BOARD MEMBER TRAINING
FOR
HOMEOWNERS' ASSOCIATIONS
(Chapter 720, *Fla. Stat.*)

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I. Board of Directors Training Requirement. Sec. 720.3033(1)(a)-(c), *Florida Statutes* (*note*: all citations in these materials are to the Florida Statutes unless stated otherwise), says:

A. Within 90 days after being elected or appointed to the board, each director must submit a certificate of having satisfactorily completed the educational curriculum administered by a department approved education provider.

1. The newly elected or appointed director must complete the department-approved education for newly elected or appointed directors within 90 days after being elected or appointed.

2. The certificate of completion is valid for up to 4 years.

3. A director must complete the education specific to newly elected or appointed directors at least every 4 years.

4. The department-approved educational curriculum specific to newly elected or appointed directors must include training relating to financial literacy and transparency, recordkeeping, levying of fines, and notice and meeting requirements.

5. In addition to the educational curriculum specific to newly elected or appointed directors:

a. A director of an association that has fewer than 2,500 parcels must complete at least 4 hours of continuing education annually.

b. A director of an association that has 2,500 parcels or more must complete at least 8 hours of continuing education annually.

B. A director who does not timely file the educational certificate is suspended from the board until he or she complies with the requirement. The board may temporarily fill the vacancy during the period of suspension.

C. The association shall retain each director's educational certificate for inspection by the members for 5 years after the director's election. However, the failure to have the written certification or educational certificate on file does not affect the validity of any board action.

II. The Homeowners' Association. Homeowners' associations that are not condominiums or cooperatives and that meet the definition of a homeowners' association in §720.301(9) are governed by Chapter 720 (which will be referred to in this outline as "Chapter 720"), the Florida Homeowners'

Association Act. Copies of Chapter 720 are available on the Florida Department of Business and Professional Regulations (the "DBPR") Florida Division of Condominiums, Timeshares and Mobile Homes (the "Division") website, and on the Florida Legislature website http://www.leg.state.fl.us/statutes. All officers and directors of Florida homeowners' associations are encouraged to download a copy and are expected to READ IT!

A. Definitions.

1. Sec. 720.301(1) defines "Assessment" or "amenity fee" as: "a sum or sums or money payable to the association, to the developer or other owner of common areas, or to recreational facilities and other properties serving the parcels by the owners of one or more parcels as authorized in the governing documents, which if not paid by the owner of a parcel, can result in a lien against the parcel."

2. Sec. 720.301(2) defines "Common area" as: "all real property within a community which is owned or leased by the association or dedicated for use or maintenance by the association or its members, including, regardless of whether title has been conveyed to the association:

a. Real property the use of which is dedicated to the association or its members by a recorded plat; or

b. Real property committed by a declaration of covenants to be leased or conveyed to the association."

3. Sec. 720.301(3) defines "Community" as: "the real property that is or will be subject to a declaration of covenants which is recorded in the county where the property is located. The term "community" includes all real property, including undeveloped phases, that is or was the subject of a development-of-regional-impact development order, together with any approved modification thereto.

4. Sec. 720.301(4) defines "Declaration of covenants" or "declaration" as: "a recorded written instrument or instruments in the nature of covenants running with the land which subject the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members."

5. Sec. 720.301(8) defines "Governing documents" as:

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

b. "The articles of incorporation and bylaws of the homeowners' association and any duly adopted amendments thereto."

6. Sec. 720.301(9) defines a "Homeowners' association" or "association" as: "a Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, and in which membership is a mandatory condition of parcel ownership, and which is authorized to

impose assessments that, if unpaid, may become a lien on the parcel." The term "homeowners association" does not include a community development district or other similar special taxing district.

7. Sec. 720.301(10) defines "Member" as "a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof, and includes any person or entity obligated by the governing documents to pay and assessment or amenity fee."

8. Sec. 720.301(11) defines "Parcel" as: "a platted or unplatted lot, tract, unit, or other subdivision of real property within a community, as described in the declaration:

a. Which is capable of separate conveyance; and
b. Of which the owner, or an association in which the owner must be a member, is obligated:
   i. By the governing documents to be a member of an association that serves the community; and
   ii. To pay the homeowners' association assessments that, if not paid, may result in a lien."

(NOTE that the term "parcel owner" and "lot owner" are often used interchangeably. "Owner" will be use in this outline as the generic term. "Owner" also means a "member" of the association for a community, as all Chapter 720 homeowners' associations documents require owners to be members of the association in which their lot or parcel is located.)

NOTES:

- A Chapter 720 homeowners' association may be a for-profit or a not-for-profit corporation. Most are not-for-profit, but some are for-profit. "Not-for-profit" does NOT mean tax-exempt. Tax-exempt status is granted by the IRS and application must be made to the IRS for tax-exempt status.

- An equity club or RV campground in which members do not own a particular parcel or lot are not "homeowners' associations" for purposes of Chapter 720 nor is any homeowners' association in which mandatory membership is not required or in which an association does not have the right to lien parcels for non-payment of assessments.

- The right to assess and lien parcels must be set forth in recorded deed restrictions or a declaration of covenants, conditions and restrictions ("CCRs") in order for an association to have the right to lien a lot or parcel for non-payment of assessments or dues.

B. Governing documents. All incorporated homeowners' associations have as governing documents:

1. Articles of Incorporation. Articles of Incorporation create a corporation under state law and define an association's basic purposes and powers. They specify matters such as the association's principal address, its initial mailing address, its initial registered agent and registered agent's address, number of directors, the names and addresses of the initial directors, and their terms of office. Articles of Incorporation must be filed with the Florida Secretary of State in Tallahassee. The Articles of Incorporation of a Florida homeowners' association must be recorded in the Official Records of the County in which the Community is located. Every corporation must file an Annual Report with the Florida Secretary of State in Tallahassee between January 1st and April 30th every year. The Annual Report must include the name, principal address, and mailing address

of the association, the name and physical address of the Registered Agent for service of process, and the names and addresses of the directors and officers of the Association. Failure to file an Annual Report will result in Administrative Dissolution of the association by the Secretary of State, and for for-profit corporations, penalties of $500.00 per year.

2. Bylaws. Bylaws contain provisions for the operation of an association, such as notice and conduct of meetings, the process and procedures for holding board meetings, owner meetings, for electing the board of directors and appointing or electing officers, keeping official records, preparing and approving budgets, assessing units / lots, collecting assessments, keeping financial records, banking, financial reporting, and general duties of the board.

3. Rules & Regulations. Associations may adopt Rules & Regulations. Usually they are adopted by the Board of Directors of an association, but some associations' governing documents provide that they must be adopted or approved by the owners. Rules and Regulations do not have to be recorded. They may be recorded, but if they are recorded then all amendments to them also must be recorded. They must be consistent with the Articles of Incorporation, the Bylaws, and the CCRs. They also must be consistent with State and Federal law, or local codes and ordinances, and they must be reasonable.

III. Association Operations.

A. Board of Directors.

1. Role of the Board of Directors. The role of the Board of Directors is to operate the association and maintain the community. In the typical association the Board of Directors are elected by the owners and appoint or elect and direct the officers of the association, set policy, procedures and guidelines, make the Rules and Regulations, hire and direct management and employees (if any), and otherwise manage the association and the community property for the benefit of the owners.

2. Fiduciary Duties of Board.

a. Per §720.303(1) the officers and directors of an association have a fiduciary relationship to the members who are served by the association.

b. Per §720.303(12), a director, officer or committee member may not directly receive any salary or compensation from the association for the performance of duties as a director, officer or committee member and may not in any other way benefit financially from service to the association. However, officers, directors and committee members may receive reimbursement for out-of-pocket expenses if provided for in the governing documents or approved by the Board.

c. Pursuant to §720.3033(3), an officer, a director, or a manager may not solicit, offer to accept, or accept a kickback. As used in this subsection, the term "kickback" means any thing or service of value for which consideration has not been provided for an officer's, a director's, or a manager's benefit or for the benefit of a member of his or her immediate family from any person providing or proposing to provide goods or services to the association. An officer, a director, or a manager who knowingly solicits, offers to accept, or accepts a kickback commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and is subject to monetary damages under s. 617.0834. If the board finds that an officer or a director has violated this subsection, the board must immediately remove the officer or director from office. The vacancy shall

be filled according to law until the end of the officer's or director's term of office. However, an officer, a director, or a manager may accept food to be consumed at a business meeting with a value of less than $25 per individual or a service or good received in connection with trade fairs or education programs.

d. Pursuant to sec. 720.3033(4) a director or an officer charged by information or indictment with any of the following crimes must be removed from office:

i. Forgery of a ballot envelope or voting certificate used in a homeowners' association election as provided in s. 831.01.

ii. Theft or embezzlement involving the association's funds or property as provided in s. 812.014.

iii. Destruction of or the refusal to allow inspection or copying of an official record of a homeowners' association which is accessible to owners within the time periods required by general law, in furtherance of any crime. Such act constitutes tampering with physical evidence as provided in s. 918.13.

iv. Obstruction of justice as provided in chapter 843.

v. Any criminal violation of Chapter 720, *Florida Statutes*.

e. Pursuant to §720.3033(5) an association shall maintain insurance or a fidelity bond for all persons who control or disburse funds of an association. The term "persons who control or disburse funds of the association" includes, but is not limited to, persons authorized to sign checks and the president, secretary and treasurer. However, if approved annually by a majority vote of the owners at a meeting, an association may waive this requirement.

f. All officers and directors have a duty to act in good faith, using the care an ordinarily prudent person in a similar position would use under similar circumstances and in a manner that each officer and director believes to be in the best interest of the association.

