

# **CHAPTER 723 FLORIDA STATUTES**

## **THE FLORIDA MOBILE HOME ACT**

and

*Chapters 61B-29 through 33, 35, and 50  
Florida Administrative Code*



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Chapter 723 of the Florida Statutes, also known as the Florida Mobile Home Act, is a chapter of the law that governs the rental or leasing of mobile home lots in the State of Florida. The Florida Mobile Home Act should be read in conjunction with Chapters 61B–29 through 33, 35 and 50, Florida Administrative Code. These administrative rules are promulgated by the Division of Florida Condominiums, Timeshares and Mobile Homes to interpret, enforce, and implement Chapter 723, Florida Statutes. Due to period changes to the statute and administrative rules, readers should inquire periodically to ensure they are referring to the most recently revised copy.

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## CHAPTER 723

## MOBILE HOME PARK LOT TENANCIES

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**723.001 Short title.**—This chapter shall be known and may be cited as the “Florida Mobile Home Act.”

**History.**—s. 1, ch. 84-80.

**723.002 Application of chapter.**—

(1) The provisions of this chapter apply to any residential tenancy in which a mobile home is placed upon a rented or leased lot in a mobile home park in which 10 or more lots are offered for rent or lease. This chapter shall not be construed to apply to any other tenancy, including a tenancy in which both a mobile

home and a mobile home lot are rented or leased by the mobile home resident or a tenancy in which a rental space is offered for occupancy by recreational-vehicle-type units which are primarily designed as temporary living quarters for recreational camping or travel use and which either have their own motor power or are mounted on or drawn by another vehicle. When both the mobile home and lot are rented or when fewer than 10 lots are available for rent or lease, the tenancy shall be governed by the provisions of part II of chapter 83, the "Florida Residential Landlord and Tenant Act." However, this chapter shall continue to apply to any tenancy in a park even though the number of lots offered in that park has been reduced to below 10 if that tenancy was subject to the provisions of this chapter prior to the reduction in lots. This subsection is intended to clarify existing law.

(2) The provisions of ss. 723.035, 723.037, 723.038, 723.054, 723.055, 723.056, 723.058, and 723.068 are applicable to mobile home subdivision developers and the owners of lots in mobile home subdivisions.

(3) Any other provision of this chapter or any other provision of the Florida Statutes to the contrary notwithstanding, the provisions of this chapter shall be applicable to a park trailer located on a mobile home lot in a mobile home park.

**History.**—s. 1, ch. 84-80; ss. 1, 13, ch. 90-198; s. 3, ch. 92-148.

**723.003 Definitions.**—As used in this chapter, the term:

(1) "Discrimination" or "discriminatory" means that a homeowner is being treated differently as to the rent charged, the services rendered, or an action for possession or other civil action being taken by the park owner, without a reasonable basis for the different treatment.

(2) "Division" means the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation.

(3) "Electronic transmission" means a form of communication, not directly involving the physical transmission or transfer of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient and that may be directly reproduced in a comprehensible and legible paper form by the recipient through an automated process, such as a printer or copy machine. Examples of electronic transmission include, but are not limited to, telegrams, facsimile transmission of images, and text that is sent via e-mail between computers. Electronic transmission does not include oral communication by telephone.

(4) "Homeowners' association" means a corporation for profit or not for profit, which is formed and operates in compliance with ss. 723.075-723.079; or, in a subdivision the homeowners' association authorized in the subdivision documents in which all home owners must be members as a condition of ownership.

(5) "Homeowners' committee" means a committee, not to exceed five persons in number, designated by a majority of the affected homeowners in a mobile home park or a subdivision; or, if a homeowners' association has been formed, designated by the board of directors

of the association. The homeowners' committee is designated for the purpose of meeting with the park owner or park developer to discuss lot rental increases, reduction in services or utilities, or changes in rules and regulations and any other matter authorized by the homeowners' association, or the majority of the affected home owners, and who are authorized to enter into a binding agreement with the park owner or subdivision developer, or a binding mediation agreement, on behalf of the association, its members, and all other mobile home owners in the mobile home park.

(6) "Lot rental amount" means all financial obligations, except user fees, which are required as a condition of the tenancy.

(7)(a) "Mediation" means a process whereby a mediator appointed by the Division of Florida Condominiums, Timeshares, and Mobile Homes, or mutually selected by the parties, acts to encourage and facilitate the resolution of a dispute. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable agreement.

(b) For purposes of mediation under ss. 723.037 and 723.038, the term "parties" means a park owner as defined in subsection (13) and a homeowners' committee selected pursuant to s. 723.037.

(8) "Mobile home" means a residential structure, transportable in one or more sections, which is 8 body feet or more in width, over 35 body feet in length with the hitch, built on an integral chassis, designed to be used as a dwelling when connected to the required utilities, and not originally sold as a recreational vehicle, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(9) "Mobile home lot" means a lot described by a park owner pursuant to the requirements of s. 723.012, or in a disclosure statement pursuant to s. 723.013, as a lot intended for the placement of a mobile home.

(10) "Mobile home lot rental agreement" or "rental agreement" means any mutual understanding or lease, whether oral or written, between a mobile home owner and a mobile home park owner in which the mobile home owner is entitled to place his or her mobile home on a mobile home lot for either direct or indirect remuneration of the mobile home park owner.

(11) "Mobile home owner," "mobile homeowner," "home owner," or "homeowner" means a person who owns a mobile home and rents or leases a lot within a mobile home park for residential use.

(12) "Mobile home park" or "park" means a use of land in which lots or spaces are offered for rent or lease for the placement of mobile homes and in which the primary use of the park is residential.

(13) "Mobile home park owner" or "park owner" means an owner or operator of a mobile home park.

(14) "Mobile home subdivision" means a subdivision of mobile homes where individual lots are owned by owners and where a portion of the subdivision or the amenities exclusively serving the subdivision are retained by the subdivision developer.

(15) "Offering circular" has the same meaning as the term "prospectus" as it is used in this chapter.

(16) “Operator of a mobile home park” means either a person who establishes a mobile home park on land that is leased from another person or a person who has been delegated the authority to act as the park owner in matters relating to the administration and management of the mobile home park, including, but not limited to, authority to make decisions relating to the mobile home park.

(17) “Pass-through charge” means the mobile home owner’s proportionate share of the necessary and actual direct costs and impact or hookup fees for a governmentally mandated capital improvement, which may include the necessary and actual direct costs and impact or hookup fees incurred for capital improvements required for public or private regulated utilities.

(18) “Proportionate share” as used in subsection (17) means an amount calculated by dividing equally among the affected developed lots in the park the total costs for the necessary and actual direct costs and impact or hookup fees incurred for governmentally mandated capital improvements serving the recreational and common areas and all affected developed lots in the park.

(19) “Resale agreement” means a contract in which a mobile home owner authorizes the mobile home park owner, or the park owner’s designee, to act as exclusive agent for the sale of the homeowner’s mobile home for a commission or fee.

(20) “Unreasonable” means arbitrary, capricious, or inconsistent with this chapter.

(21) “User fees” means those amounts charged in addition to the lot rental amount for nonessential optional services provided by or through the park owner to the mobile home owner under a separate written agreement between the mobile home owner and the person furnishing the optional service or services.

**History.**—s. 1, ch. 84-80; s. 1, ch. 86-162; s. 2, ch. 90-198; s. 1, ch. 91-202; s. 242, ch. 94-218; s. 912, ch. 97-102; s. 2, ch. 2001-227; s. 72, ch. 2008-240; s. 2, ch. 2015-90.

#### **723.004 Legislative intent; preemption of subject matter.—**

(1) The Legislature finds that there are factors unique to the relationship between a mobile home owner and a mobile home park owner. Once occupancy has commenced, unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and substantial differences in the relationship which distinguish it from other landlord-tenant relationships. The Legislature recognizes that mobile home owners have basic property and other rights which must be protected. The Legislature further recognizes that the mobile home park owner has a legitimate business interest in the operation of the mobile home park as part of the housing market and has basic property and other rights which must be protected. This chapter is created for the purpose of regulating the factors unique to the relationship between mobile home owners and mobile home park owners in the circumstances described herein. It recognizes that when such inequalities exist between mobile home owners and mobile home park owners as a result of such unique factors, regulation to protect those parties

to the extent that they are affected by the inequalities, while preserving and protecting the rights of both parties, is required.

(2) There is hereby expressly preempted to the state all regulation and control of mobile home lot rents in mobile home parks and all those other matters and things relating to the landlord-tenant relationship treated by or falling within the purview of this chapter. Every unit of local government is prohibited from taking any action, including the enacting of any law, rule, regulation, or ordinance, with respect to the matters and things hereby preempted to the state.

(3) It is expressly declared by the Legislature that the relationship between landlord and tenant as treated by or falling within the purview of this chapter is a matter reserved to the state and that units of local government are lacking in jurisdiction and authority in regard thereto. All local statutes and ordinances in conflict herewith are expressly repealed.

(4) If any provision of this chapter is held invalid, it is the legislative intent that the preemption by this section shall no longer be applicable to the provision of the chapter held invalid.

(5) Nothing in this chapter shall be construed to prevent the enforcement of a right or duty under this section, s. 723.022, s. 723.023, s. 723.031, s. 723.032, s. 723.033, s. 723.035, s. 723.037, s. 723.038, s. 723.061, s. 723.0615, s. 723.062, s. 723.063, or s. 723.081 by civil action after the party has exhausted its administrative remedies, if any.

**History.**—s. 1, ch. 84-80; s. 2, ch. 86-162; s. 4, ch. 92-148.

**723.005 Regulation by division.**—The division has the power and duty to enforce and ensure compliance with the provisions of this chapter and rules promulgated pursuant hereto relating to the rental, development, and sale of mobile home parks. However, the division does not have the power or duty to enforce mobile home park rules and regulations or to enforce the provisions of ss. 723.022, 723.023, and 723.033.

