

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

26 | a community association court program under certain
27 | circumstances; authorizing a community association
28 | court program to take certain actions; providing
29 | responsibilities of the board after approval of a plan
30 | of termination; providing for the distribution of
31 | assets and paying of lawful debts after an association
32 | is terminated; specifying unlawful actions by an
33 | association or its officers or directors; providing
34 | penalties; creating s. 720.32, F.S.; providing
35 | legislative intent; authorizing circuit courts to
36 | create and administer a community association court
37 | program; providing duties of the chief judge;
38 | providing the jurisdiction of the community
39 | association court program; authorizing the community
40 | association court program to take certain actions;
41 | requiring the chief judge of certain judicial circuits
42 | to submit to the Legislature a specified report
43 | annually by a specified date; providing duties of the
44 | Office of the State Courts Administrator; providing
45 | that certain costs associated with the community
46 | association court program be funded through an
47 | appropriation to the Department of Business and
48 | Professional Regulation; amending s. 34.01, F.S.;
49 | conforming a provision to changes made by the act;
50 | providing an effective date.

51

52 Be It Enacted by the Legislature of the State of

53 Florida:

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

59 718.1255 Alternative dispute resolution; mediation;
60 nonbinding arbitration; applicability.—

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

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

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

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

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

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

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

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

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

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

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

172 720.302 Purposes, scope, and application.—

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

176 other agency of state government to regulate the affairs of
177 homeowners' associations. However, in accordance with s.
178 720.311, the Legislature finds that homeowners' associations and
179 their individual members will benefit from an expedited
180 alternative process for resolution of election and recall
181 disputes and presuit mediation of other disputes involving
182 covenant enforcement and authorizes the department to hear,
183 administer, and determine these disputes as more fully set forth
184 in this chapter. Further, the Legislature recognizes that
185 certain contract rights have been created for the benefit of
186 homeowners' associations and members thereof before the
187 effective date of this act and that ss. 720.301-720.407 are not
188 intended to impair such contract rights, including, but not
189 limited to, the rights of the developer to complete the
190 community as initially contemplated.

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

193 720.303 Association powers and duties; meetings of board;
194 official records; budgets; financial reporting; association
195 funds; recalls.—

196 (1) POWERS AND DUTIES.—

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

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

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

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

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

214
 215 This association and the association's governing
 216 documents are governed by the Florida Condominium Act,
 217 as amended from time to time. 218

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?

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

226 amend the governing documents under this subparagraph.

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

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

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251 certificates.

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

256 **Section 4. Paragraph (h) of subsection (1) of section**
257 **720.306, Florida Statutes, is amended to read:**

258 720.306 Meetings of members; voting and election
259 procedures; amendments.—

260 (1) QUORUM; AMENDMENTS.—

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

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

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

276 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.

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

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

298 entity.

299 Section 5. Section 720.311, Florida Statutes, is amended

300 to read:

301 | 720.311 Dispute resolution.-

302 | (1) The Legislature finds that alternative dispute
303 | resolution has made progress in reducing court dockets and
304 | trials and in offering a more efficient, cost-effective option
305 | to litigation. The filing of any petition for arbitration tolls
306 | ~~or the serving of a demand for presuit mediation as provided for~~
307 | ~~in this section shall toll~~ the applicable statute of
308 | limitations. Any recall dispute filed with the department under
309 | s. 720.303(10) must ~~shall~~ be conducted by the department in
310 | accordance with ~~the provisions of~~ ss. 718.112(2)(1) and 718.1255
311 | and the rules adopted by the division. In addition, the
312 | department shall conduct binding arbitration of election
313 | disputes between a member and an association in accordance with
314 | s. 718.1255 and rules adopted by the division. Election disputes
315 | and recall disputes ~~are not eligible for presuit mediation;~~
316 | ~~these disputes~~ must be arbitrated by the department or filed in
317 | a court of competent jurisdiction. The arbitration proceeding
318 | must be conducted by a department arbitrator or by a private
319 | arbitrator certified by the department. At the conclusion of an
320 | arbitration proceeding, the department shall charge the parties
321 | a fee in an amount adequate to cover all costs and expenses
322 | incurred by the department in conducting the proceeding.
323 | Initially, the petitioner shall remit a filing fee of at least
324 | \$200 to the department. The fees paid to the department shall
325 | become a recoverable cost in the arbitration proceeding, and the

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

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

351 ~~issues regarding emergency or temporary relief are resolved, the~~
 352 ~~court may either refer the parties to a mediation program~~
 353 ~~administered by the courts or require mediation under this~~
 354 ~~section. An arbitrator or judge may not consider any information~~
 355 ~~or evidence arising from the presuit mediation proceeding except~~
 356 ~~in a proceeding to impose sanctions for failure to attend a~~
 357 ~~presuit mediation session or to enforce a mediated settlement~~
 358 ~~agreement. Persons who are not parties to the dispute may not~~
 359 ~~attend the presuit mediation conference without the consent of~~
 360 ~~all parties, except for counsel for the parties and a corporate~~
 361 ~~representative designated by the association. When mediation is~~
 362 ~~attended by a quorum of the board, such mediation is not a board~~
 363 ~~meeting for purposes of notice and participation set forth in s.~~
 364 ~~720.303. An aggrieved party shall serve on the responding party~~
 365 ~~a written demand to participate in presuit mediation in~~
 366 ~~substantially the following form:~~