3. Number of Directors. The Florida Corporations Not-For-Profit Act, Chapter 617, *Florida Statutes*, requires all corporations that are not-for-profit to have at least three (3) directors. An association's bylaws may provide for more. Normally, an odd number is preferred to prevent voting deadlocks.

4. Board Meetings. The Board of Directors conducts the official business of the association at board meetings. Per §720.303(2)(c)1., notices of board meetings must include the name of the association, the date, time and place of the meeting, and must include an agenda. All notices of board meetings must specifically identify agenda items for the meetings. Per §720.303(2)(d), if 20 percent of the total voting interests petition the board to address an item of business, the board shall, at its next regular board meeting or at a special meeting of the board, but not later than 60 days after the receipt of the petition, take the petitioned item up on an agenda. The board shall give all members notice of the meeting at which the petitioned item shall be addressed in accordance with the 14-day notice requirement pursuant to §720.303(2)(c)2. Each member shall have the right to speak for at least 3 minutes on each matter placed on the agenda by petition, provided that the member signs the sign-up sheet, if one is provided, or submits a written request to speak prior to

the meeting. Other than addressing the petitioned item at the meeting, the board is not obligated to take any other action requested by the petition.

a. Notice of Board Meetings. Pursuant to §720.303(2) Board meetings are required by law to be noticed:

i. by posting at least 48 hours in advance in a conspicuous place on the property, or in the alternative, by mailing or delivering a copy to each owner at least seven (7) days before the meeting, except in an emergency;

ii. on not less than 14 days' notice for (i) meetings at which the budget or (ii) special assessments, or (iii) Rules and Regulations, will be considered.

iii. The Board, after providing proper notice to the owners, may designate a specific location on the community's property where notices of board meetings shall be posted.

iv. For communities with more than 100 members, the association may adopt procedures for conspicuously posting and repeatedly broadcasting meeting notices and agendas on a closed-circuit cable television system serving the association in addition to or instead of physically posting the notice but if this procedure is to be used the provisions of §720.303(2) must be followed.

b. Open to Owners; Right to Speak; Audio- & Videotaping. Per §720.303(2)(b), all Board meetings must be open to the owners. Owners have the right to attend and speak as to designated items. Per 720.306(10), any owner may tape record or videotape meetings of the board of directors. The board of directors may adopt reasonable rules governing the taping of meetings of the board and the membership. Owners have the right to audio or videotape all board meetings.

c. Quorum. All board meetings require that a quorum of the directors be present in person or by speaker phone audible to those present at the meeting. A quorum is normally a majority of the directors, unless otherwise required by law or the association's documents.

d. Minutes. Per 720.303(3), minutes of all meetings of the members of any association and of the board of directors must be maintained in written form or in another form that can be converted into written form within a reasonable time. A vote or abstention from voting on each matter voted upon for each director present at a board meeting must be recorded in the minutes.

5. Voting. Pursuant to §720.303(2)(a), directors may not vote by email. Pursuant to §720.303(2)(c)3., directors may not vote by proxy or by secret ballot at board meetings, except that officers may be elected by secret ballot. The affirmative vote of a majority of the directors present at a meeting at which there is a quorum is sufficient to approve an action unless the association's documents or applicable law provide otherwise. In addition, a vote or abstention for each member present must be recorded in the minutes. A director who is present at a meeting of the board at which action on any association matter is taken is presumed to have assented to the action taken unless the director votes against such action or abstains from voting in respect to that action because

of an asserted conflict of interest. A vote or abstention for each board member shall be recorded in the minutes.

6. Board Resolutions. There are four (4) kinds of board resolutions:

a. Policy Resolutions. Policy resolutions affect owners' rights and obligations with the respect to the Association and the community.

b. Administrative Resolutions. Administrative resolutions address the internal operations and management of the Association.

c. Special Resolutions. Special resolutions apply policy to specific or individual situations (for example, passing special assessments).

d. General Resolutions. General resolutions set forth board decisions about routine matters.

7. Committees.

a. Types of Committees. If an association's controlling documents (usually the bylaws) provide for committees, then the board of directors may establish committees to assist the board with the operation of the association. There are two (2) types of committees:

i. Standing Committees. Standing committees are formed to handle on-going matters. They remain in place indefinitely, until the board of directors directs otherwise.

ii. Ad-hoc Committees. Ad-hoc committees are formed to perform a specific task. Once the task is completed, the committee is disbanded.

b. Form of Committees. Typically, committees have one director as a member, usually also as the chairperson of the committee, and the rest of the committee members are owners who are not on the board. A committee may have more than one director on the committee, but if a committee has a majority of the directors on it, then it is acting as a board and must comply with all requirements for noticing, holding and recording board meetings. Certain kinds of committees also must notice meetings, including fining committees, and any committee to which the power to make final decisions has been delegated by the board.

c. Duties of Committees. The duties of a committee vary depending upon the task, when the task or tasks are to be completed, what tasks the committee is assigned to perform, and how much authority the board wants to give the committee. Committees that are granted the authority to make final decisions on behalf of the board without further board approval must give notice of meetings, hold its meetings open to the Owners to attend and speak to agenda items, and keep minutes of its meetings.

8. Closed Meetings. Per §720.303(2)(b), a board may hold a closed meeting under the following circumstances:

a. Board or committee meetings held for the purpose of discussing personnel matters.

b. Meetings between the Board or a committee and the association's attorney with respect to proposed or pending litigation if the meeting is held for the purpose of seeking or rendering legal advice.

9. Roberts Rules of Order. No law requires an association or corporation to use Roberts Rules of Order ("Roberts"). However, some association documents contain provisions that state that Roberts is to be used for the conduct of meetings. If Roberts is required by an association's governing documents then it should be used and followed. Even if Roberts is not specified in an association's documents for the conduct of meetings it is strongly recommended that it be adopted either by amending the association's governing documents, or by the chairperson of the meeting making a motion at the beginning of meetings to vote to follow Roberts for that meeting. It is also recommended that the chairperson obtain and have at the meeting a copy of Roberts, preferably one that has tables or other ready-reference of motions and other actions.

B. Officers. In Florida, neither Chapter 617 or Chapter 720 require officers to also be members of the board of directors, but usually they are. Some association documents require that the officers be members of the board of directors, but if the association documents do not require it then officers do not have to be directors. However, note that if an officer is not also a director, then the officer cannot vote at board meetings. Only directors have a vote at board meetings. The offices of an association are determined by its Articles of Incorporation and/or Bylaws. At a minimum, they must include a President, a Secretary, and a Treasurer, and typically include the following:

1. President. The President is the chief executive officer of an association, is responsible for the general and active management of the business and affairs of an association, subject to the directions of the board of directors, and if present, presides at meetings of the board of directors and the unit owners.

2. Vice-President. The Vice-President assists the President and stands in for the President at meetings and for other official functions in his or her absence. An association may have more than one Vice-President, with such powers and duties as may be provided for in the association's documents and assigned to them by the board of directors.

3. Secretary. The Secretary is responsible for keeping and maintaining the association's official records, including, among other things, the roster, roll or list of all owners, and for taking and keeping the minutes of all owner meetings, and all Board meetings and committee meetings, including all regular and special meetings. The Secretary is also responsible for preserving voting records of both board and owner meetings, and ballots and proxies of owner meetings. The Secretary is responsible for filing the association's Annual Report with the Florida Secretary of State. The Board of Directors of an association may appoint one or more assistant secretaries. Some of the Secretary's duties may be delegated to a management company, but the Secretary is still ultimately responsible.

