Comment code:
Red highlight means delete
Red writing with yellow highlight means add
Green highlight means GOOD
Blue highlight means just a comment.

A bill to be entitled

An act relating to community associations; amending s. 718.1255, F.S.; removing presuit mediation requirements; amending s. 720.302, F.S.; conforming a provision to changes made by the act; amending s. 720.303, F.S.; requiring associations to include a specified statement in the governing documents or to hold a meeting by a date certain to vote to amend the governing documents to include such statement; requiring a vote held at such meetings to be approved by a certain amount of the voting interests; amending s. 720.306, F.S.; conforming a cross-reference; amending s. 720.311, F.S.; removing presuit mediation requirements; requiring that specified arbitrators conduct arbitration proceedings; creating s. 720.319, F.S.; providing a short title; providing legislative findings; authorizing a homeowners' association to be terminated; providing requirements for the termination of a homeowners' association; providing conditions for

a plan of termination; requiring an approved plan of termination be submitted to a community association court program and recorded in the public records of each county in which the association is located; providing duties and responsibilities of a termination trustee; authorizing a member to file a petition with

a community association court program under certain circumstances; authorizing a community association court program to take certain actions; providing responsibilities of the board after approval of a plan of termination; providing for the distribution of assets and paying of lawful debts after an association is terminated; specifying unlawful actions by an association or its officers or directors; providing penalties; creating s. 720.32, F.S.; providing legislative intent; authorizing circuit courts to create and administer a community association court program; providing duties of the chief judge; providing the jurisdiction of the community association court program; authorizing the community association court program to take certain actions; requiring the chief judge of certain judicial circuits to submit to the Legislature a specified report annually by a specified date; providing duties of the Office of the State Courts Administrator; providing that certain costs associated with the community association court program be funded through an appropriation to the Department of Business and Professional Regulation; amending s. 34.01, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Subsections (6) and (7) of section 718.1255, Florida Statutes, are renumbered as subsections (5) and (6), respectively, and paragraphs (a), (h), (k), and (m) of subsection (4) and present subsection (5) of that section are amended, to read:

718.1255 Alternative dispute resolution; mediation; nonbinding arbitration; applicability.—

(4) NONBINDING ARBITRATION AND MEDIATION OF DISPUTES.—The Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation may employ full-time attorneys to act as arbitrators to conduct the arbitration hearings provided by this chapter. The division may also certify attorneys who are not employed by the division to act as arbitrators to conduct the arbitration hearings provided by this chapter. A person may not be employed by the department as a full-time arbitrator unless he or she is a member in good standing of The Florida Bar. A person may only be certified by the division to act as an arbitrator if he or she has been a member in good standing of The Florida Bar for at least 5 years and has mediated or arbitrated at least 10 disputes involving condominiums in this state during the 3 years immediately preceding the date of application, mediated or arbitrated at

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

(a) Before the institution of court litigation, a party to a dispute, other than an election or recall dispute, must ~~shall either~~ petition the division for nonbinding arbitration or request that the case be referred to mediation ~~initiate presuit mediation as provided in subsection (5)~~. Arbitration is binding on the parties if all parties in arbitration agree to be bound

in a writing filed in arbitration. The petition must be accompanied by a filing fee in the amount of $50. Filing fees collected under this section must be used to defray the expenses of the alternative dispute resolution program.

(h) Mediation proceedings must generally be conducted in accordance with the Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Persons who are not parties to the dispute are not allowed to attend the mediation conference without the consent of all parties, with the exception of counsel for the parties and corporate representatives designated to appear for a party. If the mediator declares an impasse after a mediation conference has been held, the arbitration proceeding terminates, unless all parties agree in writing to continue the arbitration proceeding, in which case the arbitrator's decision shall be binding or nonbinding, as agreed upon by the parties; in the arbitration proceeding, the arbitrator shall not consider any evidence relating to the unsuccessful mediation except in a proceeding to impose sanctions for failure to appear at the mediation conference. If the parties do not agree to continue arbitration, the arbitrator shall enter an order of dismissal, and either party may institute a suit in <u>a community association court program under s. 720.32 or</u> a court of competent jurisdiction. The parties may seek to recover any costs and attorney fees incurred in connection with arbitration and

mediation proceedings under this section as part of the costs and fees that may be recovered by the prevailing party in any subsequent litigation.

