activity
887 must recuse himself or herself from the vote.

888 ~~(5)(4)~~ A contract entered into between a director or an
889 officer, or a relative of a director or an officer, and the
890 association, which is not a timeshare condominium association,
891 that has not been properly disclosed as a conflict of interest
892 or potential conflict of interest as required by s.

893 718.111(12)(g) is voidable and terminates upon the filing of a
894 written notice terminating the contract with the board of
895 directors which contains the consent of at least 20 percent of
896 the voting interests of the association.

897 ~~(6)(5)~~ As used in this section, the term "relative" means
898 a relative within the third degree of consanguinity by blood or
899 marriage.

900 Section 6. Paragraph (b) of subsection (3) of section
901 718.303, Florida Statutes, is amended to read:

902 718.303 Obligations of owners and occupants; remedies.—

903 (3) The association may levy reasonable fines for the
904 failure of the owner of the unit or its occupant, licensee, or
905 invitee to comply with any provision of the declaration, the
906 association bylaws, or reasonable rules of the association. A
907 fine may not become a lien against a unit. A fine may be levied
908 by the board on the basis of each day of a continuing violation,
909 with a single notice and opportunity for hearing before a



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910 committee as provided in paragraph (b). However, the fine may
911 not exceed \$100 per violation, or \$1,000 in the aggregate.

912 (b) A fine or suspension levied by the board of
913 administration may not be imposed unless the board first
914 provides at least 14 days' written notice ~~and an opportunity for~~
915 ~~a hearing~~ to the unit owner and, if applicable, any its
916 occupant, licensee, or invitee of the unit owner sought to be
917 fined or suspended and an opportunity for a hearing. ~~The hearing~~
918 ~~must be held~~ before a committee of at least three members
919 appointed by the board who are not officers, directors, or
920 employees of the association, or the spouse, parent, child,
921 brother, or sister of an officer, director, or employee ~~other~~
922 ~~unit owners who are neither board members nor persons residing~~
923 ~~in a board member's household.~~ The role of the committee is
924 limited to determining whether to confirm or reject the fine or
925 suspension levied by the board. If the committee does not
926 approve ~~agree,~~ the proposed fine or suspension by majority vote,
927 the fine or suspension may not be imposed. If the proposed fine
928 or suspension is approved by the committee, the fine payment is
929 due 5 days after the date of the committee meeting at which the
930 fine is approved. The association must provide written notice of
931 such fine or suspension by mail or hand delivery to the unit
932 owner and, if applicable, to any tenant, licensee, or invitee of
933 the unit owner.

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934 Section 7. Section 718.707, Florida Statutes, is amended
935 to read:

936 718.707 Time limitation for classification as bulk
937 assignee or bulk buyer.—A person acquiring condominium parcels
938 may not be classified as a bulk assignee or bulk buyer unless
939 the condominium parcels were acquired on or after July 1, 2010,
940 ~~but before July 1, 2018~~. The date of such acquisition shall be
941 determined by the date of recording a deed or other instrument
942 of conveyance for such parcels in the public records of the
943 county in which the condominium is located, or by the date of
944 issuing a certificate of title in a foreclosure proceeding with
945 respect to such condominium parcels.

946 Section 8. Paragraphs (a) and (b) of subsection (2) of
947 section 719.104, Florida Statutes, are amended to read:

948 719.104 Cooperatives; access to units; records; financial
949 reports; assessments; purchase of leases.—

950 (2) OFFICIAL RECORDS.—

951 (a) From the inception of the association, the association
952 shall maintain a copy of each of the following, where
953 applicable, which shall constitute the official records of the
954 association:

955 1. The plans, permits, warranties, and other items
956 provided by the developer pursuant to s. 719.301(4).

957 2. A photocopy of the cooperative documents.

958 3. A copy of the current rules of the association.

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959 4. A book or books containing the minutes of all meetings
960 of the association, of the board of directors, and of the unit
961 owners, ~~which minutes shall be retained for a period of not less~~
962 ~~than 7 years.~~

963 5. A current roster of all unit owners and their mailing
964 addresses, unit identifications, voting certifications, and, if
965 known, telephone numbers. The association shall also maintain
966 the e-mail ~~electronic mailing~~ addresses and the numbers
967 designated by unit owners for receiving notice sent by
968 electronic transmission of those unit owners consenting to
969 receive notice by electronic transmission. The e-mail ~~electronic~~
970 ~~mailing~~ addresses and numbers provided by unit owners to receive
971 notice by electronic transmission shall be removed from
972 association records when consent to receive notice by electronic
973 transmission is revoked. However, the association is not liable
974 for an erroneous disclosure of the e-mail ~~electronic mail~~
975 address or the number for receiving electronic transmission of
976 notices.

977 6. All current insurance policies of the association.

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

982 8. Bills of sale or transfer for all property owned by the
983 association.

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984 9. Accounting records for the association and separate
985 accounting records for each unit it operates, according to good
986 accounting practices. ~~All accounting records shall be maintained~~
987 ~~for a period of not less than 7 years.~~ The accounting records
988 shall include, but not be limited to:

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

991 b. A current account and a monthly, bimonthly, or
992 quarterly statement of the account for each unit designating the
993 name of the unit owner, the due date and amount of each
994 assessment, the amount paid upon the account, and the balance
995 due.

996 c. All audits, reviews, accounting statements, and
997 financial reports of the association.

998 d. All contracts for work to be performed. Bids for work
999 to be performed shall also be considered official records and
1000 shall be maintained for a period of 1 year.

1001 10. Ballots, sign-in sheets, voting proxies, and all other
1002 papers and electronic records relating to voting by unit owners,
1003 which shall be maintained for a period of 1 year after the date
1004 of the election, vote, or meeting to which the document relates.

1005 11. All rental records where the association is acting as
1006 agent for the rental of units.

1007 12. A copy of the current question and answer sheet as
1008 described in s. 719.504.

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1009 13. All other written records of the association not
1010 specifically included in the foregoing which are related to the
1011 operation of the association.

1012 (b) The official records of the association must be
1013 maintained within the state for at least 7 years. The records of
1014 the association shall be made available to a unit owner within
1015 45 miles of the cooperative property or within the county in
1016 which the cooperative property is located within 10 5 working
1017 days after receipt of written request by the board or its
1018 designee. This paragraph may be complied with by having a copy
1019 of the official records of the association available for
1020 inspection or copying on the cooperative property or the
1021 association may offer the option of making the records available
1022 to a unit owner electronically via the Internet or by allowing
1023 the records to be viewed in an electronic format on a computer
1024 screen and printed upon request. The association is not
1025 responsible for the use or misuse of the information provided to
1026 an association member or his or her authorized representative
1027 pursuant to the compliance requirements of this chapter unless
1028 the association has an affirmative duty not to disclose such
1029 information pursuant to this chapter.

1030 Section 9. Paragraphs (a), (c), and (d) of subsection (1)
1031 of section 719.106, Florida Statutes, are amended, and paragraph
1032 (m) is added to that subsection, to read:

1033 719.106 Bylaws; cooperative ownership.-

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1034 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1035 documents shall provide for the following, and if they do not,
1036 they shall be deemed to include the following:

1037 (a) Administration.—

1038 1. The form of administration of the association shall be
1039 described, indicating the titles of the officers and board of
1040 administration and specifying the powers, duties, manner of
1041 selection and removal, and compensation, if any, of officers and
1042 board members. In the absence of such a provision, the board of
1043 administration shall be composed of five members, unless the
1044 cooperative except in the case of cooperatives has having five
1045 or fewer units., in which case in not for profit corporations,
1046 The board shall consist of not fewer than three members in
1047 cooperatives with five or fewer units that are not-for-profit
1048 corporations. In a residential cooperative association of more
1049 than 10 units, co-owners of a unit may not serve as members of
1050 the board of directors at the same time unless the co-owners own
1051 more than one unit or unless there are not enough eligible
1052 candidates to fill the vacancies on the board at the time of the
1053 vacancy. In the absence of provisions to the contrary, the board
1054 of administration shall have a president, a secretary, and a
1055 treasurer, who shall perform the duties of those offices
1056 customarily performed by officers of corporations. Unless
1057 prohibited in the bylaws, the board of administration may
1058 appoint other officers and grant them those duties it deems

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1059 appropriate. Unless otherwise provided in the bylaws, the
1060 officers shall serve without compensation and at the pleasure of
1061 the board. Unless otherwise provided in the bylaws, the members
1062 of the board shall serve without compensation.

1063 2. A person who has been suspended or removed by the
1064 division under this chapter, or who is delinquent in the payment
1065 of any monetary obligation due to the association, is not
1066 eligible to be a candidate for board membership and may not be
1067 listed on the ballot. A director or officer charged by
1068 information or indictment with a felony theft or embezzlement
1069 offense involving the association's funds or property is
1070 suspended from office. The board shall fill the vacancy
1071 according to general law until the end of the period of the
1072 suspension or the end of the director's term of office,
1073 whichever occurs first. However, if the charges are resolved
1074 without a finding of guilt or without acceptance of a plea of
1075 guilty or nolo contendere, the director or officer shall be
1076 reinstated for any remainder of his or her term of office. A
1077 member who has such criminal charges pending may not be
1078 appointed or elected to a position as a director or officer. A
1079 person who has been convicted of any felony in this state or in
1080 any United States District Court, or who has been convicted of
1081 any offense in another jurisdiction which would be considered a
1082 felony if committed in this state, is not eligible for board
1083 membership unless such felon's civil rights have been restored

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1084 for at least 5 years as of the date such person seeks election
1085 to the board. The validity of an action by the board is not
1086 affected if it is later determined that a board member is
1087 ineligible for board membership due to having been convicted of
1088 a felony.

1089 3. When a unit owner files a written inquiry by certified
1090 mail with the board of administration, the board shall respond
1091 in writing to the unit owner within 30 days of receipt of the
1092 inquiry. The board's response shall either give a substantive
1093 response to the inquirer, notify the inquirer that a legal
1094 opinion has been requested, or notify the inquirer that advice
1095 has been requested from the division. If the board requests
1096 advice from the division, the board shall, within 10 days of its
1097 receipt of the advice, provide in writing a substantive response
1098 to the inquirer. If a legal opinion is requested, the board
1099 shall, within 60 days after the receipt of the inquiry, provide
1100 in writing a substantive response to the inquirer. The failure
1101 to provide a substantive response to the inquirer as provided
1102 herein precludes the board from recovering attorney's fees and
1103 costs in any subsequent litigation, administrative proceeding,
1104 or arbitration arising out of the inquiry. The association may,
1105 through its board of administration, adopt reasonable rules and
1106 regulations regarding the frequency and manner of responding to
1107 the unit owners' inquiries, one of which may be that the
1108 association is obligated to respond to only one written inquiry

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1109 per unit in any given 30-day period. In such case, any
1110 additional inquiry or inquiries must be responded to in the
1111 subsequent 30-day period, or periods, as applicable.

1112 (c) Board of administration meetings.—Members of the board
1113 of administration may use e-mail as a means of communication but
1114 may not cast a vote on an association matter via e-mail.