4. Treasurer. The Treasurer is the chief financial officer of the association and is responsible for the budget, reserves, bank accounts, financial reporting requirements, accounts payable and accounts receivable, collecting dues and assessments, reporting delinquencies, filing tax returns, and all other financial matters of the association. The board of directors may appoint one or more assistant treasurers. Some of the Treasurer's duties may be delegated to a management company or accounting firm, but the Treasurer is still ultimately responsible.

C. Election, Appointment & Removal of Officers. Unless the bylaws specifically provide that officers are to be directly elected by the owners, officers are elected or appointed by the board of directors annually, typically immediately or soon after the Annual Meeting and Election of Directors. Any officer elected or appointed by the board of directors may be removed by the board of directors at any time, for any reason, with or without cause.

D. Fiduciary Duties. Every director and officer of an association:

1. has an obligation of trust and confidence in favor of the owners;
2. must act in good faith and in the best interests of the association;
3. must exercise care and diligence of a reasonably prudent person;
4. must act within the scope of his or her authority.

IV. Records Maintenance - Official Records.

A. Maintenance of Official Records. Every association has a legal obligation to maintain its official records. All associations must maintain official records for at least seven (7) years. Sec. 720.303(4) sets forth the documents that must be maintained in the official records of an association, including:

i. Copies of the Articles of Incorporation, Bylaws, CCRs, rules and regulations, and all amendments to them, minutes of all meetings of the Board and of owners, a current roster of all owners, including their mailing addresses and parcel identifications, all plans specifications, permits and warranties related to the common area improvements, all insurance policies, and contracts to which the association is a party.

ii. Sect. 720.303(4)(a)7., requires every association to keep a current roster of all members and their designated mailing addresses and parcel identifications. A member's designated mailing address is the member's property address, unless the member has sent written notice to the association requesting a different mailing address be used for all required notices. The association shall also maintain the e-mail addresses and the facsimile numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. A member's e-mail address is the e-mail address the member provided when consenting in writing to receive notice by electronic transmission, unless the member has sent written notice to the association requesting a different e-mail address be used for all required notices. The e-mail addresses and facsimile numbers provided by members to receive notice by electronic transmission must be removed from association records when the member revokes consent to receive notice by electronic transmission.

iii. financial and accounting records, including itemized and detailed records of all receipts and expenditures, all tax returns, financial statements and reports, and a current account and periodic statement of account for each owner;

iv. election ballots, sign-in sheets, voting proxies, and all other papers and electronic records relating to voting, which must be kept for at least one (1) year after the date of the election, vote or meeting.

v. a copy of the disclosure summary required by §720.401(1), all affirmative acknowledgments required by §720.3085(3)(c)3., and all other written records of the association related to the operation of the association.

B. Inspection of Official Records Documents. Pursuant to §720.303(5) every association must allow owners and their representatives to inspect the official records of the association upon written notice. There are very short time frames for producing records for inspection and penalties for failure to comply with a request for inspection of official records of an association.

1. Records must be kept within the State of Florida, within forty-five (45) miles of the community or within the county where the community is located.

2. Records must be made available for inspection and copying within ten (10) business days after receipt by the board of a written request.

3. Per to §720.303(5)(g), an association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspection. However, an association may not require an owner to demonstrate, provide or state a purpose for the inspection (that is, an owner does not have to tell the board why he or she wants to inspect the records), and per §720.303(5)(b), a member who is denied access to official records is entitled to damages or minimum damages for the association's willful failure to comply. The minimum damages are $50.00 per calendar day up to 10 days, beginning on the 11th day after the association's receipt of a written request.

4 Per 720.303(5)(a), the failure of an association to provide access to the records within 10 business days after receipt of a written request submitted by certified mail, return receipt requested, creates a rebuttable presumption that the association willfully failed to comply.

C. Protected Official Records. Pursuant to §720.303(5)(c) certain official records of associations are not accessible to the owners:

1. Attorney-client privileged communications and attorney-client work-product.

2. Information obtained in connection with the approval of leases, sales or transfers.

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

4. personnel records of association or management company employees (but written employment or management agreements are not exempt and the amount of compensation paid is not exempt).

5. medical records of owners or community residents.

6. personally identifying information, such as social security numbers, driver's license numbers, credit card numbers, electronic mailing addresses, telephone numbers, fax numbers, emergency contact information, and any address for an owner other than the address provided for association notice requirements, other than the person's name, parcel designation, mailing address, and property address.

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

8. The software and operating systems used by the association.

9. All affirmative acknowledgements made pursuant to §720.3085(3)(c)3.

D. Delivery and Publication of HOA Documents. Sec. 720.303(4) requires HOAs to furnish copies of the HOA's Rules and CCRs to all members of the HOA, including by publishing them on the HOA's websites homepage, by email, and regular mail.

1. Requirement To Provide Copies Of Rules And Covenants.

a. An association shall provide a physical or digital copy of the association's rules and covenants to every new member of the association.

b. If an association's rules or covenants are amended, the association must provide every member of the association with an updated copy of the amended rules or covenants. An association may adopt rules establishing standards for the manner of distribution and timeframe for providing copies of updated rules or covenants.

c. The requirements of this subsection may be met by posting a complete copy of the association's rules and covenants, or a direct link thereto, on the homepage of the association's website if such website is accessible to the members of the association and the association sends notice to each member of the association of its intent to utilize the website for this purpose. Such notice must be sent in both of the following ways:

i. By electronic mail to any member of the association who has consented to receive notices by electronic transmission and provided an electronic mailing address to the association for that purpose.

ii. By mail to all other members of the association at the address identified as the member's mailing address in the official records of the association.

2. By January 1, 2025, an association that has 100 or more parcels shall post the following documents on its website or make available such documents through an application that can be downloaded on a mobile device:

a. The articles of incorporation of the association and each amendment thereto.

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

c. The declaration of covenants and a copy of each amendment thereto.

d. The current rules of the association.

e. A list of all current executory contracts or documents to which the association is a party or under which the association or the owners have an obligation or responsibility and, after bidding for the related materials, equipment, or services has closed, a list of bids received by the association within the past year.

f. The annual budget required by subsection (6) and any proposed budget to be considered at the annual meeting.

g. The financial report required by subsection (7) and any monthly income or expense statement to be considered at a meeting.

h. The association's current insurance policies.

i. The certification of each director as required by s. 720.3033(1)(a).

j. All contracts or transactions between the association and any director, officer, corporation, firm, or association that is not an affiliated homeowners' association or any other entity in which a director of an association is also a director or an officer and has a financial interest.

k. Any contract or document regarding a conflict of interest or possible conflict of interest as provided in ss. 468.436(2)(b)6. and 720.3033(2).

l. Notice of any scheduled meeting of members and the agenda for the meeting, as required by s. 720.306, at least 14 days before such meeting. The notice must be posted in plain view on the homepage of the website or application, or on a separate subpage of the website or application labeled "Notices" which is conspicuously visible and linked from the homepage. The association shall also post on its website or application any document to be considered and voted on by the members during the meeting or any document listed on the meeting agenda at least 7 days before the meeting at which such document or information within the document will be considered.

m. Notice of any board meeting, the agenda, and any other document required for such meeting as required by subsection (3), which must be posted on the website or application no later than the date required for notice under subsection (3).

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

4. Upon written request by an owner, the association must provide the owner with a username and password and access to the protected sections of the association's website or application which contains the official documents of the association.

5. The association shall ensure that the information and records described in 720.303(5)(g), which are not allowed to be accessible to owners, are not posted on the association's website or application. If protected information or information restricted from being accessible to owners is included in documents that are required to be posted on the association's website or application, the association must ensure the information is redacted before posting the documents. Notwithstanding the foregoing, the association or its authorized agent is not liable for disclosing information that is protected or restricted under 720.303 (5)(g) unless such disclosure was made with a knowing or intentional disregard of the protected or restricted nature of such information.

E. Requirement To Provide An Accounting. An owner may make a written request to the board for a detailed accounting of any amounts he or she owes to the association related to the parcel, and the board shall provide such information within 15 business days after receipt of the written request. After an owner makes such written request to the board, he or she may not request another detailed accounting for at least 90 calendar days. Failure by the board to respond within 15 business days to a written request for a detailed accounting constitutes a complete waiver of any outstanding fines of the person who requested such accounting which are more than 30 days past due and for which the association has not given prior written notice of the imposition of the fines.

F. Law Enforcement Subpoenae. If an association receives a subpoena for records from a law enforcement agency, the association must provide a copy of such records or otherwise make the records available for inspection and copying to a law enforcement agency within 5 business days after receipt of the subpoena, unless otherwise specified by the law enforcement agency or subpoena. An association must assist a law enforcement agency in its investigation to the extent permissible by law.