(k) The arbitration decision shall be rendered within 30 days after the hearing and presented to the parties in writing. An arbitration decision is final in those disputes in which the parties have agreed to be bound. An arbitration decision is also final if a complaint for a trial de novo is not filed in a community association court program under s. 720.32 or a court of competent jurisdiction in which the condominium is located within 30 days. The right to file for a trial de novo entitles the parties to file a complaint in the appropriate trial court for a judicial resolution of the dispute. The prevailing party in an arbitration proceeding shall be awarded the costs of the arbitration and reasonable attorney fees in an amount determined by the arbitrator. Such an award shall include the costs and reasonable attorney fees incurred in the arbitration proceeding as well as the costs and reasonable attorney fees incurred in preparing for and attending any scheduled mediation. An arbitrator's failure to render a written decision within 30 days after the hearing may result in the cancellation of his or her arbitration certification.

(m) Any party to an arbitration proceeding may enforce an arbitration award by filing a petition in a community association court program under s. 720.32 or a court of

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

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

Section 2. Subsection (2) of section 720.302, Florida Statutes, is amended to read:

720.302 Purposes, scope, and application.—

(2) The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or

other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes ~~and presuit mediation of other disputes involving covenant enforcement~~ and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

Section 3. Subsection (1) of section 720.303, Florida Statutes, is amended to read:

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

(1) POWERS AND DUTIES.—

(a) An association that operates a community as defined in s. 720.301 must be operated by an association that is a Florida corporation. After October 1, 1995, the association must be incorporated and the initial governing documents must be

recorded in the official records of the county in which the community is located. An association may operate more than one community.

(b) The officers and directors of an association are subject to s. 617.0830 and have a fiduciary relationship to the members who are served by the association.

(c) The powers and duties of an association include those set forth in this chapter and, except as expressly limited or restricted in this chapter, those set forth in the governing documents.

1. Beginning July 1, 2026, each newly formed and incorporated association must include the following statement in the governing documents:

This association and the association's governing documents are governed by the Florida Condominium Act, as amended from time to time.

The same laws should apply to HOAs, COAs, POAs, etc. with a section to cover the unique needs. Like in Condos there need to be covenants and rules in regards to sharing ceilings, walls and floors. Is that what this is saying? If so, why not get rid of 720 and just make the necessary changes to 718?

2. By January 1, 2027, each association in existence on or before July 1, 2026, must hold a meeting of the members in accordance with s. 720.306 to vote whether to amend the governing documents of the association to include the statement in subparagraph 1. The association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained in order to

amend the governing documents under this subparagraph.

(d) After control of the association is obtained by members other than the developer, the association may institute, maintain, settle, or appeal actions or hearings in its name on behalf of all members concerning matters of common interest to the members, including, but not limited to, the common areas; roof or structural components of a building, or other improvements for which the association is responsible; mechanical, electrical, or plumbing elements serving an improvement or building for which the association is responsible; representations of the developer pertaining to any existing or proposed commonly used facility; and protest of ad valorem taxes on commonly used facilities. The association may defend actions in eminent domain or bring inverse condemnation actions. Before commencing litigation against any party in the name of the association involving amounts in controversy in excess of $100,000, the association must obtain the affirmative approval of a majority of the voting interests at a meeting of the membership at which a quorum has been attained. This paragraph ~~subsection~~ does not limit any statutory or common-law right of any individual member or class of members to bring any action without participation by the association.

(e) A member does not have authority to act for the association by virtue of being a member. An association may have more than one class of members and may issue membership

certificates.

(f) An association of 15 or fewer parcel owners may enforce only the requirements of those deed restrictions established prior to the purchase of each the first parcel purchased in that HOA parcel upon an affected parcel owner or owners.

Section 4. Paragraph (h) of subsection (1) of section 720.306, Florida Statutes, is amended to read:

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

(1) QUORUM; AMENDMENTS.—

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

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

3. This paragraph does not affect the amendment restrictions for associations of 15 or fewer parcel owners under

s. 720.303(1)(f) ~~s. 720.303(1)~~.

I don't see a 720.303(1)(f) in the laws or in this document.

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

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

entity.