1115 Meetings of the board of administration at which a quorum of the
1116 members is present shall be open to all unit owners. Any unit
1117 owner may tape record or videotape meetings of the board of
1118 administration. The right to attend such meetings includes the
1119 right to speak at such meetings with reference to all designated
1120 agenda items. The division shall adopt reasonable rules
1121 governing the tape recording and videotaping of the meeting. The
1122 association may adopt reasonable written rules governing the
1123 frequency, duration, and manner of unit owner statements.

1124 Adequate notice of all meetings shall be posted in a conspicuous
1125 place upon the cooperative property at least 48 continuous hours
1126 preceding the meeting, except in an emergency. Any item not
1127 included on the notice may be taken up on an emergency basis by
1128 at least a majority plus one of the members of the board. Such
1129 emergency action shall be noticed and ratified at the next
1130 regular meeting of the board. Notice of any meeting in which
1131 regular or special assessments against unit owners are to be
1132 considered must specifically state that assessments will be
1133 considered and provide the estimated cost and description of the

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1134 purpose for such assessments. ~~However,~~ Written notice of any
1135 meeting at which nonemergency special assessments, or at which
1136 amendment to rules regarding unit use, will be considered shall
1137 be mailed, delivered, or electronically transmitted to the unit
1138 owners and posted conspicuously on the cooperative property not
1139 less than 14 days before the meeting. Evidence of compliance
1140 with this 14-day notice shall be made by an affidavit executed
1141 by the person providing the notice and filed among the official
1142 records of the association. Upon notice to the unit owners, the
1143 board shall by duly adopted rule designate a specific location
1144 on the cooperative property upon which all notices of board
1145 meetings shall be posted. In lieu of or in addition to the
1146 physical posting of notice of any meeting of the board of
1147 administration on the cooperative property, the association may,
1148 by reasonable rule, adopt a procedure for conspicuously posting
1149 and repeatedly broadcasting the notice and the agenda on a
1150 closed-circuit cable television system serving the cooperative
1151 association. However, if broadcast notice is used in lieu of a
1152 notice posted physically on the cooperative property, the notice
1153 and agenda must be broadcast at least four times every broadcast
1154 hour of each day that a posted notice is otherwise required
1155 under this section. When broadcast notice is provided, the
1156 notice and agenda must be broadcast in a manner and for a
1157 sufficient continuous length of time so as to allow an average
1158 reader to observe the notice and read and comprehend the entire

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1159 content of the notice and the agenda. In addition to any of the
1160 authorized means of providing notice of a meeting of the board,
1161 the association may, by rule, adopt a procedure for
1162 conspicuously posting the meeting notice and the agenda on a
1163 website serving the cooperative association for at least the
1164 minimum period of time for which a notice of a meeting is also
1165 required to be physically posted on the cooperative property.
1166 Any rule adopted shall, in addition to other matters, include a
1167 requirement that the association send an electronic notice in
1168 the same manner as a notice for a meeting of the members, which
1169 must include a hyperlink to the website where the notice is
1170 posted, to unit owners whose e-mail addresses are included in
1171 the association's official records. ~~Notice of any meeting in~~
1172 ~~which regular assessments against unit owners are to be~~
1173 ~~considered for any reason shall specifically contain a statement~~
1174 ~~that assessments will be considered and the nature of any such~~
1175 ~~assessments.~~ Meetings of a committee to take final action on
1176 behalf of the board or to make recommendations to the board
1177 regarding the association budget are subject to the provisions
1178 of this paragraph. Meetings of a committee that does not take
1179 final action on behalf of the board or make recommendations to
1180 the board regarding the association budget are subject to the
1181 provisions of this section, unless those meetings are exempted
1182 from this section by the bylaws of the association.
1183 Notwithstanding any other law to the contrary, the requirement

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1184 that board meetings and committee meetings be open to the unit
1185 owners does not apply to board or committee meetings held for
1186 the purpose of discussing personnel matters or meetings between
1187 the board or a committee and the association's attorney, with
1188 respect to proposed or pending litigation, if the meeting is
1189 held for the purpose of seeking or rendering legal advice.

1190 (d) Shareholder meetings.—There shall be an annual meeting
1191 of the shareholders. All members of the board of administration
1192 shall be elected at the annual meeting unless the bylaws provide
1193 for staggered election terms or for their election at another
1194 meeting. Any unit owner desiring to be a candidate for board
1195 membership must comply with subparagraph 1. The bylaws must
1196 provide the method for calling meetings, including annual
1197 meetings. Written notice, which must incorporate an
1198 identification of agenda items, shall be given to each unit
1199 owner at least 14 days before the annual meeting and posted in a
1200 conspicuous place on the cooperative property at least 14
1201 continuous days preceding the annual meeting. Upon notice to the
1202 unit owners, the board must by duly adopted rule designate a
1203 specific location on the cooperative property upon which all
1204 notice of unit owner meetings are posted. In lieu of or in
1205 addition to the physical posting of the meeting notice, the
1206 association may, by reasonable rule, adopt a procedure for
1207 conspicuously posting and repeatedly broadcasting the notice and
1208 the agenda on a closed-circuit cable television system serving

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1209 the cooperative association. However, if broadcast notice is
1210 used in lieu of a posted notice, the notice and agenda must be
1211 broadcast at least four times every broadcast hour of each day
1212 that a posted notice is otherwise required under this section.
1213 If broadcast notice is provided, the notice and agenda must be
1214 broadcast in a manner and for a sufficient continuous length of
1215 time to allow an average reader to observe the notice and read
1216 and comprehend the entire content of the notice and the agenda.
1217 In addition to any of the authorized means of providing notice
1218 of a meeting of the shareholders, the association may, by rule,
1219 adopt a procedure for conspicuously posting the meeting notice
1220 and the agenda on a website serving the cooperative association
1221 for at least the minimum period of time for which a notice of a
1222 meeting is also required to be physically posted on the
1223 cooperative property. Any rule adopted shall, in addition to
1224 other matters, include a requirement that the association send
1225 an electronic notice in the same manner as a notice for a
1226 meeting of the members, which must include a hyperlink to the
1227 website where the notice is posted, to unit owners whose e-mail
1228 addresses are included in the association's official records.
1229 Unless a unit owner waives in writing the right to receive
1230 notice of the annual meeting, the notice of the annual meeting
1231 must be sent by mail, hand delivered, or electronically
1232 transmitted to each unit owner. An officer of the association
1233 must provide an affidavit or United States Postal Service

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1234 certificate of mailing, to be included in the official records
1235 of the association, affirming that notices of the association
1236 meeting were mailed, hand delivered, or electronically
1237 transmitted, in accordance with this provision, to each unit
1238 owner at the address last furnished to the association.

1239 1. The board of administration shall be elected by written
1240 ballot or voting machine. A proxy may not be used in electing
1241 the board of administration in general elections or elections to
1242 fill vacancies caused by recall, resignation, or otherwise
1243 unless otherwise provided in this chapter.

1244 a. At least 60 days before a scheduled election, the
1245 association shall mail, deliver, or transmit, whether by
1246 separate association mailing, delivery, or electronic
1247 transmission or included in another association mailing,
1248 delivery, or electronic transmission, including regularly
1249 published newsletters, to each unit owner entitled to vote, a
1250 first notice of the date of the election. Any unit owner or
1251 other eligible person desiring to be a candidate for the board
1252 of administration must give written notice to the association at
1253 least 40 days before a scheduled election. Together with the
1254 written notice and agenda as set forth in this section, the
1255 association shall mail, deliver, or electronically transmit a
1256 second notice of election to all unit owners entitled to vote,
1257 together with a ballot that lists all candidates. Upon request
1258 of a candidate, the association shall include an information

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1259 sheet, no larger than 8 1/2 inches by 11 inches, which must be
1260 furnished by the candidate at least 35 days before the election,
1261 to be included with the mailing, delivery, or electronic
1262 transmission of the ballot, with the costs of mailing, delivery,
1263 or transmission and copying to be borne by the association. The
1264 association is not liable for the contents of the information
1265 sheets provided by the candidates. In order to reduce costs, the
1266 association may print or duplicate the information sheets on
1267 both sides of the paper. The division shall by rule establish
1268 voting procedures consistent with this subparagraph, including
1269 rules establishing procedures for giving notice by electronic
1270 transmission and rules providing for the secrecy of ballots.
1271 Elections shall be decided by a plurality of those ballots cast.
1272 There is no quorum requirement. However, at least 20 percent of
1273 the eligible voters must cast a ballot in order to have a valid
1274 election. A unit owner may not permit any other person to vote
1275 his or her ballot, and any such ballots improperly cast are
1276 invalid. A unit owner who needs assistance in casting the ballot
1277 for the reasons stated in s. 101.051 may obtain assistance in
1278 casting the ballot. Any unit owner violating this provision may
1279 be fined by the association in accordance with s. 719.303. The
1280 regular election must occur on the date of the annual meeting.
1281 This subparagraph does not apply to timeshare cooperatives.
1282 Notwithstanding this subparagraph, an election and balloting are
1283 not required unless more candidates file a notice of intent to

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1284 run or are nominated than vacancies exist on the board. Any
1285 challenge to the election process must be commenced within 60
1286 days after the election results are announced.

1287 b. Within 90 days after being elected or appointed to the
1288 board, each new director shall certify in writing to the
1289 secretary of the association that he or she has read the
1290 association's bylaws, articles of incorporation, proprietary
1291 lease, and current written policies; that he or she will work to
1292 uphold such documents and policies to the best of his or her
1293 ability; and that he or she will faithfully discharge his or her
1294 fiduciary responsibility to the association's members. Within 90
1295 days after being elected or appointed to the board, in lieu of
1296 this written certification, the newly elected or appointed
1297 director may submit a certificate of having satisfactorily
1298 completed the educational curriculum administered by an
1299 education provider as approved by the division pursuant to the
1300 requirements established in chapter 718 within 1 year before or
1301 90 days after the date of election or appointment. The
1302 educational certificate is valid and does not have to be
1303 resubmitted as long as the director serves on the board without
1304 interruption. A director who fails to timely file the written
1305 certification or educational certificate is suspended from
1306 service on the board until he or she complies with this sub-
1307 subparagraph. The board may temporarily fill the vacancy during
1308 the period of suspension. The secretary of the association shall

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1309 cause the association to retain a director's written
1310 certification or educational certificate for inspection by the
1311 members for 5 years after a director's election or the duration
1312 of the director's uninterrupted tenure, whichever is longer.
1313 Failure to have such written certification or educational
1314 certificate on file does not affect the validity of any board
1315 action.

1316 2. Any approval by unit owners called for by this chapter,
1317 or the applicable cooperative documents, must be made at a duly
1318 noticed meeting of unit owners and is subject to this chapter or
1319 the applicable cooperative documents relating to unit owner
1320 decisionmaking, except that unit owners may take action by
1321 written agreement, without meetings, on matters for which action
1322 by written agreement without meetings is expressly allowed by
1323 the applicable cooperative documents or law which provides for
1324 the unit owner action.