367 ~~STATUTORY OFFER TO PARTICIPATE~~

368 ~~IN PRESUIT MEDIATION~~

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

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

376 ~~mediated and the authority supporting a finding of a~~
377 ~~violation as to each dispute.)~~
378 ~~Pursuant to section 720.311, Florida Statutes, this~~
379 ~~demand to resolve the dispute through presuit~~
380 ~~mediation is required before a lawsuit can be filed~~
381 ~~concerning the dispute. Pursuant to the statute, the~~
382 ~~parties are required to engage in presuit mediation~~
383 ~~with a neutral third party mediator in order to~~
384 ~~attempt to resolve this dispute without court action,~~
385 ~~and the aggrieved party demands that you likewise~~
386 ~~agree to this process. If you fail to participate in~~
387 ~~the mediation process, suit may be brought against you~~
388 ~~without further warning.~~
389 ~~The process of mediation involves a supervised~~
390 ~~negotiation process in which a trained, neutral third-~~
391 ~~party mediator meets with both parties and assists~~
392 ~~them in exploring possible opportunities for resolving~~
393 ~~part or all of the dispute. By agreeing to participate~~
394 ~~in presuit mediation, you are not bound in any way to~~
395 ~~change your position. Furthermore, the mediator has no~~
396 ~~authority to make any decisions in this matter or to~~
397 ~~determine who is right or wrong and merely acts as a~~
398 ~~facilitator to ensure that each party understands the~~
399 ~~position of the other party and that all options for~~
400 ~~reasonable settlement are fully explored.~~

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

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

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

426 ~~hourly rates of the mediators. Other pertinent~~
427 ~~information about the background of the mediators may~~
428 ~~be included as an attachment.)~~
429 ~~You may contact the offices of these mediators to~~
430 ~~confirm that the listed mediators will be neutral and~~
431 ~~will not show any favoritism toward either party. The~~
432 ~~Florida Supreme Court can provide you a list of~~
433 ~~certified mediators.~~
434 ~~Unless otherwise agreed by the parties, section~~
435 ~~720.311(2) (b), Florida Statutes, requires that the~~
436 ~~parties share the costs of presuit mediation equally,~~
437 ~~including the fee charged by the mediator. An average~~
438 ~~mediation may require three to four hours of the~~
439 ~~mediator's time, including some preparation time, and~~
440 ~~the parties would need to share equally the mediator's~~
441 ~~fees as well as their own attorney's fees if they~~
442 ~~choose to employ an attorney in connection with the~~
443 ~~mediation. However, use of an attorney is not required~~
444 ~~and is at the option of each party. The mediators may~~
445 ~~require the advance payment of some or all of the~~
446 ~~anticipated fees. The aggrieved party hereby agrees to~~
447 ~~pay or prepay one half of the mediator's estimated~~
448 ~~fees and to forward this amount or such other~~
449 ~~reasonable advance deposits as the mediator requires~~
450 ~~for this purpose. Any funds deposited will be returned~~

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

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

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

474 ~~.....~~
475 ~~.....~~

~~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~~

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

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

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

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

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

562 ~~(e) The presuit mediation procedures provided by this~~
563 ~~subsection may be used by a Florida corporation responsible for~~
564 ~~the operation of a community in which the voting members are~~
565 ~~parcel owners or their representatives, in which membership in~~
566 ~~the corporation is not a mandatory condition of parcel~~
567 ~~ownership, or which is not authorized to impose an assessment~~
568 ~~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.

569 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.

597 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.

598 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.

599 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.

600 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

601 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.

602 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.

603

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

606 720.319 Dissolution of homeowners' association.-

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

609 (2) The Legislature finds that:

610 (a) Homeowners' associations are created as authorized by

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

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

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

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

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

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

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

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

636 of termination that meets the requirements of this section and
637 is approved by a community association court program under s.
638 720.32.

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

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

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

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

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

659 1. A copy of the proposed plan of dissolution.

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

661 3. The manner in which voting will take place.

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

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

670 (b) A parcel owner desiring to reject the plan of
671 termination must do so by either voting to reject the plan in
672 person or by proxy or by delivering a written objection to the
673 association before or at the meeting called under subsection
674 (5).

675 (7) If a plan of termination is approved, the board must
676 submit such plan to the community association court program in
677 the judicial circuit in which the association is located or, if
678 a community association court program does not exist, a court of
679 competent jurisdiction. The court shall examine the plan of
680 termination and determine its procedural sufficiency and, within
681 45 days after receipt of the plan, notify the association by
682 mail of any procedural deficiencies or that the plan is
683 accepted. If notice is not provided within the 45-day time
684 period, the plan of termination is presumed to be accepted. If
685 the court determines that the conditions required by this

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

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

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

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

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

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

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

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

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

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

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

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

733 (d) Defend suits brought against the association.

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

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

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

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

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

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

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

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

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

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

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

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

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

768 2. Removal from office by court order.

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

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

773 720.32 Community association court program.-

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

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

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

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

792 (a) Chapter 718, the Condominium Act.

793 (b) Chapter 719, the Cooperative Act.

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

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

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

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

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

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

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

808 (f) Issue injunctive relief as appropriate.

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

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

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

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

824 **Section 8. Paragraph (d) of subsection (1) of section**
825 **34.01, Florida Statutes, is amended to read:**

826 34.01 Jurisdiction of county court.—

827 (1) County courts shall have original jurisdiction:

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

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