Section 5. Section 720.311, Florida Statutes, is amended to read:

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration tolls ~~or the serving of a demand for presuit mediation as provided for in this section shall toll~~ the applicable statute of limitations. Any recall dispute filed with the department under s. 720.303(10) must ~~shall~~ be conducted by the department in accordance with ~~the provisions of~~ ss. 718.112(2)(l) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct binding arbitration of election disputes between a member and an association in accordance with s. 718.1255 and rules adopted by the division. Election disputes and recall disputes ~~are not eligible for presuit mediation;~~ ~~these disputes~~ must be arbitrated by the department or filed in a court of competent jurisdiction. The arbitration proceeding must be conducted by a department arbitrator or by a private arbitrator certified by the department. At the conclusion of an arbitration proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least $200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the

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

~~(2)(a) Disputes between an association and a parcel owner regarding use of or changes to the parcel or the common areas and other covenant enforcement disputes, disputes regarding amendments to the association documents, disputes regarding meetings of the board and committees appointed by the board, membership meetings not including election meetings, and access to the official records of the association shall be the subject of a demand for presuit mediation served by an aggrieved party before the dispute is filed in court. Presuit mediation proceedings must be conducted in accordance with the applicable Florida Rules of Civil Procedure, and these proceedings are privileged and confidential to the same extent as court-ordered mediation. Disputes subject to presuit mediation under this section shall not include the collection of any assessment, fine, or other financial obligation, including attorney's fees and costs, claimed to be due or any action to enforce a prior mediation settlement agreement between the parties. Also, in any dispute subject to presuit mediation under this section where emergency relief is required, a motion for temporary injunctive relief may be filed with the court without first complying with the presuit mediation requirements of this section. After any~~

~~issues regarding emergency or temporary relief are resolved, the court may either refer the parties to a mediation program administered by the courts or require mediation under this section. An arbitrator or judge may not consider any information or evidence arising from the presuit mediation proceeding except in a proceeding to impose sanctions for failure to attend a presuit mediation session or to enforce a mediated settlement agreement. Persons who are not parties to the dispute may not attend the presuit mediation conference without the consent of all parties, except for counsel for the parties and a corporate representative designated by the association. When mediation is attended by a quorum of the board, such mediation is not a board meeting for purposes of notice and participation set forth in s. 720.303. An aggrieved party shall serve on the responding party a written demand to participate in presuit mediation in substantially the following form:~~

~~STATUTORY OFFER TO PARTICIPATE~~

~~IN PRESUIT MEDIATION~~

~~The alleged aggrieved party, ..., hereby demands that ....., as the responding party, engage in mandatory presuit mediation in connection with the following disputes, which by statute are of a type that are subject to presuit mediation:~~

~~(List specific nature of the dispute or disputes to be~~

~~mediated and the authority supporting a finding of a violation as to each dispute.)~~

~~Pursuant to section 720.311, Florida Statutes, this demand to resolve the dispute through presuit mediation is required before a lawsuit can be filed concerning the dispute. Pursuant to the statute, the parties are required to engage in presuit mediation with a neutral third party mediator in order to attempt to resolve this dispute without court action, and the aggrieved party demands that you likewise agree to this process. If you fail to participate in the mediation process, suit may be brought against you without further warning.~~

~~The process of mediation involves a supervised negotiation process in which a trained, neutral third-party mediator meets with both parties and assists them in exploring possible opportunities for resolving part or all of the dispute. By agreeing to participate in presuit mediation, you are not bound in any way to change your position. Furthermore, the mediator has no authority to make any decisions in this matter or to determine who is right or wrong and merely acts as a facilitator to ensure that each party understands the position of the other party and that all options for reasonable settlement are fully explored.~~

~~If an agreement is reached, it shall be reduced to writing and becomes a binding and enforceable commitment of the parties. A resolution of one or more disputes in this fashion avoids the need to litigate these issues in court. The failure to reach an agreement, or the failure of a party to participate in the process, results in the mediator declaring an impasse in the mediation, after which the aggrieved party may proceed to court on all outstanding, unsettled disputes. If you have failed or refused to participate in the entire mediation process, you will not be entitled to recover attorney's fees, even if you prevail.~~