1325 3. Unit owners may waive notice of specific meetings if
1326 allowed by the applicable cooperative documents or law. Notice
1327 of meetings of the board of administration, shareholder
1328 meetings, except shareholder meetings called to recall board
1329 members under paragraph (f), and committee meetings may be given
1330 by electronic transmission to unit owners who consent to receive
1331 notice by electronic transmission. A unit owner who consents to
1332 receiving notices by electronic transmission is solely
1333 responsible for removing or bypassing filters that may block



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1334 receipt of mass emails sent to members on behalf of the
1335 association in the course of giving electronic notices.

1336 4. Unit owners have the right to participate in meetings
1337 of unit owners with reference to all designated agenda items.
1338 However, the association may adopt reasonable rules governing
1339 the frequency, duration, and manner of unit owner participation.

1340 5. Any unit owner may tape record or videotape meetings of
1341 the unit owners subject to reasonable rules adopted by the
1342 division.

1343 6. Unless otherwise provided in the bylaws, a vacancy
1344 occurring on the board before the expiration of a term may be
1345 filled by the affirmative vote of the majority of the remaining
1346 directors, even if the remaining directors constitute less than
1347 a quorum, or by the sole remaining director. In the alternative,
1348 a board may hold an election to fill the vacancy, in which case
1349 the election procedures must conform to the requirements of
1350 subparagraph 1. unless the association has opted out of the
1351 statutory election process, in which case the bylaws of the
1352 association control. Unless otherwise provided in the bylaws, a
1353 board member appointed or elected under this subparagraph shall
1354 fill the vacancy for the unexpired term of the seat being
1355 filled. Filling vacancies created by recall is governed by
1356 paragraph (f) and rules adopted by the division.

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1358 Notwithstanding subparagraphs (b)2. and (d)1., an association
1359 may, by the affirmative vote of a majority of the total voting
1360 interests, provide for a different voting and election procedure
1361 in its bylaws, which vote may be by a proxy specifically
1362 delineating the different voting and election procedures. The
1363 different voting and election procedures may provide for
1364 elections to be conducted by limited or general proxy.

1365 (m) Director or officer delinquencies.—A director or
1366 officer more than 90 days delinquent in the payment of any
1367 monetary obligation due the association shall be deemed to have
1368 abandoned the office, creating a vacancy in the office to be
1369 filled according to law.

1370 Section 10. Paragraph (b) of subsection (1) of section
1371 719.107, Florida Statutes, is amended to read:

1372 719.107 Common expenses; assessment.—

1373 (1)

1374 (b) If so provided in the bylaws, the cost of
1375 communications services as defined in chapter 202, information
1376 services or Internet services ~~a master antenna television system~~
1377 ~~or duly franchised cable television service~~ obtained pursuant to
1378 a bulk contract shall be deemed a common expense, and if not
1379 obtained pursuant to a bulk contract, such cost shall be
1380 considered common expense if it is designated as such in a
1381 written contract between the board of administration and the
1382 company providing the communications services as defined in



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1383 chapter 202, information services or Internet services ~~master~~
1384 ~~television antenna system or the cable television service.~~ The
1385 contract shall be for a term of not less than 2 years.

1386 1. Any contract made by the board after April 2, 1992, for
1387 a community antenna system or duly franchised cable television
1388 service, communications services as defined in chapter 202,
1389 information services or Internet services may be canceled by a
1390 majority of the voting interests present at the next regular or
1391 special meeting of the association. Any member may make a motion
1392 to cancel the contract, but if no motion is made or if such
1393 motion fails to obtain the required majority at the next regular
1394 or special meeting, whichever is sooner, following the making of
1395 the contract, then such contract shall be deemed ratified for
1396 the term therein expressed.

1397 2. Any such contract shall provide, and shall be deemed to
1398 provide if not expressly set forth, that any hearing impaired or
1399 legally blind unit owner who does not occupy the unit with a
1400 nonhearing impaired or sighted person may discontinue the
1401 service without incurring disconnect fees, penalties, or
1402 subsequent service charges, and as to such units, the owners
1403 shall not be required to pay any common expenses charge related
1404 to such service. If less than all members of an association
1405 share the expenses of cable television, the expense shall be
1406 shared equally by all participating unit owners. The association
1407 may use the provisions of s. 719.108 to enforce payment of the

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1408 shares of such costs by the unit owners receiving cable
1409 television.

1410 Section 11. Paragraph (b) of subsection (3) of section
1411 719.303, Florida Statutes, is amended to read:

1412 719.303 Obligations of owners.—

1413 (3) The association may levy reasonable fines for failure
1414 of the unit owner or the unit's occupant, licensee, or invitee
1415 to comply with any provision of the cooperative documents or
1416 reasonable rules of the association. A fine may not become a
1417 lien against a unit. A fine may be levied by the board on the
1418 basis of each day of a continuing violation, with a single
1419 notice and opportunity for hearing before a committee as
1420 provided in paragraph (b). However, the fine may not exceed \$100
1421 per violation, or \$1,000 in the aggregate.

1422 (b) A fine or suspension levied by the board of
1423 administration may not be imposed unless the board first
1424 provides at least 14 days' written notice ~~and an opportunity for~~
1425 ~~a hearing~~ to the unit owner and, if applicable, any its
1426 occupant, licensee, or invitee of the unit owner sought to be
1427 fined or suspended and an opportunity for a hearing. ~~The hearing~~
1428 ~~must be held~~ before a committee of at least three members
1429 appointed by the board who are not officers, directors, or
1430 employees of the association, or the spouse, parent, child,
1431 brother, or sister of an officer, director, or employee ~~other~~
1432 ~~unit owners who are neither board members nor persons residing~~

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1433 ~~in a board member's household.~~ The role of the committee is
1434 limited to determining whether to confirm or reject the fine or
1435 suspension levied by the board. If the committee does not
1436 approve ~~agree with~~ the proposed fine or suspension by majority
1437 vote, the fine or suspension ~~it~~ may not be imposed. If the
1438 proposed fine or suspension is approved by the committee, the
1439 fine payment is due 5 days after the date of the committee
1440 meeting at which the fine is approved. The association must
1441 provide written notice of such fine or suspension by mail or
1442 hand delivery to the unit owner and, if applicable, to any
1443 tenant, licensee, or invitee of the unit owner.

1444 Section 12. Paragraphs (a) and (c) of subsection (2) of
1445 section 720.303, Florida Statutes, are amended, to read:

1446 720.303 Association powers and duties; meetings of board;
1447 official records; budgets; financial reporting; association
1448 funds; recalls.-

1449 (2) BOARD MEETINGS.-

1450 (a) Members of the board of administration may use e-mail
1451 as a means of communication, but may not cast a vote on an
1452 association matter via e-mail. A meeting of the board of
1453 directors of an association occurs whenever a quorum of the
1454 board gathers to conduct association business. Meetings of the
1455 board must be open to all members, except for meetings between
1456 the board and its attorney with respect to proposed or pending
1457 litigation where the contents of the discussion would otherwise

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1458 be governed by the attorney-client privilege. A meeting of the
1459 board must be held at a location that is accessible to a
1460 physically handicapped person if requested by a physically
1461 handicapped person who has a right to attend the meeting. The
1462 provisions of this subsection shall also apply to the meetings
1463 of any committee or other similar body when a final decision
1464 will be made regarding the expenditure of association funds and
1465 to meetings of any body vested with the power to approve or
1466 disapprove architectural decisions with respect to a specific
1467 parcel of residential property owned by a member of the
1468 community.

1469 (c) The bylaws shall provide the following for giving
1470 notice to parcel owners and members of all board meetings and,
1471 if they do not do so, shall be deemed to include ~~provide~~ the
1472 following:

1473 1. Notices of all board meetings must be posted in a
1474 conspicuous place in the community at least 48 hours in advance
1475 of a meeting, except in an emergency. In the alternative, if
1476 notice is not posted in a conspicuous place in the community,
1477 notice of each board meeting must be mailed or delivered to each
1478 member at least 7 days before the meeting, except in an
1479 emergency. Notwithstanding this general notice requirement, for
1480 communities with more than 100 members, the association bylaws
1481 may provide for a reasonable alternative to posting or mailing
1482 of notice for each board meeting, including publication of

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1483 notice, provision of a schedule of board meetings, or the
1484 conspicuous posting and repeated broadcasting of the notice on a
1485 closed-circuit cable television system serving the homeowners'
1486 association. However, if broadcast notice is used in lieu of a
1487 notice posted physically in the community, the notice must be
1488 broadcast at least four times every broadcast hour of each day
1489 that a posted notice is otherwise required. When broadcast
1490 notice is provided, the notice and agenda must be broadcast in a
1491 manner and for a sufficient continuous length of time so as to
1492 allow an average reader to observe the notice and read and
1493 comprehend the entire content of the notice and the agenda. The
1494 association may provide notice by electronic transmission in a
1495 manner authorized by law for meetings of the board of directors,
1496 committee meetings requiring notice under this section, and
1497 annual and special meetings of the members to any member who has
1498 provided a facsimile number or e-mail address to the association
1499 to be used for such purposes; however, a member must consent in
1500 writing to receiving notice by electronic transmission.

1501 2. An assessment may not be levied at a board meeting
1502 unless the notice of the meeting includes a statement that
1503 assessments will be considered and the nature of the
1504 assessments. Written notice of any meeting at which special
1505 assessments will be considered or at which amendments to rules
1506 regarding parcel use will be considered must be mailed,
1507 delivered, or electronically transmitted to the members and

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1508 parcel owners and posted conspicuously on the property or
1509 broadcast on closed-circuit cable television not less than 14
1510 days before the meeting.

1511 3. Directors may not vote by proxy or by secret ballot at
1512 board meetings, except that secret ballots may be used in the
1513 election of officers. This subsection also applies to the
1514 meetings of any committee or other similar body, when a final
1515 decision will be made regarding the expenditure of association
1516 funds, and to any body vested with the power to approve or
1517 disapprove architectural decisions with respect to a specific
1518 parcel of residential property owned by a member of the
1519 community.

1520 Section 13. Paragraph (b) of subsection (2) of section
1521 720.305, Florida Statutes, is amended to read:

1522 720.305 Obligations of members; remedies at law or in
1523 equity; levy of fines and suspension of use rights.-

1524 (2) The association may levy reasonable fines. A fine may
1525 not exceed \$100 per violation against any member or any member's
1526 tenant, guest, or invitee for the failure of the owner of the
1527 parcel or its occupant, licensee, or invitee to comply with any
1528 provision of the declaration, the association bylaws, or
1529 reasonable rules of the association unless otherwise provided in
1530 the governing documents. A fine may be levied by the board for
1531 each day of a continuing violation, with a single notice and
1532 opportunity for hearing, except that the fine may not exceed

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Amendment No. 1

1533 \$1,000 in the aggregate unless otherwise provided in the
1534 governing documents. A fine of less than \$1,000 may not become a
1535 lien against a parcel. In any action to recover a fine, the
1536 prevailing party is entitled to reasonable attorney fees and
1537 costs from the nonprevailing party as determined by the court.