**History.**—s. 1, ch. 84-80; s. 3, ch. 90-198.

**723.006 Powers and duties of division.**—In performing its duties, the division has the following powers and duties:

(1) The division may make necessary public or private investigations within or outside this state to determine whether any person has violated this chapter or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the adoption of rules or forms hereunder.

(2) The division may require or permit any person to file a statement in writing, under oath or otherwise as the division determines, as to the facts and circumstances concerning a matter to be investigated.

(3) For the purpose of any investigation under this chapter, the division director or any officer or employee designated by the division director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any book, document, or

other tangible thing and the identity and location of any person having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon a person's failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division may apply to the circuit court for an order compelling compliance. Financial records of a mobile home park acquired by the division pursuant to any investigation under this section are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, if the division, pursuant to a consent order, final order, or cease and desist order, makes a finding that a violation of this chapter has occurred, the financial records acquired by the division specifically relevant to that finding are no longer exempt as provided for in this subsection, unless otherwise made specifically exempt by law. "Financial records" means any financial information which is owned or controlled by the mobile home park owner and is not otherwise required to be filed with the division under other sections of this chapter.

(4) The division is authorized to prepare information to assist prospective mobile home owners and mobile home park owners in assessing the rights, privileges, and duties pertaining hereto.

(5) Notwithstanding any remedies available to mobile home owners, mobile home park owners, and homeowners' associations, if the division has reasonable cause to believe that a violation of any provision of this chapter or related rule has occurred, the division may institute enforcement proceedings in its own name against a developer, mobile home park owner, or homeowners' association, or its assignee or agent, as follows:

(a) The division may permit a person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby orders, rules, or letters of censure or warning, whether formal or informal, may be entered against the person.

(b) The division may issue an order requiring the mobile home park owner, or its assignee or agent, to cease and desist from an unlawful practice and take such affirmative action as in the judgment of the division will carry out the purposes of this chapter. The affirmative action may include the following:

1. Refunds of rent increases, improper fees, charges and assessments, including pass-throughs and pass-ons collected in violation of the terms of this chapter.

2. Filing and utilization of documents which correct a statutory or rule violation.

3. Reasonable action necessary to correct a statutory or rule violation.

(c) In determining the amount of civil penalty or affirmative action to be imposed under this section, if any, the division must consider the following factors:

1. The gravity of the violation.
2. Whether the person has substantially complied with the provisions of this chapter.

3. Any action taken by the person to correct or mitigate the violation of this chapter.

(d) The division may bring an action in circuit court on behalf of a class of mobile home owners, mobile home park owners, lessees, or purchasers for declaratory relief, injunctive relief, or restitution.

(e)1. The division may impose a civil penalty against a mobile home park owner or homeowners' association, or its assignee or agent, for any violation of this chapter, a properly adopted park rule or regulation, or a rule adopted pursuant hereto. A penalty may be imposed on the basis of each separate violation and, if the violation is a continuing one, for each day of continuing violation, but in no event may the penalty for each separate violation or for each day of continuing violation exceed \$5,000. All amounts collected shall be deposited with the Chief Financial Officer to the credit of the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.

2. If a violator fails to pay the civil penalty, the division shall thereupon issue an order directing that such violator cease and desist from further violation until such time as the civil penalty is paid or may pursue enforcement of the penalty in a court of competent jurisdiction. If a homeowners' association fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction, and the order imposing the civil penalty or the cease and desist order shall not become effective until 20 days after the date of such order. Any action commenced by the division shall be brought in the county in which the division has its executive offices or in which the violation occurred.

(6) With regard to any written complaint alleging a violation of any provision of this chapter or any rule adopted pursuant thereto, the division shall, within 30 days after receipt of a written complaint, notify, in writing, the person who filed the complaint of the status of the complaint. Thereafter, the division shall notify the complainant of the status of the investigation within 90 days after receipt of the written complaint. Upon completion of the investigation, the division shall notify, in writing, the complainant and the party complained against of the results of the investigation and disposition of the complaint.

(7) The division has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(8) The division has the authority by rule to authorize amendments permitted by this chapter to an approved prospectus or offering circular.

(9) The division shall adopt rules establishing a category of minor violations of this chapter or rules promulgated pursuant hereto. A minor violation means a violation which does not endanger the health, safety, or welfare of mobile home residents, which does not involve the failure to make full and fair disclosure, or which does not cause economic harm to mobile home park residents.

(10) The division is authorized to require disclosures to fully and fairly disclose all matters required by this chapter. If a park owner or operator, in good faith, has attempted to comply with the requirements of this chapter, and if, in fact, the park owner or operator has substantially complied with the disclosure requirements

of this chapter, nonmaterial errors or omissions in the disclosure materials shall not be actionable.

(11) Upon adoption of rules establishing minor violations and a determination by the division that the violation is a minor violation, the division may levy a civil penalty of up to \$250 but shall not require a refund of rent increases, fees, charges or assessments, including pass-through and pass-ons collected from mobile home owners. Until rules have been adopted as provided in this section, the enforcement procedures of the division in existence on the effective date of this act shall be in effect.

(12) The division shall approve training and educational programs for board members of mobile home owners' associations formed and operated pursuant to s. 723.075(1) and mobile home owners. The training may, at the division's discretion, include web-based electronic media and live training and seminars in various locations throughout the state.

(13) The division may review and approve educational curricula and training programs for board members and mobile home owners to be offered by providers and shall maintain a current list of approved programs and providers, and make such lists available to board members in a reasonable and cost-effective manner. The cost of such programs shall be borne by the providers of the programs. The division shall establish a fee structure for the approved training programs sufficient to recover any cost incurred by the division in operating this program.

(14) Required education curriculum information for board member and mobile home owner training shall include:

(a) The provider of the training programs, which shall include the following information regarding its training and educational programs:

1. A price list, if any, for the programs and copies of all materials.

2. The physical location where programs will be available, if not web-based.

3. Dates when programs will be offered.

4. The curriculum of the program to be offered.

(b) The programs shall provide information about statutory and regulatory matters relating to the board of directors of the homeowners' association and their responsibilities to the association and to the mobile home owners in the mobile home park.

(c) Programs and materials may not contain editorial comments.

(d) The division has the right to approve and require changes to such education and training programs.

(15) The division shall adopt rules to implement the board member training requirements for educational programs as provided in this chapter. The Department of Business and Professional Regulation shall publish a notice of proposed rule pursuant to s. 120.54(3)(a) by October 1, 2016. Such rules shall include the requirements for content and notice of the board member training program to assure that providers meet minimum training requirements.

**History.**—s. 1, ch. 84-80; s. 3, ch. 86-162; s. 25, ch. 87-102; s. 10, ch. 88-147; s. 30, ch. 93-150; s. 1, ch. 94-78; s. 4, ch. 96-394; s. 415, ch. 96-406; s. 4, ch. 97-291; s. 224, ch. 98-200; s. 1895, ch. 2003-261; s. 73, ch. 2008-240; s. 3, ch. 2015-90; s. 1, ch. 2016-169.

### **723.007 Annual fees; surcharge.—**

(1) Each mobile home park owner shall pay to the division, on or before October 1 of each year, an annual fee of \$4 for each mobile home lot within a mobile home park which he or she owns. If the fee is not paid by December 31, the mobile home park owner shall be assessed a penalty of 10 percent of the amount due, and he or she shall not have standing to maintain or defend any action in the courts of this state until the amount due, plus any penalty, is paid.

(2) There is levied on each annual fee imposed under subsection (1) a surcharge in the amount of \$1. The surcharge shall be collected in the same manner as the annual fee and shall be deposited in the Florida Mobile Home Relocation Trust Fund. Collection of the surcharge shall begin during the first calendar year after this subsection takes effect. This surcharge may not be imposed during the next calendar year if the balance in the trust fund exceeds \$10 million on June 30. The surcharge shall be reinstated in the next calendar year if the balance in the trust fund is below \$6 million on June 30. The surcharge imposed by this subsection may not be imposed as a separate charge regardless of any disclosure in the prospectus.

**History.**—s. 1, ch. 84-80; s. 4, ch. 85-155; s. 31, ch. 93-150; s. 913, ch. 97-102; s. 5, ch. 2003-263.

### **723.008 Applicability of chapter 212 to fees, penalties, and fines under this chapter.—**

The same duties and privileges imposed by chapter 212 upon dealers in tangible property respecting the collection and remission of tax; the making of returns; the keeping of books, records, and accounts; and the compliance with the rules of the enforcing agency in the administration of that chapter apply to and are binding upon all persons who are subject to the fee, penalty, and fine provisions of this chapter. However, the provisions of s. 212.12(1) do not apply to this chapter.

**History.**—s. 1, ch. 84-80; s. 6, ch. 2012-145.

### **723.009 Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund.—**

All proceeds from the fees, penalties, and fines imposed pursuant to this chapter shall be deposited into the Division of Florida Condominiums, Timeshares, and Mobile Homes Trust Fund created by s. 718.509. Moneys in this fund, as appropriated by the Legislature pursuant to chapter 216, may be used to defray the expenses incurred by the division in administering the provisions of this chapter.

**History.**—s. 1, ch. 84-80; s. 26, ch. 87-102; s. 74, ch. 2008-240.

### **723.011 Disclosure prior to rental of a mobile home lot; prospectus, filing, approval.—**

(1)(a) In a mobile home park containing 26 or more lots, the park owner shall file a prospectus with the division. Prior to entering into an enforceable rental agreement for a mobile home lot, the park owner shall deliver to the homeowner a prospectus approved by the division. This subsection does not invalidate those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered

on or before July 1, 1986, if the mobile home park owner had:

1. Filed a prospectus with the division prior to entering into the lot rental agreement;
2. Made a good faith effort to correct deficiencies cited by the division by responding within the time limit set by the division, if one was set; and
3. Delivered the approved prospectus to the mobile home owner within 45 days of approval by the division.