~~The aggrieved party has selected and hereby lists five certified mediators who we believe to be neutral and qualified to mediate the dispute. You have the right to select any one of these mediators. The fact that one party may be familiar with one or more of the listed mediators does not mean that the mediator cannot act as a neutral and impartial facilitator. Any mediator who cannot act in this capacity is required ethically to decline to accept engagement. The mediators that we suggest, and their current hourly rates, are as follows:~~

~~(List the names, addresses, telephone numbers, and~~

~~hourly rates of the mediators. Other pertinent information about the background of the mediators may be included as an attachment.)~~

~~You may contact the offices of these mediators to confirm that the listed mediators will be neutral and will not show any favoritism toward either party. The Florida Supreme Court can provide you a list of certified mediators.~~

~~Unless otherwise agreed by the parties, section 720.311(2)(b), Florida Statutes, requires that the parties share the costs of presuit mediation equally, including the fee charged by the mediator. An average mediation may require three to four hours of the mediator's time, including some preparation time, and the parties would need to share equally the mediator's fees as well as their own attorney's fees if they choose to employ an attorney in connection with the mediation. However, use of an attorney is not required and is at the option of each party. The mediators may require the advance payment of some or all of the anticipated fees. The aggrieved party hereby agrees to pay or prepay one-half of the mediator's estimated fees and to forward this amount or such other reasonable advance deposits as the mediator requires for this purpose. Any funds deposited will be returned~~

~~to you if these are in excess of your share of the fees incurred.~~

~~To begin your participation in presuit mediation to try to resolve the dispute and avoid further legal action, please sign below and clearly indicate which mediator is acceptable to you. We will then ask the mediator to schedule a mutually convenient time and place for the mediation conference to be held. The mediation conference must be held within ninety (90) days of this date, unless extended by mutual written agreement. In the event that you fail to respond within 20 days from the date of this letter, or if you fail to agree to at least one of the mediators that we have suggested or to pay or prepay to the mediator one half of the costs involved, the aggrieved party will be authorized to proceed with the filing of a lawsuit against you without further notice and may seek an award of attorney's fees or costs incurred in attempting to obtain mediation.~~

~~Therefore, please give this matter your immediate attention. By law, your response must be mailed by certified mail, return receipt requested, and by first class mail to the address shown on this demand.~~

~~.....~~

~~.....~~

~~RESPONDING PARTY: YOUR SIGNATURE INDICATES YOUR AGREEMENT TO THAT CHOICE.~~

~~AGREEMENT TO MEDIATE~~

~~The undersigned hereby agrees to participate in presuit mediation and agrees to attend a mediation conducted by the following mediator or mediators who are listed above as someone who would be acceptable to mediate this dispute:~~

~~(List acceptable mediator or mediators.)~~

~~I/we further agree to pay or prepay one half of the mediator's fees and to forward such advance deposits as the mediator may require for this purpose.~~

~~.....~~

~~Signature of responding party #1~~

~~.....~~

~~Telephone contact information~~

~~.....~~

~~Signature and telephone contact information of responding party #2 (if applicable)(if property is owned by more than one person, all owners must sign)~~

~~(b) Service of the statutory demand to participate in presuit mediation shall be effected by sending a letter in substantial conformity with the above form by certified mail, return receipt requested, with an additional copy being sent by regular first class mail, to the address of the responding party~~

~~as it last appears on the books and records of the association. The responding party has 20 days from the date of the mailing of the statutory demand to serve a response to the aggrieved party in writing. The response shall be served by certified mail, return receipt requested, with an additional copy being sent by regular first-class mail, to the address shown on the statutory demand. Notwithstanding the foregoing, once the parties have agreed on a mediator, the mediator may reschedule the mediation for a date and time mutually convenient to the parties. The parties shall share the costs of presuit mediation equally, including the fee charged by the mediator, if any, unless the parties agree otherwise, and the mediator may require advance payment of its reasonable fees and costs. The failure of any party to respond to a demand or response, to agree upon a mediator, to make payment of fees and costs within the time established by the mediator, or to appear for a scheduled mediation session without the approval of the mediator, shall constitute the failure or refusal to participate in the mediation process and shall operate as an impasse in the presuit mediation by such party, entitling the other party to proceed in court and to seek an award of the costs and fees associated with the mediation. Additionally, notwithstanding the provisions of any other law or document, persons who fail or refuse to participate in the entire mediation process may not recover attorney's fees and costs in subsequent litigation relating to~~