1538 (b) A fine or suspension levied ~~may not be imposed~~ by the
1539 board of administration may not be imposed unless the board
1540 first provides ~~without~~ at least 14 days' notice to the parcel
1541 owner and, if applicable, any occupant, licensee, or invitee of
1542 the parcel owner, person sought to be fined or suspended and an
1543 opportunity for a hearing before a committee of at least three
1544 members appointed by the board who are not officers, directors,
1545 or employees of the association, or the spouse, parent, child,
1546 brother, or sister of an officer, director, or employee. If the
1547 committee, by majority vote, does not approve a proposed fine or
1548 suspension, the proposed fine or suspension ~~it~~ may not be
1549 imposed. The role of the committee is limited to determining
1550 whether to confirm or reject the fine or suspension levied by
1551 the board. If the proposed ~~board of administration imposes a~~
1552 fine or suspension levied by the board is approved by the
1553 committee, the fine payment is due 5 days after the date of the
1554 committee meeting at which the fine is approved. The association
1555 must provide written notice of such fine or suspension by mail
1556 or hand delivery to the parcel owner and, if applicable, to any
1557 tenant, licensee, or invitee of the parcel owner.

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1558 Section 14. Paragraph (a) of subsection (9) of section
1559 720.306, Florida Statutes, is amended to read:

1560 720.306 Meetings of members; voting and election
1561 procedures; amendments.—

1562 (9) ELECTIONS AND BOARD VACANCIES.—

1563 (a) Elections of directors must be conducted in accordance
1564 with the procedures set forth in the governing documents of the
1565 association. Except as provided in paragraph (b), all members of
1566 the association are eligible to serve on the board of directors,
1567 and a member may nominate himself or herself as a candidate for
1568 the board at a meeting where the election is to be held;
1569 provided, however, that if the election process allows
1570 candidates to be nominated in advance of the meeting, the
1571 association is not required to allow nominations at the meeting.
1572 An election is not required unless more candidates are nominated
1573 than vacancies exist. If an election is not required because
1574 there are either an equal number or fewer qualified candidates
1575 than vacancies exist, and if nominations from the floor are not
1576 required pursuant to this section or the bylaws, write-in
1577 nominations are not permitted and such qualified candidates
1578 shall commence service on the board of directors, regardless of
1579 whether a quorum is attained at the annual meeting. Except as
1580 otherwise provided in the governing documents, boards of
1581 directors must be elected by a plurality of the votes cast by
1582 eligible voters. Any challenge to the election process must be

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1583 commenced within 60 days after the election results are
1584 announced.

1585 Section 15. Paragraph (b) of subsection (3) of section
1586 720.3085, Florida Statutes, is amended to read:

1587 720.3085 Payment for assessments; lien claims.—

1588 (3) Assessments and installments on assessments that are
1589 not paid when due bear interest from the due date until paid at
1590 the rate provided in the declaration of covenants or the bylaws
1591 of the association, which rate may not exceed the rate allowed
1592 by law. If no rate is provided in the declaration or bylaws,
1593 interest accrues at the rate of 18 percent per year.

1594 (b) Any payment received by an association and accepted
1595 shall be applied first to any interest accrued, then to any
1596 administrative late fee, then to any costs and reasonable
1597 attorney fees incurred in collection, and then to the delinquent
1598 assessment. This paragraph applies notwithstanding any
1599 restrictive endorsement, designation, or instruction placed on
1600 or accompanying a payment. A late fee is not subject to the
1601 provisions of chapter 687 and is not a fine. The foregoing is
1602 applicable notwithstanding s. 673.3111, any purported accord and
1603 satisfaction, or any restrictive endorsement, designation, or
1604 instruction placed on or accompanying a payment. The preceding
1605 sentence is intended to clarify existing law.

1606 Section 16. This act shall take effect July 1, 2018.

1607

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T I T L E A M E N D M E N T
Remove everything before the enacting clause and insert:
An act relating to community associations; amending s.
718.111, F.S.; revising condominium association
recordkeeping and financial reporting requirements;
revising record retention policies; revising the list
of documents that the association is required to post
online; limiting an association's liability for
inadvertent disclosure of protected or restricted
information; amending s. 718.112, F.S.; revising
provisions relating to required association bylaws;
removing board term limits; authorizing an association
to adopt rules for posting certain notices on a
website; providing responsibilities for unit owners
who receive electronic notices; revising and providing
board member recall and challenge requirements;
authorizing the recovery of attorney fees and costs in
an action to challenge the validity of a board member
recall; amending s. 718.113, F.S.; revising voting
requirements relating to alterations and additions to
certain common elements or association property;
amending s. 718.3026, F.S.; removing a provision
relating to certain contracts or transactions
regarding conflicts of interest; amending s. 718.3027,

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1633 F.S.; providing requirements for proposed activity
1634 that is identified as a conflict of interest; amending
1635 s. 718.303, F.S.; revising fine and suspension
1636 requirements; amending s. 718.707, F.S.; revising the
1637 time period for classification as a bulk assignee or
1638 bulk buyer; amending s. 719.104, F.S.; revising
1639 cooperative association recordkeeping requirements;
1640 amending s. 719.106, F.S.; revising requirements to
1641 serve as a board member; prohibiting a board member
1642 from voting via e-mail; authorizing an association to
1643 adopt rules for posting certain notices on a website;
1644 providing responsibilities for unit owners who receive
1645 electronic notices; providing that directors or
1646 officers who are delinquent in certain payments owed
1647 in excess of certain periods of time be deemed to have
1648 abandoned their offices; amending s. 719.107, F.S.;
1649 specifying that certain services which are obtained
1650 pursuant to a bulk contract are deemed a common
1651 expense; amending s. 719.303, F.S.; revising fine and
1652 suspension requirements; amending s. 720.303, F.S.;
1653 prohibiting a board member from voting via e-mail;
1654 amending s. 720.305, F.S.; revising fine and
1655 suspension requirements; amending s. 720.306, F.S.;
1656 revising election requirements; amending s. 720.3085,



Amendment No. 1

1657 F.S.; providing applicability; providing an effective
1658 date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1231 Sales Tax Refund for Eligible Job Training Organizations
SPONSOR(S): Trumbull
TIED BILLS: IDEN./SIM. BILLS: SB 1450

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Willson <i>MW</i>	Anstead <i>La</i>
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill creates s. 212.099, F.S., relating to sales tax refunds for certain eligible job training organizations.

The bill defines an "eligible business" as an organization that:

- Is exempt under s. 501(c)(3) of the Internal Revenue Code of 1986;
- Provides job training and employment services to low-income persons, individuals who have workplace disadvantages, or individuals with barriers to employment;
- Is accredited by the Commission on Accreditation of Rehabilitation Facilities; and
- Is certified by the DEO to meet the requirements of this bill.

The bill defines "job training and employment services" as programs and services that are provided to improve job readiness, assist workers in gaining employment and adapting to the changing labor market, and achieve worker success through self-sufficiency.

The bill provides that an eligible business may receive up to a 10% refund on the sales tax remitted to the department in the prior state fiscal year on its sales of goods donated to the business. The bill specifies that the refunds are granted on a first-come, first-served basis and limits the total refund to no more than \$2 million per state fiscal year.

The bill specifies that the refund must be used towards:

- Growth in employment hours;
- Job training and employment services to low-income persons, individuals who have workplace disadvantages, and individuals with barriers to employment; or
- Job training and employment services for veterans.

The bill provides for the Department of Economic Opportunity to administer the application, approval, issuance, verification, and termination process relating to sales tax refund certifications. Eligible businesses must submit an annual report to the Department of Economic Opportunity containing certain information, including an accounting of how the refund was used.

The bill may have an impact on state revenues of up to -\$2 million each year. The bill appears to have no significant impact on state government expenditures or local government revenues or expenditures.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Charitable Organizations

Charitable organizations are eligible to receive tax-deductible contributions.¹ To qualify as a charitable organization under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for an exempt purpose², none of its earnings may inure to any private shareholder or individual,³ and it cannot be an action organization.⁴

Additionally, organizations that qualify under section 501(c)(3) are eligible for other tax benefits, such as state and federal sales, property, and income tax exemptions.⁵

Many charitable organizations, such as regional Goodwill Industries⁶ located throughout the state, receive donated goods, sell the goods to the public, and use the sale proceeds towards the provision of job training and employment services to low-income persons, individuals who have workplace disadvantages, individuals with barriers to employment, and veterans.

Florida's Workforce Development System Overview

The Department of Economic Opportunity (DEO), CareerSource Florida, Inc. (CareerSource Florida), and 24 local workforce development boards (LWDBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

DEO serves as Florida's lead workforce agency⁷ and is responsible for the fiscal and administrative affairs of the workforce development system and a large number of state and federal Workforce

¹ 26 U.S.C. § 170

² Exempt purposes under section 501(c)(3) include: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.

³ IRS, *Exemption Requirements - 501(c)(3) Organizations*, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations>

⁴ i.e., it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates

⁵ See IRS, *Federal Tax Obligations of Non-Profit Corporations* <https://www.irs.gov/pub/irs-pdf/n844.pdf>; See FL Department of Revenue, *Nonprofit Organizations*, <http://floridarevenue.com/taxes/businesses/Pages/nonprofit.aspx>. Nonprofit organizations may qualify for exemption from some Florida taxes. Each tax is separate and distinct and has its own requirements. As a result, exemption from one tax does not necessarily exempt the organization from all taxes and not all Florida tax exemptions require the organization obtain a federal tax-exempt status.

⁶ See Goodwill Florida Association, <https://www.floridagoodwills.org/> The Florida Goodwill Association is a 501(c)(4), not-for-profit organization, comprised of nine autonomous Goodwill Agencies, each serving the people of a multi-county region. According to their website, the organizations share a common mission to help Floridians overcome barriers to employment and become self-sufficient. See also Goodwill Industries-Big Bend, Inc. <http://www.goodwillbigbend.org/faq/> Goodwill Industries-Big Bend, Inc. is a registered 501(c)3 non-profit. Their website states that 87 cents of every dollar made goes to fund their mission, and these purchases help fund a wide variety of career training and placement programs that serve those with disabilities and other barriers to employment. This includes veterans, ex-offenders, those with limited education or work experience, at risk youth, homeless individuals, and others who are at-risk or in need.

⁷ Primarily through its Division of Workforce Services. See s. 20.60, F.S.

Programs⁸ and Reemployment Assistance Programs.⁹ CareerSource Florida is a not-for-profit corporation that assists the DEO with state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.¹⁰ CareerSource Florida is responsible for developing and implementing a 5-year state plan for the delivery of workforce services and is required to provide an annual report containing information regarding its operations, accomplishments, and audits.¹¹ The DEO and CareerSource Florida deliver Florida's workforce development services through the LWDBs and nearly 100 one-stop career centers.¹² One-stop career service centers provide Floridians local access to available workforce services, including job placement, career counseling, and skills training.¹³

Sales Tax

Florida's sales and use tax is a six percent levy on retail sales of a wide array of tangible personal property, admissions, transient lodgings, and commercial real estate rentals, unless expressly exempted. In addition, Florida authorizes several local option sales taxes that are levied at the county level on transactions that are subject to the state sales tax. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. Sales tax represents the majority of Florida's general revenue stream (78.5 percent for FY 2016-17) and is administered by the Department of Revenue (DOR) under chapter 212, F.S.