G. Criminal Penalties.

1. Any director or member of the board or association or a community association manager who knowingly, willfully, and repeatedly violates 720.303(5) (a), with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. For purposes of this paragraph, the term "repeatedly" means two or more violations within a 12-month period.

2. Any person who knowingly and intentionally defaces or destroys accounting records during the period in which such records are required to be maintained, or who knowingly or intentionally fails to create or maintain accounting records that are required to be created or maintained, with the intent of causing harm to the association or one or more of its members, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. Any person who willfully and knowingly refuses to release or otherwise produce association records with the intent to avoid or escape detection, arrest, trial, or punishment for the commission of a crime, or to assist another person with such avoidance or escape, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

V. Budgets & Reserves.

A. Budgets. A budget is a financial plan that estimates the anticipated income and expenses of an association for a fiscal year. It determines the amount or amounts of the annual dues and assessments (not including special assessments). It includes a budget for reserve funding. All associations are required to prepare annual budgets and hold an annual budget meeting. See §720.303(6).

B. Reserves. Pursuant to §720.303(6)(b), associations may fund and maintain reserves for capital expenditures and deferred maintenance. NOTE that in Chapter 720 homeowner associations establishing reserve accounts is optional, but once established reserve accounts must be maintained unless terminated by a vote of the owners; however, pursuant to §720.303(6)(f), reserves may be waived or reduced by a vote of the owners on an annual basis by majority vote at the annual meeting of owners.

1. Reserve Methodologies and Reserve Study. Pursuant to §720.303(6)(e) and (g)1.b., the calculation of the amounts to include in the association's budget for reserves must be based upon the estimated deferred maintenance cost of the reserve components less the estimated balance of the reserve component at the beginning of the budget period, with the remainder, if greater than zero, divided by the estimated remaining useful life of the components. Associations may rely upon the developer's original reserve calculations or a reserve study to calculate the remaining useful life and estimated cost of replacement of components. Reserve calculations should be updated periodically, preferably by reserve studies, and calculations should be adjusted from

time to time as maintenance is performed on reserve items. An Associations should work with its manager, accountant, engineer and a reserve specialist to conduct a reserve study.

2. Interest on Reserve Funds. Pursuant §720.303(6)(h) reserve funds and any interest accruing on them must remain in the reserve account or accounts and may be used only for authorized reserve expenditures unless and until their use for another purpose is approved by the owners by majority vote at a meeting at which a quorum is present.

3. Disclosure. If the budget of an association does not provide for reserves and the association is responsible for repair and maintenance of capital improvements that may result in a special assessment if there are no reserves, then the budget must include the disclosure statement in §720.303(6)(c)1., and if reserves are set up by an association but not funded, then the budget must include the disclosure statement in §720.303(6)(c)2.

VI. Financial Reporting.

A. Annual Financial Report. Per §720.303(7) within (90) days after the end of its fiscal year, or annually on a date provided in its bylaws, an association must prepare and complete a financial report for the preceding fiscal year. Within twenty-one (21) days after the final financial report is completed by the association or received from a third party, but not later than 120 days after the end of the fiscal year or other date provided in the bylaws, an association must provide each owner with a copy of the financial report or written notice that a copy of the financial report is available upon request at no charge to the owner.

B. Financial Report Requirements. Per §720.303(7), financial reports must be prepared in accordance with generally accepted account principles (GAAP), based upon the association's total annual revenues.

1. An association with total annual revenues of $150,000 or more, but less than $300,000, must prepare compiled financial statements.

2. An association with total annual revenues of $300,000 or more, but less than $500,000, must prepare reviewed financial statements.

3. An association with total annual revenues of $500,000 or more must prepare audited financial statements.

5. An association with at least 1,000 parcels shall prepare audited financial statements, notwithstanding the association’s total annual revenues.

6. An association with total annual revenues of less than $150,000 must prepare a report of cash receipts and expenditures.

7. Reports must disclose the amount of receipts and expenses by account and receipt classifications, including, but not limited to, security, professional and management fees, taxes, costs for recreational facilities, refuse collection and utility services, lawn care, building maintenance and repair, insurance, administration and salary, and reserves if the association maintains reserves.

8. An association may not prepare a financial statement pursuant to this paragraph for consecutive fiscal years.

C. Taxes. Associations may be either for-profit or not-for-profit. Community associations that are not-for-profit but not tax-exempt may avail themselves of the IRS Common Interest Realty Association (CIRA) rules for community associations under IRC §528 and may choose annually whether to file as a regular corporation (IRS Form 1120C) or as a homeowners' association (IRS Form 1120H). Not-for-profit homeowner associations may elect to file for tax-exempt status under IRC 501(c)(7), and file tax returns on IRS Form 990.

D. Corporate Transparency Act. On March 26, 2026, the Corporate Transparency Act ("CTA"), Financial Crimes Enforcement Network ("FinCEN") rules were suspended as to U.S. entities and now apply only to foreign entities.

VII. Member Meetings.

A. Annual Membership Meetings. Sec. 720.306(2) requires every association to a meeting of its members annually for the transaction of any and all proper business at a time, date, and place stated in, or fixed in accordance with, the bylaws. The election of directors, if one is required to be held, must be held at, or in conjunction with, the annual meeting or as otherwise provided in the governing documents, in the manner provided in the governing documents.

B. Special Membership Meetings. Sec. 720.306(3) provides that special meetings must be held when called by the Board of Directors or, unless a different percentage is stated in the documents, by at least 10 percent of the total voting interests of the association. Section 720.306(4) requires that notice of a special meeting include a description of the purpose or purposes of the meeting.

C. Notices. Per §720.306(5), if an association's bylaws don't specify otherwise, the association must give all owners and members actual notice of all membership meetings, which must be mailed, delivered, or emailed to the members not less than 14 days prior to the meeting. An association may also adopt a rule for posting and/or broadcasting notice of any meeting.

D. Proxies.

1. Per §720.303(2)(c)3. Directors may not vote by proxy or secret ballot at board meetings, except that secret ballots may be used in the election of officers.

2. Per §720.306(8)(b) if the governing documents permit voting by secret ballot by members who are not in attendance at a meeting of members for the election of directors, the ballots must be placed in an inner envelope with no identifying markings and mailed or delivered to the association in an outer envelope bearing identifying information reflecting the name of the member, the lot or parcel for which the vote is being cast, and the signature of the owner casting the the ballot.

3. Per §720.306(8)(a) to be valid a proxy must be dated, must state the date, time, and place of the meeting for which it was given, and must be signed by the authorized person who executed the proxy. A proxy is effective only for the specific meeting for which it was originally given, including lawfully adjourned and reconvened meetings. Proxies automatically expire 90 days after the date of the meeting for which it was originally given. A proxy is revocable at any time at the pleasure of the person who executes it. A proxy may appoint a substitute to act in the proxy's place.

4. Examples of the use of proxies are to:
   a. vote to waive or reduce reserves;
   b. vote to waive or reduce annual financial reporting requirements;
   c. vote to roll-over excess funds per IRS Rev. Rule 70-604;
   d. vote on document amendments;
   e. vote on other matters.

F. Voting Eligibility. Persons ineligible to vote are:

1. Owners who are more than ninety (90) days delinquent in the payment of any monetary obligation to the Association;

2. Owners who have been suspended by the Florida Division of Condominiums, Timeshares and Mobile Homes;

3. a person who has been convicted of a felony in the State of Florida or the United States or its territories unless his or her rights have been restored for at least five (5) years;

G. Election Records. Per §720.303(4)(a)12. all election records must be retained for a period of one (1) year.

VIII. Fees, Fines, and Enforcement.

A. Per §720.3085(1), When authorized by the governing documents, the association has a lien on each parcel to secure the payment of assessments and other amounts owed to the association.

B. Per §720.3085(2)(b), an owner, regardless of how title is acquired, is responsible for all assessments coming due while that unit owner is in exclusive possession of that unit. In a voluntary transfer, the unit owner in exclusive possession shall be jointly and severally liable with the previous owner for all unpaid and assessments against the previous unit owner for his or her share of the common expenses up to the time of transfer.

C. The procedure for collecting past due assessments is set forth in §720.3085, and includes:

1. Sending a Notice of Late Assessment in substantially the form set forth in §720.3085(3)(d).

2. Sending a Notice of Intent to Record a Claim Lien in substantially the form set forth in §720.3085(4)(a).

3. Recording a Claim of Lien and mailing it with a Delinquent Assessment letter in substantially the form set forth in §720.3085(5).