This paragraph does not preclude the finding that a lot rental agreement is invalid on other grounds and does not limit any rights of a mobile home owner or preclude a mobile home owner from seeking any remedies allowed by this chapter, including a determination that the lot rental agreement or any part thereof is unreasonable.

(b) The division shall determine whether the proposed prospectus or offering circular is adequate to meet the requirements of this chapter and shall notify the park owner by mail, within 45 days after receipt of the document, that the division has found that the prospectus or offering circular is adequate or has found specified deficiencies. If the division does not make either finding within 45 days, the prospectus shall be deemed to have been found adequate.

(c)1. Filings for mobile home parks in which lots have not been offered for lease prior to June 4, 1984, shall be accompanied by a filing fee of \$10 per lot offered for lease by the park owner; however, the fee shall not be less than \$100.

2. Filings for mobile home parks in which lots have been offered for lease prior to the effective date of this chapter shall be accompanied by a filing fee as follows:

- a. For a park in which there are 26-50 lots: \$100.
- b. For a park in which there are 51-100 lots: \$150.
- c. For a park in which there are 101-150 lots: \$200.
- d. For a park in which there are 151-200 lots: \$250.
- e. For a park in which there are 201 or more lots: \$300.

(d) The division shall maintain copies of each prospectus and all amendments to each prospectus which are considered adequate by the division. The division shall provide copies of documents requested in writing under this subsection within 10 days after the written request is received.

(2) The park owner shall furnish a copy of the prospectus or offering circular together with all of the exhibits thereto to each prospective lessee. Delivery shall be made prior to execution of the lot rental agreement or at the time of occupancy, whichever occurs first. Upon delivery of a prospectus to a prospective lessee, the lot rental agreement is voidable by the lessee for a period of 15 days. However, the park owner is not required to furnish a copy of the prospectus or offering circular if the tenancy is a renewal of a tenancy and the mobile home owner has previously received the prospectus or offering circular.

(3) The prospectus or offering circular together with its exhibits is a disclosure document intended to afford protection to homeowners and prospective homeowners in the mobile home park. The purpose of the document is to disclose the representations of the

mobile home park owner concerning the operations of the mobile home park.

(4) With regard to a tenancy in existence on the effective date of this chapter, the prospectus or offering circular offered by the mobile home park owner must contain the same terms and conditions as rental agreements offered to all other mobile home owners residing in the park on the effective date of this act, excepting only rent variations based upon lot location and size, and may not require any mobile home owner to install any permanent improvements, except that the mobile home owner may be required to install permanent improvements to the mobile home as disclosed in the prospectus.

(5) The mobile home park owner may request that the homeowner sign a receipt indicating that the homeowner has received a copy of the prospectus, the rules and regulations, and other pertinent documents so long as any such documents are clearly identified in the receipt itself. Such a receipt shall indicate nothing more than that the documents identified herein have been received by the mobile home owner. The receipt, if requested, shall be signed at the time of delivery of the identified documents. If the homeowner refuses to sign the receipt, the park owner shall still deliver to the homeowner a copy of the prospectus, rules and regulations, and any other documents which otherwise would have been delivered upon execution of the receipt. However, the homeowner shall thereafter be barred from claiming that the park owner has failed to deliver such documents. The refusal of the homeowner to sign the receipt shall under no circumstances constitute a ground for eviction of the homeowner or of a mobile home or for the imposition of any other penalty.

**History.**—s. 1, ch. 84-80; s. 4, ch. 86-162; s. 11, ch. 88-147; s. 5, ch. 90-198; s. 1, ch. 96-394; s. 3, ch. 2001-227; s. 21, ch. 2020-27.

**723.012 Prospectus or offering circular.**—The prospectus or offering circular, which is required to be provided by s. 723.011, must contain the following information:

(1) The front cover or the first page must contain only:

- (a) The name of the mobile home park.
- (b) The following statements in conspicuous type:

1. THIS PROSPECTUS CONTAINS VERY IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS AND YOUR FINANCIAL OBLIGATIONS IN LEASING A MOBILE HOME LOT. MAKE SURE THAT YOU READ THE ENTIRE DOCUMENT AND SEEK LEGAL ADVICE IF YOU HAVE ANY QUESTIONS REGARDING THE INFORMATION SET FORTH IN THIS DOCUMENT.

2. THE STATEMENTS CONTAINED HEREIN ARE ONLY SUMMARY IN NATURE. A PROSPECTIVE LESSEE SHOULD REFER TO ALL REFERENCES, ALL EXHIBITS HERETO, THE CONTRACT DOCUMENTS, AND SALES MATERIALS.

3. ORAL REPRESENTATIONS SHOULD NOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE PARK OWNER OR OPERATOR. REFER TO THIS PROSPECTUS



(OFFERING CIRCULAR) AND ITS EXHIBITS FOR CORRECT REPRESENTATIONS.

4. UPON DELIVERY OF THE PROSPECTUS TO A PROSPECTIVE LESSEE, THE RENTAL AGREEMENT IS VOIDABLE BY THE LESSEE FOR A PERIOD OF 15 DAYS.

(2) The next page must contain all statements required to be in conspicuous type in the prospectus or offering circular in a summary form.

(3) A separate index of the contents and exhibits of the prospectus.

(4) Beginning on the first page of the text, the following information:

(a) The name and address or location of the mobile home park.

(b) The name and address of the person authorized to receive notices and demands on the park owner's behalf.

(c) A description of the mobile home park property, including, but not limited to:

1. The number of lots in each section, the approximate size of each lot, the setback requirements, and the minimum separation distance between mobile homes as required by law.

2. The maximum number of lots that will use shared facilities of the park; and, if the maximum number of lots will vary, a description of the basis for variation.

(5) A description of the recreational and other common facilities, if any, that will be used by the mobile home owners, including, but not limited to:

(a) The number of buildings and each room thereof and its intended purposes, location, approximate floor area, and capacity in numbers of people.

(b) Each swimming pool, as to its general location, approximate size and depths, and approximate deck size and capacity and whether heated.

(c) All other facilities and permanent improvements that will serve the mobile home owners.

(d) A general description of the items of personal property available for use by the mobile home owners.

(e) A general description of the days and hours that facilities will be available for use.

(f) A statement as to whether all improvements are complete and, if not, their estimated completion dates.

If a mobile home park owner intends to include additional property and mobile home lots and to increase the number of lots that will use the shared facilities of the park, the mobile home park owner must amend the prospectus to disclose such additions. If the number of mobile home lots in the park increases by more than 15 percent of the total number of lots in the original prospectus, the mobile home park owner must reasonably offset the impact of the additional lots by increasing the shared facilities. The amendment to the prospectus must include a reasonable timeframe for providing the required additional shared facilities. The costs and expenses necessary to increase the shared facilities may not be passed on or passed through to the existing mobile home owners.

(6) The arrangements for management of the park and maintenance and operation of the park property and

of other property that will serve the mobile home owners and the nature of the services included.

(7) A description of all improvements, whether temporary or permanent, which are required to be installed by the mobile home owner as a condition of his or her occupancy in the park.

(8) The manner in which utility and other services, including, but not limited to, sewage and waste disposal, cable television, water supply, and storm drainage, will be provided, and the person or entity furnishing them. The services and the lot rental amount or user fees charged by the park owner for the services provided by the park owner shall also be disclosed.

(9) An explanation of the manner in which the lot rental amount will be raised, including, but not limited to:

(a) Notification of the mobile home owner at least 90 days in advance of the increase.

(b) Disclosure of any factors which may affect the lot rental amount, including, but not limited to:

1. Water rates.

2. Sewer rates.

3. Waste disposal rates.

4. Maintenance costs, including costs of deferred maintenance.

5. Management costs.

6. Property taxes.

7. Major repairs or improvements.

8. Any other fees, costs, entrance fees, or charges to which the mobile home owner may be subjected.

(c) Disclosure of the manner in which the pass-through charges will be assessed.

(10) Disclosure of all user fees currently charged for services offered which the homeowner may elect to incur and the manner in which the fees will be increased.

(11) The park rules and regulations and an explanation of the manner in which park rules or regulations will be set, changed, or promulgated.

(12) A statement describing the existing zoning classification of the park property and permitted uses under such classification.

(13) A statement of the nature and type of zoning under which the mobile home park operates, the name of the zoning authority which has jurisdiction over the land comprising the mobile home park, and, if applicable, a detailed description of any definite future plans which the park owner has for changes in the use of the land comprising the mobile home park.

(14) Copies of the following, to the extent they are applicable, as exhibits:

(a) The ground lease or other underlying leases of the mobile home park or a summary of the contents of the lease or leases when copies of the same have been filed with the division.

(b) A copy of the mobile home park lot layout showing the location of the recreational areas and other common areas.

(c) All covenants and restrictions and zoning which will affect the use of the property and which are not contained in the foregoing.

(d) A copy of the rental agreement or agreements to be offered for rental of mobile home lots.

**History.**—s. 1, ch. 84-80; s. 5, ch. 86-162; s. 12, ch. 88-147; s. 914, ch. 97-102; s. 4, ch. 2001-227; s. 22, ch. 2020-27.

**723.013 Written notification in the absence of a prospectus.**—A mobile home park owner who enters into a rental agreement in which a prospectus is not provided shall give written notification to the mobile home owner of the following information prior to occupancy:

(1) The nature and type of zoning under which the mobile home park operates; the name of the zoning authority which has jurisdiction over the land comprising the mobile home park; and a detailed description containing all information available to the mobile home park owner, including the time, manner, and nature, of any definite future plans which he or she has for future changes in the use of the land comprising the mobile home park or a portion thereof.

(2) The name and address of the mobile home park owner or a person authorized to receive notices and demands on his or her behalf.

(3) All fees and charges, assessments, or other financial obligations not included in the rental agreement and a copy of the rules and regulations in effect.