DOR routinely audits businesses in this state to determine if state taxes were collected, reported, and paid correctly. An audit may extend back three years.¹⁴

Effect of the Bill

The bill creates s. 212.099, F.S., relating to sales tax refunds for certain eligible job training organizations.

Definitions

The bill defines an "eligible business" as an organization that:

- Is exempt under s. 501(c)(3) of the Internal Revenue Code of 1986;
- Provides job training and employment services to low-income persons¹⁵, individuals who have workplace disadvantages, or individuals with barriers to employment;
- Is accredited by the Commission on Accreditation of Rehabilitation Facilities¹⁶; and

⁸ See <http://www.floridajobs.org/office-directory/division-of-workforce-services/workforce-programs>

⁹ See <http://www.floridajobs.org/office-directory/division-of-workforce-services/reemployment-assistance-programs>; Section 445.009(3)(c), F.S.

¹⁰ See s. 445.004, F.S.

¹¹ The report must be submitted to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by December 1 each year. See s. 445.004, F.S.

¹² Florida Department of Economic Opportunity, *CareerSource Florida Center Directory*,

<http://www.floridajobs.org/onestop/onestopdir/> (last visited Jan. 19, 2018).

¹³ See s. 445.009, F.S.

¹⁴ s. 95.091, F.S., Limitation on actions to collect taxes. Specifically, s. 95.091(3)(a)6.b., F.S., provides that "the Department of Revenue may determine and assess the amount of any tax, penalty, or interest due under any tax enumerated in s. 72.011 which it has authority to administer . . . In any case in which a refund of tax has erroneously been made for any reason . . . For refunds made on or after July 1, 1999, within 3 years after making such refund, or at any time after making such refund if it appears that any part of the refund was induced by fraud or the misrepresentation of a material fact.

¹⁵ s. 420.0004(11), F.S. defines low-income persons as "one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater."

¹⁶ CARF, About Us, <http://www.carf.org/About/> The Commission on Accreditation of Rehabilitation Facilities (CARF) is an international, independent, nonprofit accreditor of health and human services. Through accreditation, CARF assists service providers in improving the quality of their services, demonstrating value, and meeting internationally recognized organizational and program standards. The accreditation process applies sets of standards to service areas and business practices during an on-site survey.

- Is certified by the Department of Economic Opportunity to meet the requirements of this bill.

Additionally, the bill provides that an eligible business comprised of commonly owned and controlled entities is deemed to be a single business entity.

The bill defines "growth in employment hours" as the annual growth in the number of hours worked by employees in the current year compared with the number of hours worked by employees in the previous year.

The bill defines "job training and employment services" as programs and services that are provided to improve job readiness, assist workers in gaining employment and adapting to the changing labor market, and achieve worker success through self-sufficiency.

Application and Use

The bill provides that an eligible business may receive up to a 10% refund on the sales tax remitted to DOR in the prior state fiscal year on its sales of goods donated to the business.

The bill specifies that the refund must be used towards:

- Growth in employment hours;
- Job training and employment services to low-income persons, individuals who have workplace disadvantages, and individuals with barriers to employment; or
- Job training and employment services for veterans.

The bill specifies that the refunds are granted on a first-come, first-served basis and limits the refund to a total of no more than \$2 million per state fiscal year.

DEO administers the application, approval, issuance, verification and termination process relating to sales tax refund certifications. Upon approval, the DEO shall transmit a copy of the decision to DOR. Certified businesses must apply to DOR in August of each year to receive a refund, and must provide a copy of their certification in the first refund application to DOR. Certifications remain in effect as long as the business remains in compliance. DEO is required to notify DOR immediately if it determines that an eligible business no longer qualifies for the refund.

Eligible businesses must provide DEO with an annual report that includes the following information:

- The amount of the refund used for capital costs.
- The amount of the refund used to create growth in employment hours.
- The total annual growth in employment hours.
- The amount of the refund used for job training and employment services.
- The number of individuals who participated in job training and employment services at the eligible business for the fiscal year in which the requested funds were remitted to the department.
- A statement declaring that the eligible business continues to meet the requirements of this section.

The bill provides rulemaking authority to DEO to administer the section.

The bill provides that, notwithstanding s. 95.091(3)(a)6.b., F.S., DOR may examine any refund within 4 years after the date of which a refund is granted. Refunds that are overpaid or issued to ineligible businesses are subject to repayment and interest at the rate calculated pursuant to s. 213.235, F.S.

Accreditation, however, is an ongoing process, signaling to the public that a service provider is committed to continuously improving services, encouraging feedback, and serving the community. Accreditation also demonstrates a provider's commitment to enhance its performance, manage its risk, and distinguish its service delivery.

B. SECTION DIRECTORY:

- Section 1 Creates s. 212., F.S.; providing definitions; authorizing eligible businesses to receive a refund of a specified amount of certain sales taxes collected if such amount is used for certain purposes relating to job training and employment services; specifying the annual maximum allowable tax refund for such organizations; providing requirements for receiving the refund; authorizing DEO to certify businesses; authorizing the DOR to examine, within a certain timeframe, any refund issued; providing the applicable interest rate on overpayments and payments to ineligible businesses; providing that an eligible business comprised of commonly owned and controlled entities is deemed to be a single business entity; requiring specified companies to provide an annual report to the DEO.
- Section 2 Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have a negative impact on state revenues in an amount of up to \$2 million each year.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive impact on charitable organizations that qualify for a sales tax refund certification and receive a refund on up to 10% of the sales tax remitted in the prior state fiscal year.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DEO to adopt rules to administer this section, including rules for the approval and disapproval of applications by businesses.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to a sales tax refund for eligible job
 3 training organizations; creating s. 212.099, F.S.;
 4 providing definitions; authorizing eligible businesses
 5 to receive a refund of a specified amount of certain
 6 sales taxes collected if such amount is used for
 7 certain purposes relating to job training and
 8 employment services; specifying the annual maximum
 9 allowable tax refund for such organizations; providing
 10 requirements for receiving the refund; authorizing the
 11 Department of Economic Opportunity to certify
 12 businesses; authorizing the Department of Revenue to
 13 examine, within a certain timeframe, any refund
 14 issued; providing the applicable interest rate on
 15 overpayments and payments to ineligible businesses;
 16 providing that an eligible business comprised of
 17 commonly owned and controlled entities is deemed to be
 18 a single business entity; requiring specified
 19 companies to provide an annual report to the
 20 Department of Economic Opportunity; providing an
 21 effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 212.099, Florida Statutes, is created

26 to read:

27 212.099 Sales tax refund for eligible job training
 28 organizations.-

29 (1) As used in this section, the term:

30 (a) "Eligible business" means an organization that:

31 1. Is an exempt organization under s. 501(c)(3) of the
 32 Internal Revenue Code of 1986, as amended;

33 2. Provides job training and employment services to low-
 34 income persons, as defined in s. 420.0004(11), individuals who
 35 have workplace disadvantages, or individuals with barriers to
 36 employment;

37 3. Is accredited by the Commission on Accreditation of
 38 Rehabilitation Facilities; and

39 4. Is certified by the Department of Economic Opportunity
 40 as meeting the requirements of this section.

41 (b) "Growth in employment hours" means the annual growth
 42 in the number of hours worked by employees in the current year
 43 compared with the number of hours worked by employees in the
 44 previous year.

45 (c) "Job training and employment services" means programs
 46 and services that are provided to improve job readiness, assist
 47 workers in gaining employment and adapting to the changing labor
 48 market, and achieve worker success through self-sufficiency.

49 (2) An eligible business is entitled to a refund of 10
 50 percent of the sales tax remitted to the department during the

51 prior state fiscal year on its sales of goods donated to the
 52 business. The refund must be reserved exclusively for use in any
 53 of the following:

54 (a) Growth in employment hours;

55 (b) Job training and employment services to low-income
 56 persons, as defined in s. 420.0004(11), individuals who have
 57 workplace disadvantages, and individuals with barriers to
 58 employment; or

59 (c) Job training and employment services for veterans.

60 (3) The total amount of refunds issued under this section
 61 may not exceed \$2 million in any state fiscal year granted on a
 62 first-come, first-served basis.

63 (4) A business seeking a refund under this section must
 64 submit an initial application to the Department of Economic
 65 Opportunity by July 15, which sets forth that the business meets
 66 the requirements under paragraph (1)(a) and that the refund will
 67 be used exclusively for the purposes in subsection (2). The
 68 business may submit supporting information as prescribed by
 69 rule.

70 (5) The Department of Economic Opportunity must verify the
 71 application and notify the business of its determination within
 72 15 days of receiving the application. If the Department of
 73 Economic Opportunity approves the application, it must send to
 74 the eligible business a notice that indicates its certification
 75 to receive a refund of certain sales and use tax remitted under

76 this chapter. Upon the Department of Economic Opportunity's
 77 issuance of a certification, such certification remains in
 78 effect so long as the eligible business is in compliance with
 79 the requirements of this section.

80 (6) An eligible business certified under this section must
 81 apply to the department between August 1 and August 31 of each
 82 year to receive a refund. The first application for a refund
 83 submitted to the department must be accompanied by a copy of the
 84 certification.

85 (7) For purposes of this section, an eligible business
 86 comprised of commonly owned and controlled entities is deemed to
 87 be a single business entity.

88 (8) By July 15 of each year, an eligible business must
 89 provide a report to the Department of Economic Opportunity which
 90 describes the use of the amount refunded. The report must
 91 include all of the following:

92 (a) The amount of the refund used for capital costs.

93 (b) The amount of the refund used to create growth in
 94 employment hours.

95 (c) The total annual growth in employment hours.

96 (d) The amount of the refund used for job training and
 97 employment services.

98 (e) The number of individuals who participated in job
 99 training and employment services at the eligible business for
 100 the fiscal year in which the requested funds were remitted to

101 | the department.

102 | (f) A statement declaring that the eligible business
 103 | continues to meet the requirements of this section.

104 | (9) Administration.—

105 | (a) The Department of Economic Opportunity may adopt rules
 106 | to administer this section, including rules for the approval and
 107 | disapproval of applications by businesses.

108 | (b) The decision of the Department of Economic Opportunity
 109 | must be in writing or, if agreed to by the eligible business,
 110 | electronic mail. Upon approval, the Department of Economic
 111 | Opportunity shall transmit a copy of the decision to the
 112 | department.

113 | (c) If the Department of Economic Opportunity determines
 114 | that an eligible business no longer qualifies for the refund
 115 | under this section, the Department of Economic Opportunity must
 116 | notify the department immediately. The department may not issue
 117 | a refund after receiving such notification.