~~the dispute. If any presuit mediation session cannot be scheduled and conducted within 90 days after the offer to participate in mediation was filed, an impasse shall be deemed to have occurred unless both parties agree to extend this deadline.~~

(2)~~(c)~~ In ~~If presuit mediation as described in paragraph (a) is not successful in resolving~~ all issues between the parties, the parties may file the ~~unresolved~~ dispute in a court of competent jurisdiction or elect to enter into binding or nonbinding arbitration pursuant to the procedures set forth in s. 718.1255 and rules adopted by the division, with the arbitration proceeding to be conducted by a department arbitrator or by a private arbitrator certified by the department. If all parties do not agree to arbitration ~~proceedings following an unsuccessful presuit mediation~~, any party may file the dispute in court. A final order resulting from nonbinding arbitration is final and enforceable in the courts if a complaint for trial de novo is not filed in a court of competent jurisdiction within 30 days after entry of the order. As to any issue or dispute that is not resolved at arbitration ~~presuit mediation~~, and as to any issue that is settled at arbitration ~~presuit mediation~~ but is thereafter subject to an action seeking enforcement of the ~~mediation~~ settlement, the prevailing party in any subsequent arbitration or litigation proceeding may ~~shall be entitled to~~ seek recovery

of all costs and attorney ~~attorney's~~ fees incurred in the arbitration ~~presuit mediation~~ process.

(3)~~(d)~~ An ~~A mediator or~~ arbitrator is ~~shall be~~ authorized to conduct ~~mediation or~~ arbitration under this section only if he or she has been certified as a circuit court civil ~~mediator or~~ arbitrator~~, respectively,~~ pursuant to the requirements established by the Florida Supreme Court. ~~Settlement agreements resulting from mediation shall not have precedential value in proceedings involving parties other than those participating in the mediation to support either a claim or defense in other disputes.~~

~~(e) The presuit mediation procedures provided by this subsection may be used by a Florida corporation responsible for the operation of a community in which the voting members are parcel owners or their representatives, in which membership in the corporation is not a mandatory condition of parcel ownership, or which is not authorized to impose an assessment that may become a lien on the parcel.~~

HRLNG Proposed Legislation #2

To protect homeowners, there must be penalties in the law for Board Members and Property Managers that KNOWINGLY violate the state or federal laws or their own governing documents.

Enforcement of the HOA laws must fall under a separate "State HOA Office" of the Consumer Protection Division of the Attorney General's office.

570 HOA laws must fall under the Consumer Protection Laws.

571 All HOAs must be incorporated OR all must register with the State HOA Office. Unincorporated/unregistered HOAs have no authority to enforce their governing documents or collect any funds.

572 The State HOA Office must be given the authority to fine and levy other penalties against individual Board Members and Property Managers that KNOWINGLY violate the federal, state and HOA laws and/or the governing documents of the HOA.

573 We suggest that each HOA pay $3 per year per property, paid to the Secretary of State OR to the State HOA Office directly by each HOA when they renew their license annually.

574 The collected funds shall be put in an account exclusively for the use of the State HOA Office to use for handling HOA law enforcement and compliance.

575 The amount of the dues must be required to be adjusted annually, up or down, in order to fund the effort to be able to investigate all HOA complaints within 60 days and maintain a reasonable reserve. The funds can not be transferred or used by any other part of the government or for any other purpose.

576 All HOAs must carry D&O insurance for their Board Members

577 Upon member request, the Board is required to arrange a member appeal at the next Board Meeting which must be held within 30 days, and the Board vote on the further action. The vote of each Board Member must be recorded, signed by the Board Secretary and a copy given to the member immediately.

578 These policies and procedure would not deter honest people from serving on the Board but would strongly deter people who saw serving on an HOA Board as a financial or power opportunity.

579 Click on the links below to read why none of these other solutions work.

580 Why is Alternative Dispute Resolution (ADR) bad for HOA Homeowners?

581 Why is an HOA Ombudsman's Office Bad for the Homeowners.

582 Why is the Small Claims Court Solution bad for the Homeowners?

583 Process

584 Member writes complaint to Board, includes quoted law or governing document that the Board Members are violating, and requests an appeal meeting with the Board. The Board must arrange the meeting within 30 days. This is a regular Board Meeting, open to all, can be recorded and shared. The homeowner may attend in person or by Zoom or equivalent.