4. Filing suit for foreclosure of the Claim of Lien per §720.3085(5).

D. Per 720.3085(3), assessments bear interest at the rate provided in the CCRs or bylaws, if any, and if not, at 18% per year. If the CCRs or bylaws provide, an association may also charge an administrative late fee not to exceed the greater of $25 or 5% of the amount of each installment. Per §720.3085(5)(a), an association may recover interest on unpaid assessments, late fees, costs and attorney's fees. Per §720.3085(b), any payments received are applied first to interest, then to administrative late fees, then to any costs and reasonable attorneys' fees.

E. Fines and suspensions for failure to comply with governing documents and rules under §720.305.

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

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

3. A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' notice to the owner at his or her designated address or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the owner, sought to be fined or suspended and a hearing before a committee of at least three members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The notice must include a description of the alleged violation, the specific action required to cure such violation, if applicable, and the date and location of the hearing. An owner has the right to attend a hearing by telephone or other electronic means.

4. After the hearing, the committee shall provide written notice to the owner at his or her designated mailing or e-mail address in the association’s official records and, if applicable, any occupant, licensee, or invitee of the owner, of the committee’s findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the owner or any occupant, licensee, or invitee of the owner may cure the violation, if applicable.

5. If the proposed fine or suspension levied by the board is approved by the committee by a majority vote, the fine payment is due 5 days after notice of the approved fine is provided to the owner and, if applicable, to any occupant, licensee, or invitee of the owner. The association must provide written notice of such fine or suspension by mail or hand delivery to the owner and, if applicable, to any occupant, licensee, or invitee of the owner.

6. All suspensions imposed must be approved at a properly noticed board meeting. Upon approval, the board must send written notice to the owner and, if applicable, the parcel’s occupant, licensee, or invitee by mail or hand delivery to the owner’s designated mailing or e-mail address in the association’s official records.

F. Exceptions. Notwithstanding any provision to the contrary in an association's governing documents, an association may not levy a fine or impose a suspension for any of the following:

1. Leaving garbage receptacles at the curb or end of the driveway within 24 hours before or after the designated garbage collection day or time.

2. Leaving holiday decorations or lights on a structure or other improvement on a parcel longer than indicated in the governing documents, unless such decorations or lights are left up for longer than 1 week after the association provides written notice of the violation to the owner.

G. Suspensions for failure to pay monetary obligations under 720.305, *Fla. Stat*.

1. If a unit owner is more than 90 days delinquent in paying a monetary obligation due to the association, the association may suspend the right of the unit owner or the unit's occupant, licensee, or invitee to use common elements, common facilities, or any other association property until that monetary obligation is paid in full. The exclusions for access, utilities, parking spaces and elevators also apply to these suspensions.

2. The association may suspend the voting rights of a unit or member due to nonpayment of any monetary obligation due to the association which is more than 90 days delinquent, and any such suspension does not end until there has been full payment of all obligations currently due or overdue from that unit or member. Any such suspension results in that suspended unit or member being removed from the total number of voting interests for any purpose, including the number needed for a quorum, to conduct an election, or to approve an action under Chapter 720 or the association's governing documents.

3. Suspensions for failure to pay monetary obligations do not require a hearing but may not be imposed by the board until approved at a properly noticed board meeting and the association must then notify the unit owner, and, if applicable, the unit's occupant, licensee, or invitee by mail or hand delivery.

IX. Amending Association Documents.

A. Membership Vote Requirements. Per §720.306(1)(b), unless otherwise provided in the governing documents or required by law, and other than those matters set forth in paragraph (c), any governing document of an association may be amended by the affirmative vote of two-thirds of the voting interests of the association. Within 30 days after recording an amendment to the governing documents, the association shall provide copies of the amendment to the members. However, if a copy of the proposed amendment is provided to the members before they vote on the amendment and the proposed amendment is not changed before the vote, the association, in lieu of providing a copy of the amendment, may provide notice to the members that the amendment was adopted, identifying the official book and page number or instrument number of the recorded amendment and that a copy of the amendment is available at no charge to the member upon written request to the association. The copies and notice described in this paragraph may be provided electronically to those owners who previously consented to receive notice electronically. The failure to timely provide notice of the recording of the amendment does not affect the validity or enforceability

of the amendment. Per §720.306(1)(f), an immaterial error or omission in the amendment process does not invalidate an otherwise properly adopted amendment.

B. Alteration of Voting Interests. Per §720.306(1)(c), unless otherwise provided in the governing documents as originally recorded or permitted by this chapter or chapter 617, an amendment may not materially and adversely alter the proportionate voting interest appurtenant to a parcel or increase the proportion or percentage by which a parcel shares in the common expenses of the association unless the record owner and all record owners of liens on the parcels join in the execution of the amendment. For purposes of this section, a change in quorum requirements is not an alteration of voting interests. The merger or consolidation of one or more associations under a plan of merger or consolidation under part I of chapter 607 or chapter 617 is not a material or adverse alteration of the proportionate voting interest appurtenant to a parcel.

C. Proposals to Amend Documents. Per 720.306(1)(e), a proposal to amend the governing documents must contain the full text of the provision to be amended and may not be revised or amended by reference solely to the title or number. Proposed new language must be underlined, and proposed deleted language must be stricken. If the proposed change is so extensive that the underlining and striking through would hinder, rather than assist, the understanding of the proposed amendment, a notation must be inserted immediately preceding the proposed amendment in substantially the following form: "Substantial rewording. See governing documents for current text".

D. Material Alterations. Unlike Chapter 718, the Florida Condominium Act, Chapter 720 does not define "material alteration" of the common property or facilities and defers to the association's governing documents.

X. Estoppel Certificates. Per §720.30851, within 10 business days after a written or electronic request for an estoppel certificate from an owner or the owner's mortgagee or the parcel mortgagee's designee, the association shall issue an estoppel certificate. Each association shall designate on its website a person or entity with a street address for receipt of a request for an estoppel certificate. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate. The estoppel certificate must be in substantially the form set forth in §720.30851 and may contain additional information. An estoppel certificate is effective for 30 days. An association waives its right to collect any moneys owed in excess of the amounts specified in the estoppel certificate. The association or its authorized agent (for example, its management company) may charge a reasonable fee for preparation and delivery of the estoppel certificate, which may not exceed $299, if the owner's account is not delinquent, an additional $179 if delinquent, and $119 if the certificate is requested on a "rush" basis for delivery within 3 business days.

XI. Debit Cards.

A. An association and its officers, directors, employees, and agents may not use a debit card issued in the name of the association, or billed directly to the association, for the payment of any association expenses.

B. A person who uses a debit card issued in the name of the association, or billed directly to the association, for any expense that is not a lawful obligation of the association commits theft as provided under s. 812.014.

For the purposes of this subsection, the term "lawful obligation of the association" means an obligation that has been properly preapproved by the board and is reflected in the meeting minutes or the written budget.

XII. Dispute resolution.

A. Sec. 720.311(1) provides for the use of §718.1255 for the resolution of election disputes and recall disputes, which are handled by the Division in exactly the same way as disputes under the Condominium Act. Sec. 718.1255 provides parties with the option of making demand for mediation called a Statutory Offer of Pre-suit Mediation, or filing a Petition for Arbitration with the DBPR.

B. Sec. 720.311(2) sets forth a procedure for pre-suit mediation for certain other non-monetary disputes between an association and an owner.

XIII. Election of Board Members.

A. Elections. Per §720.306(9), elections of directors must be conducted in accordance with the procedures set forth in the governing documents. Unless otherwise provided in an association's governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters. Any challenge to the election process must be commenced within 60 days after the election results are announced. Election disputes are subject to arbitration per §718.1255.

B. Eligibility.

1. Per §720.306(9)(a), a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held, however, if the election process (per the associations governing documents) allows candidates to be nominated in advance of the meeting, the association is not required to allow nominations at the meeting.

2. Per §720.306(9)(b), a person who is delinquent in the payment of any fee, fine, or other monetary obligation to the association on the day that he or she could last nominate himself or herself or be nominated for the board may not seek election to the board, and his or her name shall not be listed on the ballot.

3. An election is not required unless there are more candidates are nominated than vacancies exist.

C. Electronic Voting. Electronic Voting is available pursuant to §720.317.

D. Criminal Penalties for Voting Fraud. Each of the following acts is a fraudulent voting activity relating to association elections and constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

1. Willfully and falsely swearing to or affirming an oath or affirmation, or willfully procuring another person to falsely swear to or affirm an oath or affirmation, in connection with or arising out of voting activities.