118 | (d) Notwithstanding s. 95.091(3)(a)6.b., the department may
 119 | examine any refund within 4 years after the date of which a
 120 | refund is granted. The overpayment of a refund or a refund
 121 | issued to an ineligible business is subject to repayment and
 122 | interest at the rate calculated pursuant to s. 213.235.

123 | Section 2. This act shall take effect July 1, 2018.

le MW

CAREERS & COMPETITION SUBCOMMITTEE

HB 1231 by Rep. Trumbull Sales Tax Refund for Eligible Job Training Organizations

AMENDMENT SUMMARY January 23, 2018

Amendment 1 by Rep. Trumbull (Strike-all): The amendment:

- Replaces the term “business” with “organization” throughout the bill, and provides uniformity in the use of the term “eligible job training organization.”
- Removes an unnecessary element from the items that an organization must submit to DEO in its annual report.
- Clarifies that the Department of Revenue may “audit,” rather than “examine,” any refund within 4 years of issuance.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Careers & Competition
2 Subcommittee

3 Representative Trumbull offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 Section 1. Section 212.099, Florida Statutes, is created
8 to read:

9 212.099 Sales tax refund for eligible job training
10 organizations.-

11 (1) As used in this section, the term:

12 (a) "Eligible job training organization" means an
13 organization that:

14 1. Is an exempt organization under s. 501(c)(3) of the
15 Internal Revenue Code of 1986, as amended;



Amendment No. 1

16 2. Provides job training and employment services to low-
17 income persons, as defined in s. 420.0004(11), individuals who
18 have workplace disadvantages, or individuals with barriers to
19 employment;

20 3. Is accredited by the Commission on Accreditation of
21 Rehabilitation Facilities; and

22 4. Is certified by the Department of Economic Opportunity
23 as meeting the requirements of this section.

24 (b) "Growth in employment hours" means the annual growth
25 in the number of hours worked by employees in the current year
26 compared with the number of hours worked by employees in the
27 previous year.

28 (c) "Job training and employment services" means programs
29 and services that are provided to improve job readiness, assist
30 workers in gaining employment and adapting to the changing labor
31 market, and achieve worker success through self-sufficiency.

32 (2) An eligible job training organization is entitled to a
33 refund of 10 percent of the sales tax remitted to the department
34 during the prior state fiscal year on its sales of goods donated
35 to the organization. The refund must be reserved exclusively for
36 use in any of the following:

37 (a) Growth in employment hours;

38 (b) Job training and employment services to low-income
39 persons, as defined in s. 420.0004(11), individuals who have



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40 workplace disadvantages, and individuals with barriers to
41 employment; or

42 (c) Job training and employment services for veterans.

43 (3) The total amount of refunds issued under this section
44 may not exceed \$2 million in any state fiscal year granted on a
45 first-come, first-served basis.

46 (4) An eligible job training organization seeking a refund
47 under this section must submit an initial application to the
48 Department of Economic Opportunity by July 15, which sets forth
49 that the organization meets the requirements under paragraph
50 (1)(a) and that the refund will be used exclusively for the
51 purposes in subsection (2). The organization may submit
52 supporting information as prescribed by rule.

53 (5) The Department of Economic Opportunity must verify the
54 application and notify the applicant of its determination within
55 15 days of receiving the application. If the Department of
56 Economic Opportunity approves the application, it must send to
57 the eligible job training organization a notice that indicates
58 its certification to receive a refund of certain sales and use
59 tax remitted under this chapter. Upon the Department of Economic
60 Opportunity's issuance of a certification, such certification
61 remains in effect so long as the eligible job training
62 organization is in compliance with the requirements of this
63 section.



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64 (6) An eligible job training organization certified under
65 this section must apply to the department between August 1 and
66 August 31 of each year to receive a refund. The first
67 application for a refund submitted to the department must be
68 accompanied by a copy of the certification.

69 (7) For purposes of this section, an eligible job training
70 organization comprised of commonly owned and controlled entities
71 is deemed to be a single entity.

72 (8) By July 15 of each year, an eligible job training
73 organization must provide a report to the Department of Economic
74 Opportunity which describes the use of the amount refunded. The
75 report must include all of the following:

76 (a) The amount of the refund used to create growth in
77 employment hours.

78 (b) The total annual growth in employment hours.

79 (c) The amount of the refund used for job training and
80 employment services.

81 (d) The number of individuals who participated in job
82 training and employment services at the eligible job training
83 organization for the fiscal year in which the requested funds
84 were remitted to the department.

85 (e) A statement declaring that the eligible job training
86 organization continues to meet the requirements of this section.

87 (9) Administration.—



Amendment No. 1

88 (a) The Department of Economic Opportunity may adopt rules
89 to administer this section, including rules for the approval and
90 disapproval of applications.

91 (b) The decision of the Department of Economic Opportunity
92 must be in writing or, if agreed to by the applicant, electronic
93 mail. Upon approval, the Department of Economic Opportunity
94 shall transmit a copy of the decision to the department.

95 (c) If the Department of Economic Opportunity determines
96 that an eligible job training organization no longer qualifies
97 for the refund under this section, the Department of Economic
98 Opportunity must notify the department immediately. The
99 department may not issue a refund after receiving such
100 notification.

101 (d) Notwithstanding s. 95.091(3)(a)6.b., the department may
102 audit any refund within 4 years after the date of which a refund
103 is granted. The overpayment of a refund or a refund issued to an
104 ineligible organization is subject to repayment and interest at
105 the rate calculated pursuant to s. 213.235.

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

109 Remove everything before the enacting clause and insert:
110 An act relating to a sales tax refund for eligible job
111 training organizations; creating s. 212.099, F.S. ;
112 providing definitions; authorizing eligible organizations



Amendment No. 1

113 to receive a refund of a specified amount of certain sales
114 taxes collected if such amount is used for certain purposes
115 relating to job training and employment services;
116 specifying the annual maximum allowable tax refund for such
117 organizations; providing requirements for receiving the
118 refund; authorizing the Department of Economic Opportunity
119 to certify organizations; authorizing the Department of
120 Revenue to audit, within a certain timeframe, any refund
121 issued; providing the applicable interest rate on
122 overpayments and payments to ineligible organizations;
123 providing that an eligible organizations comprised of
124 commonly owned and controlled entities is deemed to be a
125 single entity; requiring specified companies to provide an
126 annual report to the Department of Economic Opportunity;
127 providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1251 Florida Construction Workforce Task Force
SPONSOR(S): Porter
TIED BILLS: IDEN./SIM. BILLS: SB 1642

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Brackett <i>OB</i>	Anstead <i>La</i>
2) Higher Education Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

In 2016, the Legislature created the Construction Industry Workforce Taskforce (CIWT) to address the critical shortage of individuals trained in building construction and inspection. The CIWT submitted a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, on January 27, 2017, which included ten recommendations.

In 2017, the Legislature passed, and the Governor signed into law, House Bill 1021 (HB 1021). HB 1021 required the Department of Education, in conjunction with the Department of Economic Opportunity, to develop a plan to implement the CIWT's recommendations, and submit the plan to the CIWT by July 1, 2018. HB 1021 also implemented some of the CIWT's recommendations related to building code enforcement professionals, and required CareerSource Florida Inc. to create a plan to fund construction training programs recommended by the CIWT using existing federal funds and provide the plan to the CIWT by July 1, 2018.

The bill provides that DOE must submit a plan to implement five of the CIWT's ten recommendations and submit it to the Governor, Speaker of the House, and the President of the Senate, by July 1, 2019.

The bill is not expected to have a significant fiscal impact on state government. The bill is not expected to have a fiscal impact on local governments.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Construction Industry Workforce Taskforce

In 2016, the Legislature created the Construction Industry Workforce Taskforce (CIWT) to address the critical shortage of individuals trained in building construction and inspection. The CIWT's goals are to:

- Develop a consensus path for training the next generation of construction workers in the state;
- Determine the causes for the current shortage of a trained construction industry work force and address the impact of the shortages on the recovery of the real estate market;
- Review current methods and resources available for construction training;
- Review the state of construction training available in K-12 schools; and
- Address the training issues relating to building code inspectors to increase the number of qualified inspectors.¹

The CIWT is made up of 22 members representing various construction associations in Florida as well as members representing the Florida House of Representatives and the Florida Senate. Members include the following:

- A member of the House of Representatives appointed by the Speaker;
- A member of the Senate appointed by the President of the Senate;
- One representative of the Florida Associated General Contractors Council;
- One representative of the Associated Builders and Contractors of Florida;
- One representative of the Florida Home Builders Association;
- One representative of the Florida Fire Sprinkler Association;
- One representative of the Florida Roofing, Sheet Metal and Air Conditioning Contractors Association;
- One representative of the Florida Refrigeration and Air Conditioning Contractors Association;
- One representative of the Florida Plumbing-Heating-Cooling Contractors Association;
- One representative the Florida Swimming Pool Association;
- One representative of the National Utility Contractors Association of Florida;
- One representative of the Florida Concrete and Products Association;
- One representative of the Alarm Association of Florida;
- One representative of the Independent Electrical Contractors;
- One representative the Florida Building Construction Trades Council within the Florida AFL-CIO;
- One representative of the Building Officials Association of Florida.
- One representative of the Asphalt Contractors Association of Florida.
- One representative of the American Fire Sprinkler Association-Florida Chapter
- One representative of the Florida Carpenters Regional Council; and
- One representative of the Florida Chapter of the National Electrical Contractor Association
- One representative of the Florida Electrical Workers Association; and
- The chair of the Florida Building Commission.²

¹ Ch. 2016-129, Laws of Fla.