**History.**—s. 1, ch. 84-80; s. 6, ch. 90-198; s. 21, ch. 92-148; s. 915, ch. 97-102.

**723.014 Failure to provide prospectus or offering circular prior to occupancy.**—

(1) If a prospectus or offering circular was not provided to the prospective lessee prior to execution of the lot rental agreement or prior to initial occupancy of a new mobile home, the rental agreement is voidable by the lessee until 15 days after the receipt by the lessee of the prospectus or offering circular and all exhibits thereto.

(2) To cancel the rental agreement, the mobile home owner shall deliver written notice to the park owner within 15 days after receipt of the prospectus or offering circular and shall thereupon be entitled to a refund of any deposit together with relocation costs for the mobile home, or the market value thereof including any appurtenances thereto paid for by the mobile home owner, from the park owner.

**History.**—s. 1, ch. 84-80; s. 13, ch. 88-147; s. 7, ch. 90-198; s. 22, ch. 92-148.

**723.016 Advertising materials; oral statements.**

(1) All advertising materials for, used by, or promoting any mobile home park shall be filed with the division by the developer, park owner, or mobile home dealer within 30 days of the end of each calendar quarter in which it was used, unless the material has been previously filed. The calendar quarters shall end on March 31, June 30, September 30, and December 31 of each year.

(2) The term “advertising materials” includes:

(a) Promotional brochures, pamphlets, advertisements, or other materials disseminated to the public in connection with the sale of a new mobile home or lease of a mobile home lot.

(b) Billboards and other signs posted on and off the premises.

(3) The following “advertising materials” are exempt from the filing requirements of this section: telephone directories, business cards, items placed solely on bulletin boards in a mobile home park, and correspondence in response to inquiries by individuals.

(4) No advertising materials or oral statement made by any developer, park owner, or mobile home dealer shall:

(a) Misrepresent a fact or create a false or misleading impression regarding the mobile home or mobile home park.

(b) Contain any asterisk or other reference symbol as a means of contradicting or substantially changing any statement previously made or as a means of obscuring a material fact.

(c) Misrepresent the size, nature, extent, qualities, or characteristics of the offered facilities.

(d) Misrepresent the nature or extent of any service incident to the tenancy.

(5) The division shall not impose a civil penalty in excess of \$250 per advertisement for each instance of the untimely filing of advertising materials.

**History.**—s. 1, ch. 84-80; s. 32, ch. 93-150.

**723.017 Publication of false or misleading information; remedies.**—Any person who pays anything of value toward the purchase of a mobile home or placement of a mobile home in a mobile home park located in this state in reasonable reliance upon any material statement or information that is false or misleading and published by or under authority from the park owner or developer in advertising and promotional materials, including, but not limited to, a prospectus, the items required as exhibits to a prospectus, brochures, and newspaper advertising, shall have a cause of action to rescind the contract or collect damages from the developer, park owner, or mobile home dealer for her or his loss.

**History.**—s. 1, ch. 84-80; s. 916, ch. 97-102.

**723.021 Obligation of good faith and fair dealings.**—Every rental agreement or duty within this chapter imposes an obligation of good faith and fair dealings in its performance or enforcement. Either party to a dispute under this chapter may seek an order finding the other party has not complied with the obligations of good faith and fair dealings. Upon such a finding, the court shall award reasonable costs and attorney's fees to the prevailing party for proving the noncompliance.

**History.**—s. 1, ch. 84-80; s. 1, ch. 97-291.

**723.022 Mobile home park owner's general obligations.**—A mobile home park owner shall at all times:

(1) Comply with the requirements of applicable building, housing, and health codes.

(2) Maintain buildings and improvements in common areas in a good state of repair and maintenance and maintain the common areas in a good state of appearance, safety, and cleanliness.

(3) Provide access to the common areas, including buildings and improvements thereto, at all reasonable times for the benefit of the park residents and their guests.

(4) Maintain utility connections and systems for which the park owner is responsible in proper operating condition.

(5) Comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply therewith and conduct themselves in a manner that does not unreasonably disturb the park residents or constitute a breach of the peace.

**History.**—s. 1, ch. 84-80; s. 917, ch. 97-102.

**723.023 Mobile home owner's general obligations.**—A mobile home owner shall:

(1) At all times comply with all obligations imposed on mobile home owners by applicable provisions of building, housing, and health codes, including compliance with all building permits and construction requirements for construction on the mobile home and lot. The home owner is responsible for all fines imposed by the local government for noncompliance with any local codes.

(2) At all times keep the mobile home lot that he or she occupies clean, neat, and sanitary, and maintained in compliance with all local codes.

(3) At all times comply with properly promulgated park rules and regulations and require other persons on the premises with his or her consent to comply with such rules and to conduct themselves, and other persons on the premises with his or her consent, in a manner that does not unreasonably disturb other residents of the park or constitute a breach of the peace.

(4) Receive written approval from the mobile home park owner before making any exterior modification or addition to the home.

(5) When vacating the premises, remove any debris and other property of any kind which is left on the mobile home lot.

**History.**—s. 1, ch. 84-80; s. 918, ch. 97-102; s. 4, ch. 2015-90; s. 23, ch. 2020-27.

**723.024 Compliance by mobile home park owners and mobile home owners.**—Notwithstanding any other provision of this chapter or of any local law, ordinance, or code:

(1) If a unit of local government finds that a violation of a local code or ordinance has occurred, the unit of local government shall cite the responsible party for the violation and enforce the citation under its local code and ordinance enforcement authority.

(2) A lien, penalty, fine, or other administrative or civil proceeding may not be brought against a mobile home owner or mobile home for any duty or responsibility of the mobile home park owner under s. 723.022 or against a mobile home park owner or mobile home park property for any duty or responsibility of the mobile home owner under s. 723.023.

**History.**—s. 1, ch. 2011-105.

**723.025 Park owner's access to mobile home and mobile home lot.**—A mobile home park owner has no right of access to a mobile home unless the mobile home owner's prior written consent has been obtained or unless to prevent imminent danger to an occupant of the mobile home or to the mobile home. Such consent may be revoked in writing by the mobile home owner at any time. The park owner has, however, the right of entry onto the lot for purposes of repair and replacement

of utilities and protection of the mobile home park at all reasonable times, but not in such manner or at such time as to interfere unreasonably with the mobile home owner's quiet enjoyment of the lot.

**History.**—s. 1, ch. 84-80.

**723.027 Persons authorized by park owner to receive notices.**—Any person authorized by a park owner to receive notices and demands on the park owner's behalf retains such authority until the mobile home owner is notified otherwise. All notices of such names and addresses or changes made thereto shall be delivered to the mobile home owner's residence or to another address specified in writing by the mobile home owner.

**History.**—s. 1, ch. 84-80.

**723.031 Mobile home lot rental agreements.**—

(1) No rental agreement shall contain any rule or regulation prohibited by this chapter, nor shall it provide for promulgation of any rule or regulation inconsistent with this chapter or amendment of any rule or regulation inconsistently with this chapter.

(2) Whether or not a tenancy is covered by a valid written rental agreement, the required statutory provisions shall be deemed to be a part of the rental agreement.

(3) The homeowner shall have no financial obligation to the park owner as a condition of occupancy in the park, except the lot rental amount. The parties may agree otherwise as to user fees which the homeowner chooses to incur. No user fees shall be charged by the park owner to the mobile home owner for any services which were previously provided by the park owner and included in the lot rental amount unless there is a corresponding decrease in the lot rental amount.

(4) No rental agreement shall be offered by a park owner for a term of less than 1 year, and if there is no written rental agreement, no rental term shall be less than 1 year from the date of initial occupancy; however, the initial term may be less than 1 year in order to permit the park owner to have all rental agreements within the park commence at the same time. Thereafter, all terms shall be for a minimum of 1 year.

(5) The rental agreement must contain the lot rental amount and services included. An increase in lot rental amount upon expiration of the term of the lot rental agreement must be in accordance with ss. 723.033 and 723.037 or s. 723.059(4), whichever is applicable; provided that, pursuant to s. 723.059(4), the amount of the lot rental increase is disclosed and agreed to by the purchaser, in writing. An increase in lot rental amount shall not be arbitrary or discriminatory between similarly situated tenants in the park. A lot rental amount may not be increased during the term of the lot rental agreement, except:

(a) When the manner of the increase is disclosed in a lot rental agreement with a term exceeding 12 months and which provides for such increases not more frequently than annually.

(b) For pass-through charges as defined in s. 723.003.

(c) That a charge may not be collected which results in payment of money for sums previously collected as part of the lot rental amount. The provisions hereof notwithstanding, the mobile home park owner may pass on, at any time during the term of the lot rental agreement, ad valorem property taxes, non-ad valorem assessments, and utility charges, or increases of either, provided that the ad valorem property taxes, non-ad valorem assessments, and utility charges are not otherwise being collected in the remainder of the lot rental amount and provided further that the passing on of such ad valorem taxes, non-ad valorem assessments, or utility charges, or increases of either, was disclosed prior to tenancy, was being passed on as a matter of custom between the mobile home park owner and the mobile home owner, or such passing on was authorized by law. A park owner is deemed to have disclosed the passing on of ad valorem property taxes and non-ad valorem assessments if ad valorem property taxes or non-ad valorem assessments were disclosed as a separate charge or a factor for increasing the lot rental amount in the prospectus or rental agreement. Such ad valorem taxes, non-ad valorem assessments, and utility charges shall be a part of the lot rental amount as defined by this chapter. The term "non-ad valorem assessments" has the same meaning as provided in s. 197.3632(1)(d). Other provisions of this chapter notwithstanding, pass-on charges may be passed on only within 1 year of the date a mobile home park owner remits payment of the charge. A mobile home park owner is prohibited from passing on any fine, interest, fee, or increase in a charge resulting from a park owner's payment of the charge after the date such charges become delinquent. A mobile home park owner is prohibited from charging or collecting from the mobile home owners any sum for ad valorem taxes or non-ad valorem tax charges in an amount in excess of the sums remitted by the park owner to the tax collector. Nothing herein shall prohibit a park owner and a homeowner from mutually agreeing to an alternative manner of payment to the park owner of the charges.