585 The Member explains the situation to the entire Board, quotes the laws and/or governing documents they are violating and presents any evidence. The Board discusses and votes on further action. A summary of the appeal and the vote of each Board Member must be recorded, entered into the minutes and a copy of the vote given to the homeowner immediately.

586 If the Board responds and refuses to change its position, or doesn't respond within 10 days, or does not have the meeting;

587 Member files complaint with summary of issue, a quote of the laws or governing documents violated, the evidence of the violation and the correspondence sent to and from the HOA regarding the issue, to the State HOA Office. No attorneys are allowed to represent either party in presenting to the State HOA Office. Only the Board may represent the HOA and any individual Board Member may communicate with the State HOA Office.

588 The State HOA Office shall investigate, and verify with the Board to assure the communications between the homeowner and the Board given to the State HOA Office are valid and complete. No new arguments or evidence may be presented that were not already communicated between the homeowner and the HOA Board, by either party.

589 If the State HOA Office investigates and finds the HOA is properly following the laws and governing documents, they will send an EMAIL response to the homeowner unless a paper response has been requested by the homeowner, and copy all the Board Members, explaining their decision and the reasoning, and quoting the specific law, or governing document the homeowner is violating and how to correct the issue. Part of the process is to teach both homeowners and the Board Members the proper enforcement of the laws and governing documents.

590 If the State HOA Office determines the Board has violated the laws or the governing documents, the State HOA Office will send an EMAIL to the offending Board members and copy the other Board Members and the homeowner identifying what laws or governing documents were broken, ordering the Board to fix the issue within five days and explaining specifically how to fix the problem. The offending Board Members are the Board Members that voted to violate the laws or governing documents.

591 By definition, if the offending Board Member(s), once receiving the EMAIL from the State HOA Office, continue to violate the law or governing documents, or it is determined by the State HOA Office, that they did know or should have known that they were violating the law before it was brought to the State HOA Office, they KNOWINGLY violated the law.

592 Should the offending Board Members not agree in writing or email to rectify the problem within 5 days, or do not rectify the problem in a reasonable time as decided by the State HOA Office, the State HOA Office will order the offending Board Members removed from the Board enjoining them from serving on any HOA board for a certain period of time or in perpetuity; a record of these removals will be kept on the State HOA Office website and the length and end date of the suspension.

593 Another election will then be held to replace the removed Board Members. The State HOA Office will help the members to create and run the election if needed. The State HOA Office can also choose volunteer members as temporary Board Members until the new election is complete. The State HOA Office can also appoint a receiver(s) to run the HOA until the election if necessary.

594 If the State HOA Office determines that CRIMES were committed, they or the Attorney General's office will investigate and prosecute.

595 Reimbursing the Homeowner for Damages

596 The Offending Board Members are those that voted not to follow the law or governing documents in the Homeowners appeal to the Board. If the Offending Board Members refuse to follow the conditions of the letter from the State HOA Office, the Offending Board Members will be by definition considered to have KNOWINGLY violated the laws

and/or governing documents.

If the Homeowner has suffered financial damages, the State HOA Office will determine if the Offending Board Members had knowingly violated the HOA laws or governing documents or should have known they were violating the law or governing documents. If so, the State HOA Office shall fine the offending Board Members the cost of the damages, splitting the cost equally amongst the offending Board Members. If not, the State HOA Office will fine the HOA Corporation to recover the Homeowners damages.

In either case, the Homeowner may notify the State HOA Office that Homeowner chooses to sue the HOA or the Board Members themselves under the Consumer Protection Act instead of the State HOA Office fining them.

If it is determined that the Property Management Company took action not authorized by the Board, the Property Management Company will pay the fines. If the Property Management Company profited from illegal or unethical actions, the Property Management Company could have their license suspended and/or be investigated and prosecuted.

Either party may appeal the decision and the State HOA Office, or the Attorney General's office will defend the decision of the State HOA Office

The insurance company would cover the costs of the attorney fees to defend the Board Members for the appeal, up to the point where they are found guilty by a court. If found guilty the insurance company would require the offending Board Members to reimburse them for incurred attorney fees.