² *Id.*

The Legislature required the University of Florida M.E. Rinker, Sr., School of Construction Management to assist the CIWT in carrying out its responsibilities. The Legislature also required the CIWT to submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2017.³

The CIWT submitted their final report on January 27, 2017. The report included the following ten recommendations for the Legislature:

- Expand the definition of a Local Educational Agency (LEA), as used in apprenticeship programs in Florida, to include institutions other than public schools, such as private training organization (for profit and nonprofit), labor unions, industry trade associations or other community based organizations;
- Create a legislative study to consider the appropriateness of moving apprenticeship programs from the Department of Education (DOE) to the Department of Economic Opportunity(DEO);
- Require DOE to recognize the National Center for Construction Education and Research (NCCER) curriculum, or other comparable national curriculum, as eligible for high school credits, college credits, and state supported scholarships (e.g., bright futures);
- Provide additional state Career and Technical Education (CTE) support to be directed towards K-12 programs so that “shop” or other construction related programs are added back into CTE programs;
- Extend the ‘sunset’ timeframe for CIWT four additional years and provide funding of \$100,000 per year, and a mechanism to obtain matching funds to continue to coordinate CIWT. Funding will be used to continue data collection and analysis, ongoing economic impact studies, and subsequent strategies, implementation planning, and follow up;
- Direct CareerSource Florida (CSF) to set aside existing federal training dollars for construction training programs using the previous state-wide ‘Florida Rebuilds’ program as an implementation model;
- Provide funding from the existing DBPR “Building Permit Surcharge” trust fund dedicated to better code compliance through the recruitment and training of a qualified workforce;
- Allow for an alternative instructor certification process through the DOE that does not require certification through an LEA;
- Create a joint legislative audit committee to review compliance of s. 553.80(7), F.S., across the state regarding use of building permit fees beyond the scope of supporting the building department activities;
- The taskforce also recommended support for the work of Building Officials Association of Florida, Inc., in the development of the following initiatives to further opportunities for potential building code enforcement professionals:
 - Alternative Internship Certification Program to current standard qualifications;
 - Add Residential Inspector and Plan Examiner categories for all trades;
 - Do not restrict provisional and 120-day period to newly hired or promoted staff;
 - Inter-agency service agreement inspections and plan examination for standard certified building officials across jurisdictions of populations 50,000 or less;
 - Have Building Code Administrators and Inspectors Board (BCAIB) streamline application for certification process by providing online electronic submissions and combining the examination registration with provisional application;
 - Provide high school education guidance material for construction related careers;
 - Support higher education code curriculum in engineering, architecture and construction management degrees; and
 - Need for a comprehensive compensation study for building code compliance personnel.⁴

³ *Id.*

⁴ James Sullivan, Charles J. Kibert, Andriel E. Fenner, Shirley N. Morque, FLORIDA CONSTRUCTION WORKFORCE TASKFORCE: Legislative Recommendations 7 (Jan. 27 2017), available at https://www.cce.ufl.edu/wp-content/uploads/2016/12/Florida-Construction-Workforce-Taskforce-Report_-Legislative-Recommendations-2.pdf

The 2017 Legislative Session

The Legislature passed, and the Governor signed into law, House Bill 1021 of the 2017 Legislative session (HB 1021). HB 1021 required DOE and DEO to create a plan to implement the recommendations of the CIWT. DOE must submit the plan to the CIWT by July 1, 2018.⁵

HB 1021 also enacted the following recommendations of the CIWT:

- Provided that in addition to performing plans examinations or inspections in a building official's jurisdiction a building official may perform plans examinations and inspections in jurisdictions with a population of 50,000 or less under interagency agreements;⁶
- Created an internship certification program as a qualification to take the building inspector or plans examiner examination;⁷
- Provided that provisional certificates and the 120 day application period are not restricted to newly hired or promoted inspectors or plans examiners; and⁸
- Added a residential plans examiner category.⁹

HB 1021 also required CareerSource Florida, Inc. (CareerSource) to create a plan to fund construction training programs recommended by the CIWT using existing federal funds and provide the plan to the CIWT by July 1, 2018. HB 1021 required CareerSource to use the Florida reBuilds Initiative as the implementation model.¹⁰ CareerSource is a not-for-profit corporation administratively housed within DEO and is the principal workforce policy organization for the state. CareerSource designs and implements strategies that help Floridians enter, remain in, and advance in the workplace. CareerSource procures and disburses funds for workforce development.¹¹ The Florida reBuilds Initiative was a program formed in 2005, in part, to counter the growing shortage of construction workers.¹²

Effect of the Bill

The bill provides that DOE must create a plan to implement the following recommendations of the CIWT:

- Expand the definition of a LEA, as used in apprenticeship programs in Florida, to include institutions other than public schools, such as private training organization (for profit and nonprofit), labor unions, industry trade associations or other community based organizations;
- Create a legislative study to consider the appropriateness of moving apprenticeship programs from DOE to DEO;
- Require DOE to recognize the NCCER curriculum, or other comparable national curriculum, as eligible for high school credits, college credits, and state supported scholarships (e.g., bright futures);
- Provide additional state CTE support to be directed towards K-12 programs so that "shop" or other construction related programs are added back into CTE programs; and
- Allow for an alternative instructor certification process through the DOE that does not require certification through an LEA.

⁵ Ch. 17-149, Laws of Fla.

⁶ s. 468.603(2), F.S.

⁷ s. 468.609(2)(c), F.S.

⁸ s. 468.609(7), F.S.

⁹ s. 468.603(8), F.S.

¹⁰ Ch. 17-149, Laws of Fla.

¹¹ s. 445.004, F.S.

¹² Florida Division of Emergency Management, *Lt. Governor Jennings Unveils Florida Rebuilds Initiative to Assist with Labor Shortage and Hurricane Recovery* (December 13, 2005), available at http://www.floridadisaster.org/eoc/eoc_Activations/Wilma05/Reports/FLRebuilds.pdf.

The bill provides that DOE must submit the plan to the Governor, Speaker of the House, and the President of the Senate by July 1, 2019.

B. SECTION DIRECTORY:

Section 1. Provides that DOE must submit a detailed plan to carry out five of the CIWT's recommendations to the Governor, President of the Senate, and the Speaker of the House by July 1, 2019.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

DOE must create a study to implement the CIWT's recommendations. This will result in minimal administrative costs.¹³

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

¹³ Department of Economic Opportunity, Agency Analysis of 2017 House Bill 1021, p. 4 (Jul. 1, 2017).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

An agency bill analysis has not been done for this bill. DEO completed an agency bill analysis for HB 1021 of the 2017 Legislative session. DEO's agency bill analysis is referenced for the Fiscal Analysis & Economic Impact Statement of this bill analysis.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Florida Construction Workforce
 3 Task Force; requiring the Department of Education to
 4 submit to the Governor and the Legislature a plan
 5 regarding recommendations by the Florida Construction
 6 Workforce Task Force by a specified date; providing an
 7 effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. Florida Construction Workforce Task Force
 12 Legislative Recommendations.—By July 1, 2019, the Department of
 13 Education shall submit to the Governor, the President of the
 14 Senate, and the Speaker of the House of Representatives a
 15 detailed plan to carry out recommendations 1, 2, 3, 4, and 8 as
 16 provided on page 7 of the Florida Construction Workforce Task
 17 Force Legislative Recommendations report dated January 27, 2017,
 18 which was timely delivered to the Governor, the President of the
 19 Senate, and the Speaker of the House of Representatives pursuant
 20 to section 31 of chapter 2016-129, Laws of Florida.

21 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1285 Florida Business Corporation Act
SPONSOR(S): Albritton
TIED BILLS: IDEN./SIM. BILLS: SB 1028

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Careers & Competition Subcommittee		Wright <i>(w)</i>	Anstead <i>La</i>
2) Oversight, Transparency & Administration Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Florida Office of Financial Regulation (OFR) has regulatory authority over state-chartered depository and non-depository financial institutions and financial service companies, including state-chartered banks and trust companies.

Social purpose and benefit corporations are those formed to use corporate assets to pursue public benefit goals in addition to the generally accepted corporate goal of profit maximization. The profit-making ability distinguishes social purpose and benefit corporations from charities and from not-for-profit corporations.

Currently, state banks and trust companies are not permitted to be formed as social purpose or benefit corporations.

The bill authorizes:

- state banks and trust companies to form as a social purpose or benefit corporation,
- social purpose or benefit corporations to omit confidential information from their annual benefit reports,
- state banks and trust companies to modify their form articles of incorporation with OFR to include provisions required for social purpose or benefit corporations, and
- state banks and trust companies to approve special stock offering plans.

The bill does not appear to have a fiscal impact on state or local government.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State-Chartered Banks or Trust Companies

The Florida Office of Financial Regulation (OFR) regulates state-chartered depository and non-depository financial institutions and financial service companies. One of OFR's primary goals is to provide for and promote the safety and soundness of financial institutions while preserving the integrity of Florida's markets and financial service industries.¹ OFR has regulatory authority over banks and trust companies, pursuant to ch. 658, F.S., of the Financial Institutions Codes (codes). These banks and trust companies operate pursuant to pt. I of ch. 607, F.S., relating to for-profit corporations, to the extent that ch. 607, F.S., does not conflict with, or is not expressly superseded by, the codes.²

A corporation that seeks to organize as a state-chartered bank or trust company in Florida must submit to OFR an application for authority to organize.³ The application must include the financial, business, and reasonably required biographical information for each proposed director, executive officer, and, if applicable, each trust officer.⁴ OFR is required to grant the corporation's request to organize if it meets certain criteria relating to local conditions, capitalization, paid-in capital-in surplus, qualifications of the proposed officer and directors, the corporate name of the proposed state bank or trust company, and provision of suitable quarters at the location.⁵

After OFR grants a corporation's approval to organize, the corporation must submit its articles of incorporation and filing fee to OFR to become chartered and begin its corporate existence as a banking corporation or trust company.⁶ OFR must then provide the proposed directors with form articles of incorporation that reflect only those provisions that are required under s. 658.23, F.S., and pt. I of ch. 607, F.S., relating to for-profit corporations.⁷

Currently, state banks and trust companies are not permitted to be formed as social purpose or benefit corporations.⁸

Social Purpose and Benefit Corporations

In 2014, the Florida Legislature adopted legislation that governs social purpose corporations and benefit corporations. Generally, social purpose and benefit corporations protect directors and officers who use corporate assets to pursue public benefit goals in addition to the generally accepted corporate goal of profit maximization. Further, since there is a hybrid of goals in these new corporations, the profit-making ability distinguishes social purpose and benefit corporations from charities and from not-for-profit corporations.⁹

¹ s. 655.001, F.S.

² s. 658.30(1), F.S.

³ s. 658.19, F.S.

⁴ *Id.*

⁵ s. 658.24, F.S.

⁶ s. 658.23(1), F.S.

⁷ See, e.g., Florida Office of Financial Regulation, *Model Articles of Incorporation Bank, Trust Company, or Association*, available at https://www.flofr.com/PDFs/model_articles_OFR.pdf (last visited Jan. 19, 2018).

⁸ s. 658.30, F.S.

⁹ See generally ch. 607, pts. II and III, F.S.

The primary difference between a social purpose corporation and a benefit corporation is the public benefit purpose imposed upon each of the corporations.¹⁰ A social purpose corporation must pursue or create one or more public benefits, which may be specific.¹¹ In contrast, a benefit corporation must pursue or create a “general public benefit,” which is a broad purpose intended to encompass many societal and environmental factors that are affected by the business and operations of the corporation.¹²

For both types of corporations, the directors and officers are required to consider the effects of any corporate action or inaction upon the benefit goals of the corporation. Both of these corporations can be the subject of a benefit enforcement proceeding to compel them to pursue or create a general or specific public benefit. However, neither corporation, nor any of its directors and officers, may be found monetarily liable for a failure to create or pursue public benefit. For-profit corporations and their officers and directors are not subject to a requirement to pursue public benefit.¹³

As of May 2017, 32 states permitted benefit corporations¹⁴ and five states have legislation that allow social purpose corporations.¹⁵ There are approximately 3,500 benefit corporations nationwide, including Kickstarter, Ben & Jerry’s, Patagonia, Warby Parker, Etsy, and King Arthur Flour, all of which operate with a commitment to environmental and social factors, as well as to their shareholders’ financial interests.¹⁶ Virginia Community Capital was the first federally chartered bank to become a benefit corporation in April 2016.¹⁷

Annual Benefit Report

Benefit corporations must prepare an annual benefit report (report). The report must contain information such as:¹⁸

- A description of the ways the benefit corporation pursued the general and specific public benefit goal;
- An explanation of the third-party standard¹⁹ against which the benefit corporation’s performance is assessed, if applicable;
- The contact information of certain directors and officers; and
- If any benefit director resigned from, refused to stand for reelection to, or was removed from his or her position.