2. Perpetrating or attempting to perpetrate, or aiding in the perpetration of, fraud in connection with a vote cast, to be cast, or attempted to be cast.

3. Preventing a member from voting or preventing a member from voting as he or she intended by fraudulently changing or attempting to change a ballot, ballot envelope, vote, or voting certificate of the member.

4. Menacing, threatening, or using bribery or any other corruption to attempt, directly or indirectly, to influence, deceive, or deter a member when the member is voting.

5. Giving or promising, directly or indirectly, anything of value to another member with the intent to buy the vote of that member or another member or to corruptly influence that member or another member in casting his or her vote. This subsection does not apply to any food served which is to be consumed at an election rally or a meeting or to any item of nominal value which is used as an election advertisement, including a campaign message designed to be worn by a member.

6. Using or threatening to use, directly or indirectly, force, violence, or intimidation or any tactic of coercion or intimidation to induce or compel a member to vote or refrain from voting in an election or on a particular ballot measure.

XIV. Budgets and Reserves.

A. Annual Budget.

1. The association prepares an annual budget showing the revenues and expenses for the upcoming year.

2. A budget is a guideline that helps the board make decisions throughout the year. It is a board's best estimate of their association's expected revenues and expenses.

3. Both the proposed and adopted annual budgets constitute official records of the association and should be maintained along with the affidavit evidencing that the proposed budget and the notice of the budget meeting have been mailed, hand delivered, or electronically transmitted to each unit owner.

4. The estimated operating budget should include the following:

a. The estimated common expenses or expenditures on an annual basis.

b. The beginning and ending dates of the period covered by the budget.

c. The total assessment for each type of unit in the proportions or percentages of sharing the common expenses provided in the governing documents on a monthly basis, or for any period for which assessments will be due.

B. Budget Procedures. Sec. 720.303(6).

1. Board delivers to its members, not less than 14 days prior to the meeting where the Board is to vote on the budget, the meeting notice and a copy of the proposed budget or a written notice that a copy of the budget is available upon request at no charge to the member.

2. If the budget of an association does not provide for reserves and the association documents do not provide for reserve accounts, then the budget must contain the statement required by §720.303(6)(c)1.

3. If the budget of an association does provide for reserves, but the reserve accounts have not been created or established, then each financial report must contain the statement required by §720.303(6)(c)2.

XV. Financial Reporting.

A. Annual Financial Report. All associations are required to prepare an annual financial report. The level of reporting is based upon the annual gross revenue of the association. The requirements for financial reporting are in §720.303(7) and provide that:

1. associations with total annual revenues in excess of $500,000 shall prepare audited financial statements;

2. associations with annual revenues between $300,000 and $499,999 shall prepare reviewed financial statements;

3. associations with total annual revenues between $150,000 and $299,999 shall prepared compiled financial statements;

4. associations with total annual revenues of less than $150,000 shall prepare a report of cash receipts and expenditures. A report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, costs for security, professional, and management fees and expenses, taxes, costs for recreation facilities, expenses for refuse collection and utility services, expenses for lawn care, costs for building maintenance and repair, insurance, administration and salary, and reserves if reserves are maintained by the association.

B. Waiver of Reporting Requirements. Pursuant to §720.303(7)(d), owners may vote annually to reduce the level of financial reporting by the association.

1. Proxies. Waiver and reduction of financial reporting requirements is usually done by Limited Proxy. The proxy should specify whether the association is proposing a complete waiver of financial statements for the fiscal year in question or a reduction to the next lower level of financial reporting. Sec. 720.303(7)(d) allows for a "waiver" at all levels, however, at a minimum, an association must make a report of cash receipts and expenditures.

2. Meeting. The meeting to waive the financial reporting requirement must be held prior to the end of the fiscal year and the waiver is effective for only one fiscal year.

3. Increasing Reporting Requirements. Sec. 720.303(7)(c) provides that, if at least twenty (20) per cent of the unit owners petition the board for a greater level of financial reporting than required, the board must hold a membership meeting within thirty (30) days of its receipt of that petition to vote on raising the level of reporting for that fiscal year.

C. Time Requirement for providing Financial Reports. Within ninety (90) days following the end of the fiscal or calendar year or annually on such date as provided in the bylaws of the association, the board must prepare and complete, or contract with a third party to prepare and complete, a financial report covering the preceding fiscal or calendar year. Within twenty-one (21) days after the financial report is completed by the association or received from the third party, but no later than one hundred and twenty (120) days after the end of the fiscal year, calendar year, or other date provided in the bylaws, the association must provide each unit owner with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the unit owner.

XVI. Architectural Control – Sec. 720.3035 *Florida Statutes*.

A. The authority of an association or any architectural, construction improvement, or other such similar committee of an association to review and approve plans and specifications for the location, size, type, or appearance of any structure or other improvement on a parcel, or to enforce standards for the external appearance of any structure or improvement located on a parcel, shall be permitted only to the extent that the authority is specifically stated or reasonably inferred as to such location, size, type, or appearance in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants. An association or any architectural, construction improvement, or similar committee of an association must reasonably and equitably apply and enforce on all owners the architectural and construction improvement standards authorized by the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants.

B. An association or any architectural, construction improvement, or other such similar committee of an association may not enforce or adopt a covenant, rule, or guideline that:

1. Limits or places requirements on the interior of a structure that is not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course.

2. Requires the review and approval of plans and specifications for a central air-conditioning, refrigeration, heating, or ventilating system by the association or any architectural, construction improvement, or other such similar committee of an association, if such system is not visible from the parcel's frontage, an adjacent parcel, an adjacent common area, or a community golf course and is substantially similar to a system that is approved or recommended by the association or a committee thereof.

C. If the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants provides options for the use of material, the size of the structure or improvement, the design of the structure or improvement, or the location of the structure or improvement on the parcel, neither the association nor any architectural, construction improvement,

or other such similar committee of the association shall restrict the right of an owner to select from the options provided in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants.

D. Unless otherwise specifically stated in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, each parcel shall be deemed to have only one front for purposes of determining the required front setback even if the parcel is bounded by a roadway or other easement on more than one side. When the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants do not provide for specific setback limitations, the applicable county or municipal setback limitations shall apply, and neither the association nor any architectural, construction improvement, or other such similar committee of the association shall enforce or attempt to enforce any setback limitation that is inconsistent with the applicable county or municipal standard or standards.

E. 1. Each owner is entitled to the rights and privileges set forth in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants concerning the architectural use of the parcel, and the construction of permitted structures and improvements on the parcel. Such rights and privileges may not be unreasonably infringed upon or impaired by the association or any architectural, construction improvement, or other such similar committee of the association. If the association or any architectural, construction improvement, or other such similar committee of the association denies an owner's request or application for the construction of a structure or other improvement on a parcel, the association or committee must provide written notice to the owner stating with specificity the rule or covenant on which the association or committee relied when denying the request or application and the specific aspect or part of the proposed improvement that does not conform to such rule or covenant.

2. If the association or any architectural, construction improvement, or other such similar committee of the association should unreasonably, knowingly, and willfully infringe upon or impair the rights and privileges set forth in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, the adversely affected owner is entitled to recover damages caused by such infringement or impairment, including any costs and reasonable attorney fees incurred in preserving or restoring the rights and privileges of the owner set forth in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants.

F. Neither the association nor any architectural, construction improvement, or other such similar committee of the association shall enforce any policy or restriction that is inconsistent with the rights and privileges of an owner set forth in the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, whether uniformly applied or not. Neither the association nor any architectural, construction improvement, or other such similar committee of the association may rely upon a policy or restriction that is inconsistent with the declaration of covenants or other published guidelines and standards authorized by the declaration of covenants, whether uniformly applied or not, in defense of any action taken in the name of or on behalf of the association against an owner.

G. 1. To protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by owners, this subsection applies to all homeowners' associations in the state, regardless of when the community was created.

The board or any architectural, construction improvement, or other such similar committee of an association must adopt hurricane protection specifications for each structure or other improvement on a parcel governed by the association. The specifications may include the color and style of hurricane protection products and any other factor deemed relevant by the board. All specifications adopted by the board must comply with the applicable building code.

2. Notwithstanding any other provision in the governing documents of the association, the board or any architectural, construction improvement, or other such similar committee may not deny an application for the installation, enhancement, or replacement of hurricane protection by an owner which conforms to the specifications adopted by the board or committee. The board or committee may require an owner to adhere to an existing unified building scheme regarding the external appearance of the structure or other improvement on the parcel.