These policies and procedure would not deter honest people from serving on the Board but would strongly deter people who saw serving on an HOA Board as a financial or power opportunity, and will likely encourage others who chose not to serve with a corrupt Board.

Section 6. Section 720.319, Florida Statutes, is created to read:

720.319 Dissolution of homeowners' association.—

(1) This section may be cited as the "Homeowners' Association Dissolution and Accountability Act."

(2) The Legislature finds that:

(a) Homeowners' associations are created as authorized by

general law and are subject to covenants that encumber the land and restrict the use of real property.

(b) In some circumstances, the continued enforcement of those covenants may no longer serve the homeowners' or community's interest and it is the public policy of this state to provide by general law a method to preserve the value of the property interests and the rights of alienation thereof that homeowners have in their parcels before and after termination.

(c) It is contrary to the public policy of this state to require the continued operation of a homeowners' association when such continuation is made impossible by law or regulation.

(d) It is in the best interest of this state to provide for termination of the declaration of covenants in certain circumstances in order to:

1. Prevent covenants from impairing the continued productive use of the property.

2. Provide fair treatment and just compensation for parcel owners and preserve property values and the local property tax base.

3. Preserve the state's long history of protecting homestead property rights by ensuring that such protection is extended to parcel owners whose parcel is their homestead in the context of a termination of a declaration of covenants for an association.

(3) A homeowners' association may be terminated by a plan

of termination that meets the requirements of this section and is approved by a community association court program under s. 720.32.

(4) A plan of termination is subject to the following conditions:

(a) The total voting interests of the association must include all voting interests for the purpose of considering a plan of termination. A voting interest of the association may not be suspended for any reason when voting on termination under this section.

(b) If the members reject a plan of termination, a subsequent plan of termination under this section may not be considered for at least 18 months after the date of the rejection.

(5)(a) A parcel owner who wishes to terminate a homeowners' association in which he or she is a member must provide to the board of administration the association a petition for a plan of termination that is signed by at least 20 percent of the voting members of the association. The board must hold a meeting of the members within 60 days after receipt of the signed petition.

(b) Notice of such meeting must be made in accordance with s. 720.303(2) and include the following information:

1. A copy of the proposed plan of dissolution.

2. An explanation of how the common areas and the assets of the association will be managed or transferred.

3. The manner in which voting will take place.

(c) If the board fails to call a meeting within the 60-day time period, any member may petition a community association court program under s. 720.32 or, if a community association court program does not exist in the judicial circuit in which the association is located, a court of competent jurisdiction for an order compelling compliance with this section.

(6)(a) A plan of termination must be approved by at least two-thirds of the total voting interests of the association.

(b) A parcel owner desiring to reject the plan of termination must do so by either voting to reject the plan in person or by proxy or by delivering a written objection to the association before or at the meeting called under subsection (5).

(7) If a plan of termination is approved, the board must submit such plan to the community association court program in the judicial circuit in which the association is located or, if a community association court program does not exist, a court of competent jurisdiction. The court shall examine the plan of termination and determine its procedural sufficiency and, within 45 days after receipt of the plan, notify the association by mail of any procedural deficiencies or that the plan is accepted. If notice is not provided within the 45-day time period, the plan of termination is presumed to be accepted. If the court determines that the conditions required by this

section have been met and that the plan of termination complies with the procedural requirements of this section, the court must authorize the termination and the termination may proceed as authorized in this section.

(8)(a) A plan of termination and the consents or joinders of parcel owners must be recorded in the public records of each county in which any portion of the association is located. The plan is effective only upon recordation or at a later date specified in the plan.

(b) Upon recordation or at a later date specified in the plan of termination, title to the association property vests in a termination trustee. The board serves as such trustee unless another person is appointed in the plan of termination. If the board is not the termination trustee, the board must transfer any association property to such trustee. The termination trustee is vested with the powers given by the declaration and bylaws of the association and subsection (10). If the board is unable, unwilling, or fails to act as termination trustee, a parcel owner may petition the community association court program to appoint a termination trustee.

(9) If the board fails to hold the meeting under subsection (5), obstructs the termination process, or refuses to record the decision of the members to terminate, a member may file a petition with the community association court program in the judicial circuit in which the association is located or, if

a community association court program does not exist, a court of competent jurisdiction. A community association court program may do all of the following:

(a) Verify compliance with the procedural requirements of this section and all statutory voting requirements.