A social purpose corporation’s report is substantially similar to a benefit corporation’s report, but it need only describe how it pursued a particular rather than general public benefit.²⁰

¹⁰ Stuart Cohn, Stuart Ames, *Now It’s Easier Being Green: Florida’s New Benefit and Social Purpose Corporations* at 2 (Nov. 2014) 88-Nov. Fla. B.J. 38., available at <https://www.floridabar.org/news/tfb-journal/?durl=%2FDIVCOM%2FJN%2Fjnjournal01.nsf%2FArticles%2FC655F4F9D7D009B585257D7E004BCB18> (last visited Jan. 19, 2018).

¹¹ s. 607.506, F.S.

¹² s. 607.606, F.S.

¹³ ss. 607.602, 607.511, 607.611, F.S.

¹⁴ Benefit Corporation Gateway, *State-by-State Guide*, <http://www.benefitcorporationgateway.org/h/entrepreneurs-main/state-by-state-guide/> (last visited Jan. 19, 2018).

¹⁵ Rob Esposito, Shawn Pelsinger, *Social Enterprise Law Tracker: Status Tool*, <http://socentlawtracker.org/#/spcs> (last visited Jan. 19, 2018).

¹⁶ B Lab, *FAQ’s*, <http://benefitcorp.net/faq> (last visited Jan. 19, 2018); and Carol Hazard, *Community Capital Bank becomes first B Corp bank in U.S.*, RICHMOND TIMES-DISPATCH (Apr. 4, 2016), http://www.richmond.com/business/community-capital-bank-becomes-first-b-corp-bank-in-u/article_f26a9996-3f21-5b87-b1fb-c1011730a8ba.html.

¹⁷ Cision PRWeb, *For-Profit Bank Becomes First Benefit Corporation Bank in U.S.* (Apr. 4, 2016), <http://www.prweb.com/releases/2016/03/prweb13301237.htm> (last visited Jan. 19, 2018).

¹⁸ s. 607.612, F.S.

¹⁹ A recognized standard for defining, reporting, and assessing the societal and environmental performance of a business. ss. 607.502(10) and 607.602(10), F.S.

²⁰ s. 607.512(1)(a)1., F.S.

These annual benefit reports are not required to be audited or certified by a third-party standards provider, such as B-Lab, unless a corporation's articles of incorporation state otherwise.²¹

Additionally, a social purpose or benefit corporation must deliver their annual benefit report to each of its shareholders, and post the report publicly.²² If a social purpose or benefit corporation fails to publicly furnish its annual benefit report, one of its shareholders may bring an action to compel its provision in circuit court. The court may award the suing shareholder costs and attorney's fees.²³

Effect of Proposed Changes

The bill allows state banks and trust companies to form as a social purpose or benefit corporation. Specifically, the bill allows the social purpose and benefit corporations statutes to extend to state banks and trust companies; and permits stockholders, directors, and committees of such financial institutions to hold authorized meetings.

The bill allows social purpose corporations and benefit corporations to omit information required to be kept confidential under state or federal law from their annual benefit report. If the social purpose corporation or benefit corporation does omit such information, however, it must expressly state that it did so in its annual benefit report. This allows banks and trust companies that form as social purpose or benefit corporations to maintain the confidentiality of information that is required to be confidential under the Financial Institutions Codes.

The bill authorizes state banks and trust companies to modify their form articles of incorporation with OFR to include provisions required for social purpose or benefit corporations, and to approve special stock offering plans.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

- | | |
|-----------|---|
| Section 1 | Amends s. 607.512, F.S., authorizing the omission of certain confidential information from an annual benefit report of a social purpose corporation. |
| Section 2 | Amends s. 607.612, F.S., authorizing the omission of certain confidential information from an annual benefit report of a benefit corporation. |
| Section 3 | Amends s. 658.23, F.S., authorizing the modification of form articles of incorporation to include provisions required for a social purpose or benefit corporation. |
| Section 4 | Amends s. 658.30, F.S., allowing state banks and trust companies to form as a social purpose of benefit corporation; and stockholders, directors, and committees of financial institutions to hold authorized meetings. |
| Section 5 | Amends s. 658.36, F.S., authorizing a social purpose or benefit financial institution to approve special stock offering plans. |
| Section 6 | Provides an effective date. |

²¹ ss. 607.512(3) and 607.612(4), F.S.

²² s. 607.513 and 607.613, F.S.

²³ ss. 607.513(4) and 607.613, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow state banks and trust companies to form as social purpose or benefit corporations, which could allow for more innovation in ways banks function or divestment of stockholders in such institutions based on factors associated with banks broadening their investment opportunities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Florida Business Corporation
 3 Act; amending s. 607.512, F.S.; authorizing the
 4 omission of certain confidential information from an
 5 annual benefit report of a social purpose corporation;
 6 amending s. 607.612, F.S.; authorizing the omission of
 7 certain confidential information from an annual
 8 benefit report of a benefit corporation; amending s.
 9 658.23, F.S.; authorizing the modification of form
 10 articles of incorporation to include provisions
 11 required for a social purpose or benefit corporation;
 12 amending s. 658.30, F.S.; providing that certain
 13 provisions of the act extend to financial institutions
 14 in certain circumstances; authorizing stockholders,
 15 directors, and committees of financial institutions to
 16 hold meetings as authorized by the act; amending s.
 17 658.36, F.S.; authorizing a financial institution to
 18 approve special stock offering plans notwithstanding
 19 provisions of the act; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Subsection (4) is added to section 607.512,
 24 Florida Statutes, to read:
 25 607.512 Preparation of annual benefit report.—

26 (4) Notwithstanding the requirements of this section,
 27 information that is required to be included in the annual
 28 benefit report but that is otherwise required by applicable
 29 regulatory state or federal law to be kept confidential may be
 30 omitted from the annual benefit report. If such information is
 31 omitted, the annual benefit report shall expressly state that
 32 information required by this section has been omitted in
 33 reliance on this subsection.

34 Section 2. Subsection (5) is added to section 607.612,
 35 Florida Statutes, to read:

36 607.612 Preparation of annual benefit report.—

37 (5) Notwithstanding the requirements of this section,
 38 information that is required to be included in the annual
 39 benefit report but that is otherwise required by applicable
 40 regulatory state or federal law to be kept confidential may be
 41 omitted from the annual benefit report. If such information is
 42 omitted, the annual benefit report shall expressly state that
 43 information required by this section has been omitted in
 44 reliance on this subsection.

45 Section 3. Subsection (2) of section 658.23, Florida
 46 Statutes, is amended to read:

47 658.23 Submission of articles of incorporation; contents;
 48 form; approval; filing; commencement of corporate existence;
 49 bylaws.—

50 (2) The articles of incorporation shall contain:

- 51 (a) The name of the proposed bank or trust company.
- 52 (b) The general nature of the business to be transacted or
- 53 a statement that the corporation may engage in any activity or
- 54 business permitted by law. Such statement shall authorize all
- 55 such activities and business by the corporation.
- 56 (c) The amount of capital stock authorized, showing the
- 57 maximum number of shares of par value common stock and of
- 58 preferred stock, and of every kind, class, or series of each,
- 59 together with the distinguishing characteristics and the par
- 60 value of all shares.
- 61 (d) The amount of capital with which the corporation will
- 62 begin business, which may not be less than the amount required
- 63 by the office pursuant to s. 658.21.
- 64 (e) A provision that the corporation is to have perpetual
- 65 existence unless existence is terminated pursuant to the
- 66 financial institutions codes.
- 67 (f) The initial street address of the main office of the
- 68 corporation, which shall be in this state.
- 69 (g) The number of directors, which shall be five or more,
- 70 and the names and street addresses of the members of the initial
- 71 board of directors.
- 72 (h) A provision for preemptive rights, if applicable.
- 73 (i) A provision authorizing the board of directors to
- 74 appoint additional directors, pursuant to s. 658.33, if
- 75 applicable.

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The office shall provide to the proposed directors form articles of incorporation which must include only those provisions required under this section or under ~~part I of~~ chapter 607. The form articles may be modified by the applicant to include any of the additional provisions required by part II or part III of chapter 607 which are necessary for a corporation to be a social purpose or benefit corporation. The form articles shall be acknowledged by the proposed directors and returned to the office for filing with the Department of State.

Section 4. Section 658.30, Florida Statutes, is amended to read:

658.30 Application of the Florida Business Corporation Act.—

(1) When not in direct conflict with or superseded by specific provisions of the financial institutions codes, the provisions of the Florida Business Corporation Act, part I of chapter 607, and, if applicable, part II or part III of chapter 607, extend to state banks and trust companies formed under the financial institutions codes. This section shall be liberally construed to accomplish the purposes stated herein.

(2) Without limiting the generality of subsection (1), stockholders, directors, and committees of state banks and trust companies may hold meetings in any manner authorized by part I of chapter 607, and, if applicable, part II or part III of

101 chapter 607, and any action by stockholders, directors, or
 102 committees required or authorized to be taken at a meeting may
 103 be taken without a meeting in any manner authorized by part I of
 104 chapter 607.

105 Section 5. Subsection (3) of section 658.36, Florida
 106 Statutes, is amended to read:

107 658.36 Changes in capital.-

108 (3) If a bank or trust company's capital accounts have
 109 been diminished by losses to less than the minimum required
 110 pursuant to the financial institutions codes, the market value
 111 of its shares of capital stock is less than the present par
 112 value, and the bank or trust company cannot reasonably issue and
 113 sell new shares of stock to restore its capital accounts at a
 114 share price of par value or greater of the previously issued
 115 capital stock, the office, notwithstanding any other provisions
 116 of part I of chapter 607 and, if applicable, part II or part III
 117 of chapter 607, or the financial institutions codes, may approve
 118 special stock offering plans.

119 (a) Such plans may include, but are not limited to,
 120 mechanisms for stock splits including reverse splits;
 121 revaluations of par value of outstanding stock; changes in
 122 voting rights, dividends, or other preferences; and creation of
 123 new classes of stock.

124 (b) The plan must be approved by majority vote of the bank
 125 or trust company's entire board of directors and by holders of

126 two-thirds of the outstanding shares of stock.

127 (c) The office shall disapprove a plan that provides
 128 unfair or disproportionate benefits to existing shareholders,
 129 directors, executive officers, or their related interests. The
 130 office shall also disapprove any plan that is not likely to
 131 restore the capital accounts to sufficient levels to achieve a
 132 sustainable, safe, and sound financial institution.

133 (d) For any bank or trust company that the office
 134 determines to be a failing financial institution pursuant to s.
 135 655.4185, the office may approve special stock offering plans
 136 without a vote of the shareholders.

137 Section 6. This act shall take effect July 1, 2018.