3. For purposes of this subsection, the term "hurricane protection" includes, but is not limited to, roof systems recognized by the Florida Building Code which meet ASCE 7-22 standards, permanent fixed storm shutters, roll-down track storm shutters, impact-resistant windows and doors, polycarbonate panels, reinforced garage doors, erosion controls, exterior fixed generators, fuel storage tanks, and other hurricane protection products used to preserve and protect the structures or improvements on a parcel governed by the association.

XVII. Right to Assemble; Flags; SLAPP suits; Access Ramps; Security Signs; Storage – Secs. 720.304 – 3045.

A. Right to Peaceably Assemble.

1. Access to Common Areas. All common areas and recreational facilities serving any homeowners' association shall be available to owners in the homeowners' association served thereby and their invited guests for the use intended for such common areas and recreational facilities. The entity or entities responsible for the operation of the common areas and recreational facilities may adopt reasonable rules and regulations pertaining to the use of such common areas and recreational facilities. No entity or entities shall unreasonably restrict any owner's right to peaceably assemble or right to invite public officers or candidates for public office to appear and speak in common areas and recreational facilities.

2. Religious Services. A total ban on religious services was held not a violation of the Fair Housing Act provided the association provides a non-discriminatory rationale for the total ban. Savanna Club Worship Service, Inc. v. Savanna Club Homeowners Association, Inc., 456 F.Supp.2d 1233 U.S. Dist. Ct., S.D. Florida 2005; Neuman v. Grandview at Emerald Hills, Inc., 861 So.2d 494, Fla. 4th DCA 2003. However, if an association allows religious services, then an association may not "pick and choose" which religious groups it allows to have services in or on the common property and facilities.

B. Flags.

If any covenant, restriction, bylaw, rule, or requirement of an association prohibits a homeowner from displaying flags permitted under this paragraph, the homeowner may still display in a respectful manner up to two of the following portable, removable flags, not larger than 4 1/2 feet by 6 feet:

1. The United States flag.

2. The official flag of the State of Florida.

3. A flag that represents the United States Army, Navy, Air Force, Marine Corps, Space Force, or Coast Guard.

4. A POW-MIA flag.

5. A first responder flag. A first responder flag may incorporate the design of any other flag permitted under this paragraph to form a combined flag. For purposes of this subsection, the term "first responder flag" means a flag that recognizes and honors the service of any of the following:

a. Law enforcement officers as defined in s. 943.10(1).

b. Firefighters as defined in s. 112.191(1).

c. Paramedics or emergency medical technicians as those terms are defined in s. 112.1911(1).

d. Correctional officers as defined in s. 943.10(2).

e. 911 public safety telecommunicators as defined in s. 401.465(1).

f. Advanced practice registered nurses, licensed practical nurses, or registered nurses as those terms are defined in s. 464.003.

g. Persons participating in a statewide urban search and rescue program developed by the Division of Emergency Management under s. 252.35.

h. Federal law enforcement officers as defined in 18 U.S.C. s. 115(c)(1).

Regardless of any covenants, restrictions, bylaws, rules, or requirements of the association, a homeowner may erect a freestanding flagpole no more than 20 feet high on any portion of the homeowner's real property as long as the flagpole does not obstruct sightlines at intersections and is not erected within or upon an easement. The homeowner may further display in a respectful manner from that flagpole one official United States flag, not larger than 4½ feet by 6 feet, and may additionally display one other flag permitted under paragraph (a). Such additional flag must be equal in size to or smaller than the United States flag. The flagpole and display are subject to all building codes, zoning setbacks, and other applicable governmental regulations, including, but not limited to, noise and lighting ordinances in the county or municipality in which the flagpole is erected and all setback and locational criteria contained in the governing documents.

This subsection applies to all community development districts and homeowners' associations, regardless of whether such homeowners' associations are authorized to impose assessments that may become a lien on the parcel.

C. SLAPP suits.

A. It is the intent of the Legislature to protect the right of owners to exercise their rights to instruct their representatives and petition for redress of grievances before the various governmental entities of this state as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution. The Legislature recognizes that "Strategic Lawsuits Against Public Participation" or "SLAPP" suits, as they are typically called, have occurred

when members are sued by individuals, business entities, or governmental entities arising out of an owner's appearance and presentation before a governmental entity on matters related to the homeowners' association. However, it is the public policy of this state that government entities, business organizations, and individuals not engage in SLAPP suits because such actions are inconsistent with the right of owners to participate in the state's institutions of government. Therefore, the Legislature finds and declares that prohibiting such lawsuits by governmental entities, business entities, and individuals against owners who address matters concerning their homeowners' association will preserve this fundamental state policy, preserve the constitutional rights of owners, and assure the continuation of representative government in this state. It is the intent of the Legislature that such lawsuits be expeditiously disposed of by the courts.

B. The term "governmental entity" means the state, including the executive, legislative, and judicial branches of government, the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions, or any agencies of these branches which are subject to chapter 286.

C. A governmental entity, business organization, or individual in this state may not file or cause to be filed through its employees or agents any lawsuit, cause of action, claim, cross-claim, or counterclaim against an owner without merit and solely because such owner has exercised the right to instruct his or her representatives or the right to petition for redress of grievances before the various governmental entities of this state, as protected by the First Amendment to the United States Constitution and s. 5, Art. I of the State Constitution.

D. An owner sued by a governmental entity, business organization, or individual in violation of this section has a right to an expeditious resolution of a claim that the suit is in violation of this section. An owner may petition the court for an order dismissing the action or granting final judgment in favor of that owner. The petitioner may file a motion for summary judgment, together with supplemental affidavits, seeking a determination that the governmental entity's, business organization's, or individual's lawsuit has been brought in violation of this section. The governmental entity, business organization, or individual shall thereafter file its response and any supplemental affidavits. As soon as practicable, the court shall set a hearing on the petitioner's motion, which shall be held at the earliest possible time after the filing of the governmental entity's, business organization's, or individual's response. The court may award the owner sued by the governmental entity, business organization, or individual actual damages arising from the governmental entity's, individual's, or business organization's violation of this section. A court may treble the damages awarded to a prevailing owner and shall state the basis for the treble damages award in its judgment. The court shall award the prevailing party reasonable attorney's fees and costs incurred in connection with a claim that an action was filed in violation of this section.

E. Homeowners' associations may not expend association funds in prosecuting a SLAPP suit against an owner.

F. In *Vericker v. Powell*, 406 So.3d 939 (Fla. 2025), the Florida Supreme Court broadened Florida's anti-SLAPP protections. The Court said that "the statute's text conveys the Legislature's objective that lawsuits targeting protected speech be expeditiously resolved" and cited the "unique timing requirement that is not part of typical civil cases, as claims must be resolved 'at the earliest possible time' once the necessary filings are submitted." The Court also recognized that the statute deters violations of speech-chilling lawsuits through attorney-fee awards and actual

damages. Based on the Legislature's intent, and a recent proposal to amend Florida Rule of Appellate Procedure 9.130, the Court held that immediate review of nonfinal orders denying qualifying anti-SLAPP motions was needed, relying on its "constitutional authority to ensure that Florida's procedural rules of court manifest the substantive legal enactments of the Legislature." Accordingly, through a separate opinion, the Court amended Florida Rule of Appellate Procedure 9.130(a)(3) to authorize review of this class of nonfinal orders, *which includes Fla. Stat.* §718.1224, §*720.304(4)*, and §768.295.

D. Access Ramps.

Any owner may construct an access ramp if a resident or occupant of the parcel has a medical necessity or disability that requires a ramp for egress and ingress under the following conditions:

1. The ramp must be as unobtrusive as possible, be designed to blend in aesthetically as practicable, and be reasonably sized to fit the intended use.

2. Plans for the ramp must be submitted in advance to the homeowners' association. The association may make reasonable requests to modify the design to achieve architectural consistency with surrounding structures and surfaces.

The owner must submit to the association an affidavit from a physician attesting to the medical necessity or disability of the resident or occupant of the parcel requiring the access ramp. Certification used for §320.0848 shall be sufficient to meet the affidavit requirement.

E. Security Signs.

Any owner may display a sign of reasonable size provided by a contractor for security services within 10 feet of any entrance to the home.

F. Storage.

Regardless of any covenants, restrictions, bylaws, rules, or requirements of an association, and unless prohibited by general law or local ordinance, an association may not restrict owners or their tenants from installing, displaying, or storing any items on a parcel which are not visible from the parcel's frontage or an adjacent parcel, an adjacent common area, or a community golf course, including, but not limited to, artificial turf, boats, flags, vegetable gardens, clotheslines, and recreational vehicles.