(d) If a notice of increase in lot rental amount is not given 90 days before the renewal date of the rental agreement, the rental agreement must remain under the same terms until a 90-day notice of increase in lot rental amount is given. The notice may provide for a rental term shorter than 1 year in order to maintain the same renewal date.

(6) Except for pass-through charges, as defined in this chapter, failure on the part of the mobile home park owner or developer to disclose fully all fees, charges, or assessments prior to tenancy, unless it can be shown that such fees, charges, or assessments have been collected as a matter of custom between the mobile home park owner and the mobile home owner, shall prevent the park owner or operator from collecting said fees, charges, or assessments; and refusal by the mobile home owner to pay any such fee, charge, or assessment shall not be used by the park owner or developer as a cause for eviction in any court of law.

(7) No park owner may increase the lot rental amount until an approved prospectus has been delivered if one is required. This subsection shall not be

construed to prohibit those increases in lot rental amount for those lot rental agreements for which an approved prospectus was required to be delivered and which was delivered on or before July 1, 1986, if the mobile home park owner had:

(a) Filed a prospectus with the division prior to entering into the lot rental agreement;

(b) Made a good faith effort to correct deficiencies cited by the division by responding within the time limit set by the division, if one was set; and

(c) Delivered the approved prospectus to the mobile home owner within 45 days of approval by the division.

This subsection shall not preclude the finding that a lot rental increase is invalid on other grounds and shall not be construed to limit any rights of a mobile home owner or to preclude a mobile home owner from seeking any remedies allowed by this chapter, including a determination that the lot rental agreement or any part thereof is unreasonable.

(8) If a mobile home owner has deposited or advanced money on a rental agreement as security for performance of the rental agreement, which money is held in excess of 3 months by the mobile home park owner or his or her agent, such deposit shall be handled pursuant to s. 83.49.

(9) No rental agreement shall provide for the eviction of a mobile home owner on a ground other than one contained in s. 723.061.

(10) The rules and regulations and the prospectus shall be deemed to be incorporated into the rental agreement.

**History.**—s. 1, ch. 84-80; s. 6, ch. 86-162; s. 14, ch. 88-147; s. 8, ch. 90-198; s. 9, ch. 96-396; s. 1778, ch. 97-102; s. 5, ch. 2015-90; s. 2, ch. 2016-169; s. 24, ch. 2020-27.

### **723.032 Prohibited or unenforceable provisions in mobile home lot rental agreements.—**

(1) A mobile home lot rental agreement may provide a specific duration with regard to the amount of rental payments and other conditions of the tenancy, but the rental agreement shall neither provide for, nor be construed to provide for, the termination of any tenancy except as provided in s. 723.061.

(2) Any provision in the rental agreement is void and unenforceable to the extent that it attempts to waive or preclude the rights, remedies, or requirements set forth in this chapter or arising under law.

**History.**—s. 1, ch. 84-80; s. 7, ch. 86-162.

### **723.033 Unreasonable lot rental agreements; increases, changes.—**

(1) If the court, as a matter of law, finds a mobile home lot rental amount, rent increase, or change, or any provision of the rental agreement, to be unreasonable, the court may:

(a) Refuse to enforce the lot rental agreement.

(b) Refuse to enforce the rent increase or change.

(c) Enforce the remainder of the lot rental agreement without the unreasonable provision.

(d) Limit the application of the unreasonable provision so as to avoid any unreasonable result.

(e) Award a refund or a reduction in future rent payments.

(f) Award such other equitable relief as deemed necessary.

(2) When it is claimed or appears to the court that a lot rental amount, rent increase, or change, or any provision thereof, may be unreasonable, the parties shall be afforded a reasonable opportunity to present evidence as to its meaning and purpose, the relationship of the parties, and other relevant factors to aid the court in making the determination.

(3) For the purposes of this section, a lot rental amount that is in excess of market rent shall be considered unreasonable.

(4) Market rent means that rent which would result from market forces absent an unequal bargaining position between mobile home park owners and mobile home owners.

(5) In determining market rent, the court may consider rents charged by comparable mobile home parks in its competitive area. To be comparable, a mobile home park must offer similar facilities, services, amenities, and management.

(6) In determining whether a rent increase or resulting lot rental amount is unreasonable, the court may consider economic or other factors, including, but not limited to, increases or decreases in the consumer price index, published by the Bureau of Labor Statistics of the Department of Labor; increases or decreases in operating costs or taxes; and prior disclosures.

(7) An arbitrator or mediator under ss. 723.037, 723.038, and 723.0381 shall employ the same standards as set forth in this section.

**History.**—s. 1, ch. 84-80; s. 9, ch. 90-198.

### **723.035 Rules and regulations.—**

(1) A copy of all rules and regulations shall be posted in the recreation hall, if any, or in some other conspicuous place in the park.

(2) No rule or regulation shall provide for payment of any fee, fine, assessment, or charge, except as otherwise provided in the prospectus or offering circular filed under s. 723.012, if one is required to be provided, and until after the park owner has complied with the procedure set forth in s. 723.037.

**History.**—s. 1, ch. 84-80.

### **723.037 Lot rental increases; reduction in services or utilities; change in rules and regulations; mediation.—**

(1) A park owner shall give written notice to each affected mobile home owner and the board of directors of the homeowners' association, if one has been formed, at least 90 days before any increase in lot rental amount or reduction in services or utilities provided by the park owner or change in rules and regulations. The park owner may give notice of all increases in lot rental amount for multiple anniversary dates in the same 90-day notice. The notice must identify all other affected homeowners, which may be by lot number, name, group, or phase. If the affected homeowners are not identified by name, the park owner shall make the names and addresses available upon request. However, this requirement does not authorize the release of the names, addresses, or other private

information about the homeowners to the association or any other person for any other purpose. The home owner's right to the 90-day notice may not be waived or precluded by a home owner, or the homeowners' committee, in an agreement with the park owner. Rules adopted as a result of restrictions imposed by governmental entities and required to protect the public health, safety, and welfare may be enforced prior to the expiration of the 90-day period but are not otherwise exempt from the requirements of this chapter. Pass-through charges must be separately listed as to the amount of the charge, the name of the governmental entity mandating the capital improvement, and the nature or type of the pass-through charge being levied. Notices of increase in the lot rental amount due to a pass-through charge must state the additional payment and starting and ending dates of each pass-through charge. The homeowners' association shall have no standing to challenge the increase in lot rental amount, reduction in services or utilities, or change of rules and regulations unless a majority of the affected homeowners agree, in writing, to such representation.

(2) Notice as required by this section shall, in addition to the information required in subsection (1), only be required to include the dollar amount of the relevant portions of the present lot rental amount that are being increased and the dollar amount of the proposed increases in lot rental amount if there is an increase in the lot rental amount, the reduction in services or utilities, or the change in rules and regulations and the effective date thereof.

(3) The park owner shall file annually with the division a copy of any notice of a lot rental amount increase. The notice shall be filed on or before January 1 of each year for any notice given during the preceding year. If the actual increase is an amount less than the proposed amount stated in the notice, the park owner shall notify the division of the actual amount of the increase within 30 days of the effective date of the increase or at the time of filing, whichever is later.

(4)(a) A committee, not to exceed five in number, designated by a majority of the affected mobile home owners or by the board of directors of the homeowners' association, if applicable, and the park owner shall meet, at a mutually convenient time and place no later than 60 days before the effective date of the change to discuss the reasons for the increase in lot rental amount, reduction in services or utilities, or change in rules and regulations. The negotiating committee shall make a written request for a meeting with the park owner or subdivision developer to discuss those matters addressed in the 90-day notice, and may include in the request a listing of any other issue, with supporting documentation, that the committee intends to raise and discuss at the meeting. The committee shall address all lot rental amount increases that are specified in the notice of lot rental amount increase, regardless of the effective date of the increase.

(b)1. At the meeting, the park owner or subdivision developer shall in good faith disclose and explain all material factors resulting in the decision to increase the lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify

the specific change proposed. The park owner or subdivision developer may not limit the discussion of the reasons for the change to generalities only, such as, but not limited to, increases in operational costs, changes in economic conditions, or rents charged by comparable mobile home parks. For example, if the reason for an increase in lot rental amount is an increase in operational costs, the park owner must disclose the item or items which have increased, the amount of the increase, any similar item or items which have decreased, and the amount of the decrease. If an increase is based upon the lot rental amount charged by comparable mobile home parks, the park owner shall disclose, and provide in writing to the committee at or before the meeting, the name, address, lot rental amount, and any other relevant factors relied upon by the park owner, such as facilities, services, and amenities, concerning the comparable mobile home parks. The information concerning comparable mobile home parks to be exchanged by the parties is to encourage a dialogue concerning the reasons used by the park owner for the increase in lot rental amount and to encourage the home owners to evaluate and discuss the reasons for those changes with the park owner. The park owner shall prepare a written summary of the material factors and retain a copy for 3 years. The park owner shall provide the committee a copy of the summary at or before the meeting.

2. The park owner shall not limit the comparable mobile home park disclosure to those mobile home parks that are owned or operated by the same owner or operator as the subject park, except in certain circumstances, which include, but are not limited to:

a. That the market area for comparable mobile home parks includes mobile home parks owned or operated by the same entity that have similar facilities, services, and amenities;

b. That the subject mobile home park has unique attributes that are shared with similar mobile home parks;

c. That the mobile home park is located in a geographic or market area that contains few comparable mobile home parks; or

d. That there are similar considerations or factors that would be considered in such a market analysis by a competent professional and would be considered in determining the valuation of the market rent.