(b) Order the Department of State to dissolve the homeowners' association.

(c) Appoint a receiver to manage the distribution of assets and resolution of liabilities.

(10) The approval of the plan of termination does not terminate the board of administration, which shall continue in existence following approval of the plan of termination with all powers and duties such board had before approval of the plan. Notwithstanding any provision to the contrary in the declaration or bylaws, after approval of the plan of termination the board must:

(a) Employ directors, agents, attorneys, and other professionals to liquidate or conclude the board's affairs.

(b) Conduct the affairs of the association as necessary for the liquidation or termination.

(c) Carry out contracts and collect, pay, and settle debts and claims for and against the association.

(d) Defend suits brought against the association.

(e) Sue in the name of the association for all sums due or owed to the association or to recover any association property.

(f) Perform any act necessary to maintain, repair, or demolish unsafe or uninhabitable improvements or other association property in compliance with applicable codes.

(g) Sell at public or private sale or exchange, convey, or otherwise dispose of assets of the association for an amount deemed to be in the best interests of the association, and execute bills of sale and deeds of conveyance in the name of the association.

(h) Collect and receive rents, profits, accounts receivable, income, maintenance fees, special assessments, or insurance proceeds for the association.

(i) Contract and do anything in the name of the association which is proper or convenient to terminate the affairs of the association.

(11)(a) All remaining association assets after the payment of any lawful debts must be distributed equally among members or as otherwise provided in the plan of termination.

(b) A member may not be subject to personal liability for unpaid obligations beyond the member's regular assessments or special assessments that existed before the vote for termination.

(12)(a) The following actions by an association or the officers or directors thereof are unlawful:

1. Failing to call or notice a meeting after receipt of a valid petition for a plan of termination.

2. Spending association funds to campaign for or against the plan of termination.

3. Concealing any financial or property records relevant to the plan of termination.

(b) An officer or a director who violates paragraph (a) is subject to any of the following:

1. A civil penalty of up to $5,000 per violation.

2. Removal from office by court order.

3. Personal liability for legal fees incurred by the petitioners.

Section 7. Section 720.32, Florida Statutes, is created to read:

720.32 Community association court program.—

(1) It is the intent of the Legislature to encourage and support the judicial circuits of the state to create and maintain a community association court program in each judicial circuit. The purpose of a community association court program is to address disputes that arise between community associations and the members thereof or between members within a community association. It is the intent of the Legislature that this section provide a detailed statewide standard for the creation, operation, and procedures for community association court programs.

(2) A circuit court may create and administer a community association court program. The chief judge shall designate at

least one judge to preside over the community association court program. The chief judge may issue administrative orders concerning the community association court program.

(3) The community association court program has jurisdiction over disputes, including any related termination or enforcement proceedings, arising under any of the following:

(a) Chapter 718, the Condominium Act.

(b) Chapter 719, the Cooperative Act.

(c) Chapter 720, the Homeowners' Association Act.

(4) The community association court program may do all of the following:

(a) Enforce all statutory rights of unit owners and parcel owners.

(b) Verify and compel compliance with all statutory requirements by community associations, boards of administration, and officers or directors of such boards.

(c) Order the Department of State to dissolve a community association.

(d) Appoint a receiver to manage the distribution of association assets and resolution of liabilities.

(e) Impose civil penalties for violations of statutory rights.

(f) Issue injunctive relief as appropriate.

(g) Award reasonable attorney fees and costs as appropriate.

(5) By January 1 of each year, the chief judge in each judicial circuit in which a community association court program is created shall submit to the President of the Senate and the Speaker of the House of Representatives a report that summarizes the caseload of each community association court program and the outcomes of such caseload.

(6) The Office of the State Courts Administrator shall establish procedure, staffing, and reporting requirements for the operation of the community association court program.

(7) The costs associated with the creation, operation, and compliance and enforcement duties of the community association court program shall be funded through a general revenue appropriation to the department.

Section 8. Paragraph (d) of subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.—

(1) County courts shall have original jurisdiction:

(d) Of disputes occurring in ~~the~~ homeowners' associations ~~as described in s. 720.311(2)(a)~~, which shall be concurrent with jurisdiction of the circuit courts.

Section 9. This act shall take effect July 1, 2026.