XVIII. Marketable Record Title Act ("MRTA").

A. Effect of MRTA. The Florida Marketable Record Title Act, Chapter 712, *Fla. Stat.*, extinguishes community covenants, conditions and restrictions thirty (30) years after the "root of title" unless the community records notice of intent to preserve its covenants, conditions and restrictions.

B. Notice of Association Information. Per §720.3032, any property owners' association desiring to preserve covenants from potential termination after thirty (30) years by operation of Chapter 712 may record in the official records of the county in which the community is located a notice to preserve and protect the covenants called a STATEMENT OF MARKETABLE TITLE ACTION. Secs. 712.05, 712.06 and 720.3032(2) set forth the forms to be used and procedures

to be followed. Per subsection 720.3032(3), a copy of the notice must be sent to all members. Per subsection 720.3032(4), the original notice must be recorded in the public records of the County in which the community is located. *The procedures must be followed to letter in order to be effective*.

C. Board Responsibility. Per §720.303(3)(e), at the first board meeting, excluding the organizational meeting, which follows the annual meeting of members, the board shall consider the desirability of filing notices to preserve the covenants or restrictions affecting the community or association from extinguishment under the Marketable Record Title Act, chapter 712, and to authorize and direct the appropriate officer to file notice in accordance with §720.3032.

D. Revitalization. If a community's covenants or restrictions have been extinguished by MRTA §712.12 sets for the procedure for revitalizing expired covenants and restrictions. The requirements are extensive and beyond the scope of these materials.

E. Sec. 712.065 of MRTA extinguishes discriminatory restrictions, declares them unenforceable, and provides a procedure for removing them.

XIX. Notices. Section 1.01(11), *Fla. Stat.*, was amended to revise the definition of "certified mail" and “registered mail” and to expand upon the kinds of delivery services that may be used to comply with statutory requirements. The term is expanded to not only include traditional services offered by the U.S. Postal Service, but also add flexibility and to clarify that private delivery services that are regularly engaged in the delivery of documents and which provides proof of mailing, shipping and proof of delivery meet the statutory notice of delivery requirements. Simply put, if a Florida law says that something must be sent by certified mail or registered mail, it may be sent by any form of delivery that provides tracking and proof of delivery, e.g., FedEx, UPS, etc.).

XX. Flood Disclosure. Sec. 689.302, Fla. Stat., was amended effective Oct. 1, 2025 to revise the flood information that must be disclosed to prospective purchasers of residential property:

Sec. 689.302 Disclosure of flood risks to prospective purchaser.—A seller must complete and provide a flood disclosure to a purchaser of residential real property at or before the time the sales contract is executed. The flood disclosure must be made in the following form:

FLOOD DISCLOSURE

Flood Insurance: Homeowners’ insurance policies do not include coverage for damage resulting from floods. Buyer is encouraged to discuss the need to purchase separate flood insurance coverage with Buyer’s insurance agent.

(1) Seller has ☐ has no ☐ knowledge of any flooding that has damaged the property during Seller’s ownership of the property.

(2) Seller has ☐ has not ☐ filed a claim with an insurance provider relating to flood damage on the property, including, but not limited to, a claim with the National Flood Insurance Program.

(3) Seller has ☐ has not ☐ received assistance for flood damage to the property, including, but not limited to, assistance from the Federal Emergency Management Agency.

(4) For the purposes of this disclosure, the term "flooding" means a general or temporary condition of partial or complete inundation of the property caused by any of the following:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation of runoff or surface waters from any established water source, such as a river, stream, or drainage ditch.

(c) Sustained periods of standing water resulting from rainfall.

Associations are not responsible for providing this disclosure unless the association is the seller of the property.

XXI. Squatter Removal Statute. Sec. 82.036 of the Florida Forcible Entry and Unlawful Detainer Act was amended and 83.037 created to create an alternate remedy to remove unauthorized persons from residential real property by filing a complaint for an expedited Court hearing for removal of squatters and transients. The complaint must be filed by the property owner. The changes were effective July 1, 2025.

XXII. Sources of Association Authority and Responsibilities.

A. Sources of Association's Powers and Board's Legal Authority.

1. Florida Statutes and Florida Administrative Code Rules.

a. Chapters 720, *Florida Statutes*;
b. Florida Administrative Code Rules 61B-80 - 85, F.A.C.;
c. Chapter 607, *Florida Statutes* (if for-profit); *or*
Chapter 617, *Florida Statutes* (if not-for-profit).

2. Governing Documents.

a. Articles of Incorporation;
b. Bylaws;
c. Covenants, Conditions & Restrictions (CCRs);
d. Rules & Regulations.

B. Limitations on Associations' Powers and Board's Authority.

1. Statutory Limitations.

a. Federal Constitution & Bill of Rights.
i. Civil Rights and fundamental freedoms.
ii. Contract limitations.

b. Federal Statutes and Rules.

i. Civil Rights laws.

(1) Americans with Disabilities Act of 1990 (ADA)
(2) Civil Rights Acts of 1964, 1965, 1968 and/ 1988
(3) Fair Housing Acts of 1968 and 1988

ii. Consumer Protection laws.

(1) Fair Debt Collections Practices Act (FDCPA)
(2) Dodd-Frank Act
(3) Graham-Leach-Bliley Privacy Act

iii. Securities laws.

iv. Real Estate & Real Estate finance laws.
(1) Real Estate Settlement Procedures Act (RESPA)
(2) Truth-in-Lending Act (TILA)
(3) Equal Credit Opportunity Act (ECOA)
(4) Foreign Investments in Real Property Tax Act (FIRPTA)

c. Code of Federal Regulations (C.F.R.s).

d. Federal Agencies.

i. Army Corp of Engineers (ACoE).
ii. Consumer Finance Protection Bureau (CFPB).
iii. Environmental Protection Agency (EPA).
iv. Dept. Of Housing & Urban Development (HUD).
v. US Dept. of Justice (ADA & Fair Housing).

2. State Statutes.

a. Chapter 607, *Florida Statutes*, the Florida Corporations Act, *or*
b. Chapter 617, *Florida Statutes*, the Florida Corporation Not-For-Profit Act.
c. Chapter 720, *Florida Statutes*, the Florida Homeowners Association Act.
d. The Florida Debt Collections Practices Act (FDCPA)
e. Chapter 509, *Florida Statutes* - short-term rentals
f. Florida Civil Rights Act of 1992 (ss. 760.01-760.11, *Florida Statutes*)

3. Florida Administrative Code. Chapters 61B-780-85, F.A.C.

4. Governing Documents vs. Statutes.

a. "Kaufman" language (*Kaufman v. Shere*, 347 So.2d 627 Fla. 3d DCA 1977), and *see also Tropicana Condominium Association, Inc., v. Tropical Condominium, LLC*, 208 So.3d 755 Fla. 3d DCA 2016) (for example, "This Declaration is subject to Chapter 720, Florida Statutes, as it may be amended from time to time…") deems an association's governing documents to be automatically amended to match statutory amendments, changes and revisions as they occur from time-to-time.

b. "substantive" rights vs. "procedural rights"

i. Substantive rights are protected by the Constitution and cannot be changed by the government; however, they may, on rare occasion, be changed by the courts (e.g., Civil Rights).

ii. Procedural rights are not protected, and may be changed by the government or the courts.

3. Statutory Permissive, Prohibitory, Default & Optional Provisions. Statutory requirements may be divided into four (4) general types:

a. Mandatory / obligatory provisions ("thou shalt do this")

b. "Default" or "permissive" provisions ("if your documents don't say, then do this")

c. Prohibitions ("thou shall not do this")

d. Optional provisions ("you may do this if you want to and you say so in your governing documents")

C. Association Powers.

1. Powers and duties include those provided in the laws governing corporations (Chapter 607 if for-profit or Chapter 617 if not-for-profit) in addition to those powers and duties provided in the §720.303(1).

2. Per §720.308(1), for any association created after October 1, 1985, associations have the power to levy assessments provided for in the association's governing documents. The governing documents must provide for levying assessments and specify the member's proportional share.

3. The association may enter into contracts and may sue or be sued with respect to the exercise or non-exercise of its powers, and may file, settle or appeal actions or hearings in its name on behalf of all unit owners concerning matters of common interest to most or all unit owners.

4. Consistent with §617.0830, in connection with emergencies as defined in §252.34(4), for which a State of Emergency has been declared per §252.36, associations have the emergency powers set forth in §720.316.

D. Association Prohibitions.

1. Association documents may not prohibit the display of one portable, removable United States flag by property owners.

2. Associations may not prohibit "Florida friendly" landscaping as defined in §373.185.