(c) If the committee disagrees with a park owner's lot rental amount increase based upon comparable mobile home parks, the committee shall disclose to the park owner the name, address, lot rental amount, and any other relevant factors relied upon by the committee, such as facilities, services, and amenities, concerning the comparable mobile home parks. The committee shall provide to the park owner the disclosure, in writing, within 15 days after the meeting with the park owner, together with a request for a second meeting. The park owner shall meet with the committee at a mutually convenient time and place within 30 days after receipt by the park owner of the request from the committee to discuss the disclosure provided by the committee. At the second meeting, the park owner may take into account the information on comparable parks provided

by the committee, may supplement the information provided to the committee at the first meeting, and may modify his or her position, but the park owner may not change the information provided to the committee at the first meeting.

(d) The committee and the park owner may mutually agree, in writing, to extend or continue any meetings required by this section.

(e) Either party may prepare and use additional information to support its position during or subsequent to the meetings required by this section.

This subsection is not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions prior to the parties proceeding to mediation of any dispute.

(5)(a) Within 30 days after the date of the last scheduled meeting described in subsection (4), the homeowners may petition the division to initiate mediation of the dispute pursuant to s. 723.038 if a majority of the affected homeowners have designated, in writing, that:

1. The rental increase is unreasonable;
2. The rental increase has made the lot rental amount unreasonable;
3. The decrease in services or utilities is not accompanied by a corresponding decrease in rent or is otherwise unreasonable; or
4. The change in the rules and regulations is unreasonable.

(b) A park owner, within the same time period, may also petition the division to initiate mediation of the dispute.

(c) When a dispute involves a rental increase for different home owners and there are different rates or different rental terms for those home owners, all such rent increases in a calendar year for one mobile home park may be considered in one mediation proceeding.

(d) At mediation, the park owner and the homeowners committee may supplement the information provided to each other at the meetings described in subsection (4) and may modify their position, but they may not change the information provided to each other at the first and second meetings.

The purpose of this subsection is to encourage discussion and evaluation by the parties of the comparable mobile home parks in the competitive market area. The requirements of this subsection are not intended to be enforced by civil or administrative action. Rather, the meetings and discussions are intended to be in the nature of settlement discussions prior to the parties proceeding to litigation of any dispute.

(6) If a party requests mediation and the opposing party refuses to agree to mediate upon proper request, the party refusing to mediate shall not be entitled to attorney's fees in any action relating to a dispute described in this section.

(7) The term "parties," for purposes of mediation under this section and s. 723.038, means a park owner

and a homeowners' committee selected pursuant to this section.

**History.**—s. 1, ch. 84-80; s. 8, ch. 86-162; s. 15, ch. 88-147; s. 10, ch. 90-198; s. 8, ch. 92-148; s. 2, ch. 97-291; s. 5, ch. 2001-227; s. 1, ch. 2002-27; s. 1, ch. 2005-79; s. 6, ch. 2015-90; s. 25, ch. 2020-27.

#### **723.038 Dispute settlement; mediation.—**

(1) Either party may petition the division to appoint a mediator and initiate mediation proceedings.

(2) The division upon petition shall appoint a qualified mediator to conduct mediation proceedings unless the parties timely notify the division in writing that they have selected a mediator. A person appointed by the division shall be a qualified mediator from a list of circuit court mediators in each judicial circuit who has met training and educational requirements established by the Supreme Court. If such mediators are not available, the division may select a mediator from the list maintained by the Florida Growth Management Conflict Resolution Consortium. The division shall promulgate rules of procedure to govern such proceedings in accordance with the rules of practice and procedure adopted by the Supreme Court. The division shall also establish, by rule, the fee to be charged by a mediator which shall not exceed the fee authorized by the circuit court.

(3) A mediator appointed by the division or selected by the parties shall comply with the rules adopted by the division. The mediator shall also notify the division in writing within 10 days after the conclusion of the mediation, that the mediation has been concluded.

(4) Upon receiving a petition to mediate a dispute, the division shall, within 20 days, notify the parties that a mediator has been appointed by the division. The parties may accept the mediator appointed by the division or, within 30 days, select a mediator to mediate the dispute. The parties shall each pay a \$250 filing fee to the mediator appointed by the division or selected by the parties, within 30 days after the division notifies the parties of the appointment of the mediator. The \$250 filing fee shall be used by the mediator to defray the hourly rate charged for mediation of the dispute. Any portion of the filing fee not used shall be refunded to the parties.

(5) The parties may agree to select their own mediator, and such mediation shall be governed by the rules of procedure established by the division. The parties, by agreement, may waive mediation, or the petitioning party may withdraw the petition prior to mediation. Upon the conclusion of the mediation, the mediator shall notify the division that the mediation has been concluded.

(6) No resolution arising from a mediation proceeding as provided for in s. 723.037 or this section shall be deemed final agency action. Any party, however, may initiate an action in the circuit court to enforce a resolution or agreement arising from a mediation proceeding which has been reduced to writing. The court shall consider such resolution or agreement to be a contract for the purpose of providing a remedy to the complaining party.

(7) Mediation pursuant to this section is an informal and nonadversarial process. Either party may submit to

the opposing party at least 10 days prior to mediation a written request for information.

(8) Each party involved in the mediation proceeding has a privilege to refuse to disclose, and to prevent any person present at the proceeding from disclosing, communications made during such proceeding, whether or not the dispute was successfully resolved. This subsection shall not be construed to prevent or inhibit the discovery or admissibility of any information which is otherwise subject to discovery or admission under applicable law or rules of court. There is no privilege as to communications made in furtherance of the commission of a crime or fraud or as part of a plan to commit a crime or a fraud. Nothing in this subsection shall be construed so as to permit an individual to obtain immunity from prosecution for criminal conduct.

(9) A mediator appointed pursuant to this section shall have judicial immunity in the same manner and to the same extent as a judge.

**History.**—s. 1, ch. 84-80; s. 11, ch. 90-198; s. 9, ch. 92-148; s. 1, ch. 94-102.

#### **723.0381 Civil actions; arbitration.—**

(1) After mediation of a dispute pursuant to s. 723.038 has failed to provide a resolution of the dispute, either party may file an action in the circuit court.

(2) The court may refer the action to nonbinding arbitration pursuant to s. 44.103 and the Florida Rules of Civil Procedure. The court shall order the hearing to be held informally with presentation of testimony kept to a minimum and matters presented to the arbitrators primarily through the statements and arguments of counsel. The court shall assess the parties equally to pay the compensation awarded to the arbitrators if neither party requests a trial de novo. If a party has filed for a trial de novo, the party shall be assessed the arbitration costs, court costs, and other reasonable costs of the opposing party, including attorney's fees, investigation expenses, and expenses for expert or other testimony or evidence incurred after the arbitration hearing if the judgment upon the trial de novo is not more favorable than the arbitration decision. If subsequent to arbitration a party files for a trial de novo, the arbitration decision may be made known to the judge only after he or she has entered his or her order on the merits.

**History.**—s. 12, ch. 90-198; s. 10, ch. 92-148; s. 61, ch. 95-211; s. 919, ch. 97-102; s. 3, ch. 97-291.

#### **723.041 Entrance fees; refunds; exit fees prohibited; replacement homes.—**

(1)(a) Entrance fees on new mobile home placements shall be specifically set forth in the prospectus or offering circular. Any such fee shall be clearly identified in writing at the time that the rental agreement is signed or otherwise concluded.

(b) The failure on the part of a mobile home park owner or developer to disclose fully all fees, charges, or assessments shall prevent the park owner or operator from collecting such fees, charges, or assessments; and a refusal by the mobile home owner to pay any undisclosed charge shall not be used by the park owner or developer as a cause for eviction in any court of law.

(c) It is unlawful for any mobile home park owner or developer to make any agreement, written or oral,

whereby the fees authorized in this subsection will be split between such mobile home park owner or developer and any mobile home dealer, unless otherwise provided for in this chapter. Any person who violates any of the provisions of this paragraph is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(d) With respect to the first rental agreement for a mobile home lot in a developing park, the park has the right to condition such initial rental agreement upon the prospective resident's purchasing the mobile home from a dealer chosen by the park developer. A park developer may also buy down rentals on the initial rental agreement of a mobile home lot, and such buy-downs may be split between the owner of a developing park and the dealer.

(e) Whenever an entrance fee is charged by a mobile home park owner or developer for the entrance of a mobile home into the park and such mobile home is moved from the park before 2 years have passed from the date on which the fee was charged, the fee shall be prorated and a portion returned as follows:

1. The entrance fee shall be refunded at the rate of one twenty-fourth of such fee for each month short of 2 years that the mobile home owner maintained his or her mobile home within the park.

2. The entrance fee shall be refunded within 15 days after the mobile home has been physically moved from the park.

No new entrance fee may be charged for a move within the same park. This paragraph does not apply in instances in which the mobile home owner is evicted on the ground of nonpayment of rent; violation of a federal, state, or local ordinance; or violation of a properly promulgated park rule or regulation or leaves before the expiration date of his or her rental agreement. However, the sums due to the park by the mobile home owner may be offset against the balance due on the entrance fee.

(2) No person shall be required by a mobile home park owner to pay an exit fee upon termination of his or her residency.

(3) No entrance fee may be charged by the park owner to the purchaser of a mobile home situated in the park that is offered for sale by a resident of the park.

(4) Except as expressly preempted by the requirements of the Department of Highway Safety and Motor Vehicles, a mobile home owner or the park owner shall be authorized pursuant to this section to site any size new or used mobile home and appurtenances on a mobile home lot in accordance with the lot sizes, separation and setback distances, and other requirements in effect at the time of the approval of the mobile home park.

(5) A mobile home park that is damaged or destroyed due to wind, water, or other natural force may be rebuilt on the same site with the same density as was approved, permitted, and built before the park was damaged or destroyed.

(6) This section does not limit the regulation of the uniform firesafety standards established under s. 633.206, but supersedes any other density, separation,

setback, or lot size regulation adopted after initial permitting and construction of the mobile home park.

**History.**—s. 1, ch. 84-80; s. 9, ch. 86-162; s. 27, ch. 91-110; s. 168, ch. 91-224; s. 920, ch. 97-102; s. 6, ch. 2003-263; s. 26, ch. 2020-27.

**723.042 Provision of improvements.**—A person may not be required by a mobile home park owner or developer, as a condition of residence in the mobile home park, to provide any improvement unless the requirement is disclosed pursuant to s. 723.012(7) prior to occupancy in the mobile home park.

**History.**—s. 1, ch. 84-80; s. 59, ch. 85-62; s. 27, ch. 2020-27.

**723.043 Purchase of equipment.**—No mobile home park owner or developer shall require a mobile home owner of the mobile home park to purchase from such mobile home park owner underskirting, equipment for tying down a mobile home, or any other equipment required by law, local ordinance, or regulation of the mobile home park. However, the park developer or park owner may determine by rule or regulation the style or quality of such equipment to be purchased by the mobile home owner from the vendor of the mobile home owner's choosing, provided the style or quality has been disclosed in the prospectus given by the park developer or park owner to the mobile home owner.

**History.**—s. 1, ch. 84-80.

**723.044 Interference with installation of appliances or interior improvements.**—A mobile home park owner or developer shall not charge any resident who chooses to install an electric or gas appliance in her or his mobile home an additional fee solely on the basis of such installation or restrict the installation, service, or maintenance of any such appliance or the making of any interior improvement in such mobile home, so long as the installation or improvement is in compliance with applicable building codes and other provisions of law.

**History.**—s. 1, ch. 84-80; s. 921, ch. 97-102.

**723.045 Sale of utilities by park owner or developer.**—No mobile home park owner or developer who purchases electricity or gas (natural, manufactured, or similar gaseous substance) from any public utility or municipally owned utility or who purchases water from a water system for the purpose of supplying or reselling the electricity, gas, or water to any other person to whom she or he leases, lets, rents, subleases, sublets, or subrents the premises upon which the electricity, gas, or water is to be used shall charge, demand, or receive, directly or indirectly, any amount for the resale of such electricity, gas, or water greater than that amount charged by the public utility or municipally owned utility from which the electricity or gas was purchased or by the public water system from which the water was purchased. However, as concerns the distribution of water, the park owner may charge for maintenance actually incurred and administrative costs. This section does not apply to a park owner who is regulated pursuant to chapter 367 or by a county water ordinance.

**History.**—s. 1, ch. 84-80; s. 922, ch. 97-102.

**723.046 Capital costs of utility improvements.** In the event that the costs for capital improvements for a



water or sewer system are to be charged to or to be passed through to the mobile home owners or if such expenses shall be required of mobile home owners in a mobile home park owned all or in part by the residents, any such charge exceeding \$200 per mobile home owner may, at the option of the mobile home owner, be paid in full within 60 days from the notification of the assessment, or amortized with interest over the same duration and at the same rate as allowed for a single-family home under the local government ordinance. If no amortization is provided for a single house, then the period of amortization by the municipality, county, or special district shall be not less than 8 years. The amortization requirement established herein shall be binding upon any municipality, county, or special district serving the mobile home park.

**History.**—s. 11, ch. 92-148.

#### **723.051 Invitees; rights and obligations.—**

(1) An invitee of a mobile home owner shall have ingress and egress to and from the home owner's site without the home owner or invitee being required to pay additional rent, a fee, or any charge whatsoever. Any mobile home park rule or regulation providing for fees or charges contrary to the terms of this section is null and void.

(2) All guests, family members, or invitees are required to abide by properly promulgated rules and regulations.

(3) For the purposes of this section, an "invitee" is defined as a person whose stay at the request of a mobile home owner does not exceed 15 consecutive days or 30 total days per year, unless such person has the permission of the park owner or unless permitted by a properly promulgated rule or regulation. The spouse of a mobile home owner shall not be considered an invitee.

**History.**—s. 1, ch. 84-80.

#### **723.054 Right of mobile home owners to peaceably assemble; right to communicate.—**

(1) No provision contained in any bylaw, rental agreement, regulation, or rule pertaining to a mobile home park shall infringe upon the right of the mobile home owners to peaceably assemble in an open public meeting for any lawful purpose, at reasonable times and in a reasonable manner, in the common areas or recreational areas of the mobile home park.

(2) No provision contained in any bylaw, rental agreement, regulation, or rule pertaining to a mobile home park shall infringe upon the right of the mobile home owners or tenants to communicate or assemble among themselves, at reasonable times and in a reasonable manner, for the purpose of discussing any problems relative to the mobile home park. Such discussions may be held in the common areas or recreational areas of the park, including halls or centers, or in any resident's mobile home. In addition, the park owner or developer may not unreasonably restrict the use of any facility, including the use of utilities, when requested.

(3) No provision contained in any bylaw, rental agreement, regulation, or rule pertaining to a mobile home park shall prohibit any mobile home owner from

canvassing mobile home owners for the purposes described in this subsection. For the purposes of this subsection, the term "canvassing" includes an oral or written request; the distribution, circulation, posting, or publication of a notice; or a general announcement requesting the payment of membership dues or other matters relevant to the membership of the park association, federation, or organization. Such canvassing shall be done at a reasonable time or times and in a reasonable manner. It is the intent of the Legislature, through the enactment of this subsection, to prohibit any owner, developer, or manager of a mobile home park from prohibiting free communication among mobile home owners or tenants in the guise of regulations or rules restricting or limiting canvassing for association, federation, or organization dues or other association, federation, or organization matters.

**History.**—s. 1, ch. 84-80.

#### **723.055 Right of mobile home owner to invite public officers, candidates for public office, or representatives of a tenant organization.—**

No provision contained in any bylaw, rental agreement, regulation, or rule pertaining to a mobile home park shall infringe upon the right of a mobile home owner to invite public officers, candidates who have qualified for public office, or officers or representatives of a tenant organization to appear and speak upon matters of public interest in the common areas or recreational areas of the mobile home park at reasonable times and in a reasonable manner in an open public meeting. The mobile home park owner, however, may enforce rules and regulations relating to the time, place, and scheduling of such speakers, which rules and regulations will protect the interests of the majority of the home owners.

**History.**—s. 1, ch. 84-80.

#### **723.056 Enforcement of right of assembly and right to hear outside speakers.—**

Any mobile home owner who is prevented from exercising rights guaranteed by s. 723.054 or s. 723.055 may bring an action in the appropriate court having jurisdiction in the county in which the alleged infringement occurred, and, upon favorable adjudication, the court shall enjoin the enforcement of any provision contained in any bylaw, rental agreement, or rule pertaining to a mobile home park which operates to deprive the home owner of such rights.

**History.**—s. 1, ch. 84-80.

#### **723.058 Restrictions on sale of mobile homes.**

(1) No mobile home park owner or subdivision developer shall make or enforce any rule, regulation, or rental agreement provision which denies or abridges the right of any mobile home owner or owner of a lot in a mobile home subdivision to sell his or her mobile home within the park or mobile home subdivision; which prohibits the mobile home owner or the owner of a lot in a mobile home subdivision from placing a "for sale" sign on or in his or her mobile home (except that the size, placement, and character of all signs are subject to properly promulgated and reasonable rules and regulations of the mobile home park or mobile home subdivision); or which requires the mobile home owner or the

owner of a lot in a mobile home subdivision to remove the mobile home from the park or mobile home subdivision solely on the basis of the sale thereof.

(2) The park owner or subdivision developer shall not exact a commission or fee with respect to the price realized by the seller unless the park owner or subdivision developer has acted as agent for the mobile home owner or the owner of a lot in a mobile home subdivision in the sale pursuant to a written contract.

(3) No mobile home owner, owner of a lot in a mobile home subdivision, or purchaser of an existing mobile home located within a park or mobile home subdivision, as a condition of tenancy, or to qualify for tenancy, or to obtain approval for tenancy in a mobile home park or mobile home subdivision, shall be required to enter into, extend, or renew a resale agreement.

(4) No resale agreement shall be construed to be of perpetual or indefinite duration. Any duration shall be construed to expire 6 months following written notice from the homeowner to the park owner or subdivision developer informing the park owner or subdivision developer that the homeowner is placing his or her mobile home for sale, and requesting the park owner or subdivision developer to utilize his or her best efforts to sell the mobile home on the homeowner's behalf. Any extension or renewal of a resale agreement shall be in writing and shall be of specified duration.

(5) No mobile home park owner or subdivision developer shall impose a discriminatory increase in lot rental amount upon a mobile home owner, owner of a lot in a mobile home subdivision, or purchaser of an existing mobile home within the park or mobile home subdivision based upon the failure or refusal of such mobile home owner, owner of a lot in a mobile home subdivision, or purchaser to enter into, extend, or renew a resale agreement prohibited by subsection (3).

**History.**—s. 1, ch. 84-80; s. 14, ch. 90-198; s. 2, ch. 91-202; s. 923, ch. 97-102.

### **723.059 Purchaser of a mobile home within a mobile home park.—**

(1) The purchaser of a mobile home within a mobile home park may become a tenant of the park if such purchaser would otherwise qualify with the requirements of entry into the park under the park rules and regulations, subject to the approval of the park owner, but such approval may not be unreasonably withheld. The purchaser of the mobile home may cancel or rescind the contract for purchase of the mobile home if the purchaser's tenancy has not been approved by the park owner 5 days before the closing of the purchase.

(2) Properly promulgated rules may provide for the screening of any prospective purchaser to determine whether or not such purchaser is qualified to become a tenant of the park.

(3) The purchaser of a mobile home who intends to become a resident of the mobile home park in accordance with this section has the right to assume the remainder of the term of any rental agreement then in effect between the mobile home park owner and the seller and may assume the seller's prospectus. However, nothing herein shall prohibit a mobile home park

owner from offering the purchaser of a mobile home any approved prospectus.

(4) However, nothing herein shall be construed to prohibit a mobile home park owner from increasing the rental amount to be paid by the purchaser upon the expiration of the assumed rental agreement in an amount deemed appropriate by the mobile home park owner, so long as such increase is disclosed to the purchaser prior to his or her occupancy and is imposed in a manner consistent with the purchaser's prospectus and this act.

(5) Lifetime leases and the renewal provisions in automatically renewable leases, both those existing and those entered into after July 1, 1986, are not assumable unless otherwise provided in the mobile home lot rental agreement or unless the transferee is the home owner's spouse. The right to an assumption of the lease by a spouse may be exercised only one time during the term of that lease.

**History.**—s. 1, ch. 84-80; s. 10, ch. 86-162; s. 924, ch. 97-102; s. 7, ch. 2015-90; s. 3, ch. 2016-169; s. 28, ch. 2020-27.

### **723.061 Eviction; grounds, proceedings.—**

(1) A mobile home park owner may evict a mobile home owner, a mobile home tenant, a mobile home occupant, or a mobile home only on one or more of the following grounds:

(a) Nonpayment of the lot rental amount. If a mobile home owner or tenant, whichever is responsible, fails to pay the lot rental amount when due and if the default continues for 5 days after delivery of a written demand by the mobile home park owner for payment of the lot rental amount, the park owner may terminate the tenancy. However, if the mobile home owner or tenant, whichever is responsible, pays the lot rental amount due, including any late charges, court costs, and attorney's fees, the court may, for good cause, deny the order of eviction, if such nonpayment has not occurred more than twice.

(b) Conviction of a violation of a federal or state law or local ordinance, if the violation is detrimental to the health, safety, or welfare of other residents of the mobile home park. The mobile home owner or mobile home tenant must vacate the premises within 7 days after the date the notice to vacate is delivered. This paragraph constitutes grounds to deny an initial tenancy of a purchaser of a home under paragraph (e) or to evict an unapproved occupant of a home.

(c) Violation of a park rule or regulation, the rental agreement, or this chapter.

1. For the first violation of any properly promulgated rule or regulation, rental agreement provision, or this chapter which is found by any court of competent jurisdiction to have been an act that endangered the life, health, safety, or property of the park residents or employees or the peaceful enjoyment of the mobile home park by its residents, the mobile home park owner may terminate the rental agreement, and the mobile home owner, tenant, or occupant must vacate the premises within 7 days after the notice to vacate is delivered.

2. For a second violation of the same properly promulgated rule or regulation, rental agreement provision, or this chapter within 12 months, the mobile home

park owner may terminate the tenancy if she or he has given the mobile home owner, tenant, or occupant written notice, within 30 days after the first violation, which specified the actions of the mobile home owner, tenant, or occupant that caused the violation and gave the mobile home owner, tenant, or occupant 7 days to correct the noncompliance. The mobile home owner, tenant, or occupant must have received written notice of the ground upon which she or he is to be evicted at least 30 days prior to the date on which she or he is required to vacate. A second violation of a properly promulgated rule or regulation, rental agreement provision, or this chapter within 12 months of the first violation is unequivocally a ground for eviction, and it is not a defense to any eviction proceeding that a violation has been cured after the second violation. Violation of a rule or regulation, rental agreement provision, or this chapter more than 1 year after the first violation of the same rule or regulation, rental agreement provision, or this chapter does not constitute a ground for eviction under this section.

A properly promulgated rule or regulation may not be arbitrarily applied and used as a ground for eviction.

(d) Change in use of the land comprising the mobile home park, or the portion thereof from which mobile homes are to be evicted, from mobile home lot rentals to some other use, if:

1. The park owner gives written notice to the homeowners' association formed and operating under ss. 723.075-723.079 of its right to purchase the mobile home park, if the land comprising the mobile home park is changing use from mobile home lot rentals to a different use, at the price and under the terms and conditions set forth in the written notice.

a. The notice shall be delivered to the officers of the homeowners' association by United States mail. Within 45 days after the date of mailing of the notice, the homeowners' association may execute and deliver a contract to the park owner to purchase the mobile home park at the price and under the terms and conditions set forth in the notice. If the contract between the park owner and the homeowners' association is not executed and delivered to the park owner within the 45-day period, the park owner is under no further obligation to the homeowners' association except as provided in subparagraph b.

b. If the park owner elects to offer or sell the mobile home park at a price lower than the price specified in her or his initial notice to the officers of the homeowners' association, the homeowners' association has an additional 10 days to meet the revised price, terms, and conditions of the park owner by executing and delivering a revised contract to the park owner.

c. The park owner is not obligated under this subparagraph or s. 723.071 to give any other notice to, or to further negotiate with, the homeowners' association for the sale of the mobile home park to the homeowners' association after 6 months after the date of the mailing of the initial notice under subparagraph a.

2. The park owner gives the affected mobile home owners and tenants at least 6 months' notice of the

eviction due to the projected change in use and of their need to secure other accommodations. Within 20 days after giving an eviction notice to a mobile home owner, the park owner must provide the division with a copy of the notice. The division must provide the executive director of the Florida Mobile Home Relocation Corporation with a copy of the notice.

a. The notice of eviction due to a change in use of the land must include in a font no smaller than the body of the notice the following statement:

YOU MAY BE ENTITLED TO COMPENSATION FROM THE FLORIDA MOBILE HOME RELOCATION TRUST FUND, ADMINISTERED BY THE FLORIDA MOBILE HOME RELOCATION CORPORATION (FMHRC). FMHRC CONTACT INFORMATION IS AVAILABLE FROM THE FLORIDA DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION.

b. The park owner may not give a notice of increase in lot rental amount within 90 days before giving notice of a change in use.

(e) Failure of the purchaser, prospective tenant, or occupant of a mobile home situated in the mobile home park to be qualified as, and to obtain approval to become, a tenant or occupant of the home, if such approval is required by a properly promulgated rule. If a purchaser or prospective tenant of a mobile home situated in the mobile home park occupies the mobile home before such approval is granted, the mobile home owner or mobile home tenant must vacate the premises within 7 days after the date the notice of the failure to be approved for tenancy is delivered.

(2) In the event of eviction for a change in use, homeowners must object to the change in use by petitioning for administrative or judicial remedies within 90 days after the date of the notice or they will be barred from taking any subsequent action to contest the change in use. This subsection does not prevent any homeowner from objecting to a zoning change at any time.

(3) A mobile home park owner applying for the removal of a mobile home owner, tenant, or occupant or a mobile home shall file, in the county court in the county where the mobile home lot is situated, a complaint describing the lot and stating the facts that authorize the removal of the mobile home owner, tenant, or occupant or the mobile home. The park owner is entitled to the summary procedure provided in s. 51.011, and the court shall advance the cause on the calendar.

(4) Except for the notice to the officers of the homeowners' association under subparagraph (1)(d)1., any notice required by this section must be in writing, and must be posted on the premises and sent to the mobile home owner and tenant or occupant, as appropriate, by certified or registered mail, return receipt requested, addressed to the mobile home owner and tenant or occupant, as appropriate, at her or his last known address. Delivery of the mailed notice shall be deemed given 5 days after the date of postmark.

(5) A park owner who accepts payment of any portion of the lot rental amount with actual knowledge of noncompliance after notice and termination of the rental agreement due to a violation under paragraph (1)(b), paragraph (1)(c), or paragraph (1)(e) does not waive the right to terminate the rental agreement or the right to bring a civil action for the noncompliance, but not for any subsequent or continuing noncompliance. Any rent so received must be accounted for at the final hearing.

**History.**—s. 1, ch. 84-80; s. 11, ch. 86-162; ss. 7, 8, ch. 87-117; ss. 2, 3, 4, ch. 87-150; s. 16, ch. 88-147; s. 3, ch. 91-66; s. 12, ch. 92-148; s. 925, ch. 97-102; s. 6, ch. 2001-227; s. 7, ch. 2003-263; s. 1, ch. 2007-47; s. 2, ch. 2011-105; s. 29, ch. 2020-27.

#### **723.0611 Florida Mobile Home Relocation Corporation.—**

(1)(a) There is created the Florida Mobile Home Relocation Corporation. The corporation shall be administered by a board of directors made up of six members, three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing mobile home owners in this state, and three of whom shall be appointed by the Secretary of Business and Professional Regulation from a list of nominees submitted by the largest nonprofit association representing the manufactured housing industry in this state. All members of the board of directors, including the chair, shall be appointed to serve for staggered 3-year terms.

(b) A member of the board of directors shall be removed from the board by the Secretary of Business and Professional Regulation, with or without cause, immediately after the written request for removal from the association in paragraph (a) that originally nominated that board member. The nominating entity must include nominees for replacement with the request for removal, and the secretary must immediately fill the vacancy created by the removal. The removal process may not occur more than once in a calendar year.

(2)(a) The board of directors may employ or retain such persons as are necessary to perform the administrative and financial transactions and responsibilities of the corporation and to perform other necessary and proper functions not prohibited by law.

(b) Members of the board of directors may be reimbursed from moneys of the corporation for actual and necessary expenses incurred by them as members but may not otherwise be compensated for their services.

(c) The corporation shall, for purposes of s. 768.28, be considered an agency of the state. Agents or employees of the corporation, members of the board of directors of the corporation, or representatives of the Division of Florida Condominiums, Timeshares, and Mobile Homes shall be considered officers, employees, or agents of the state, and actions against them and the corporation shall be governed by s. 768.28.

(d) Meetings of the board of directors are subject to the provisions of s. 286.011.

(e) Any person who receives compensation from the corporation or the park owner pursuant to ss. 723.061-723.0612 shall not have a cause of action against the corporation or the park owner for any claim

arising under the rights, duties, and obligations of the corporation or park owner in ss. 723.061-723.0612.

(3) The board of directors shall:

(a) Adopt a plan of operation and articles, bylaws, and operating rules pursuant to the provisions of ss. 120.536 and 120.54 to administer the provisions of this section and ss. 723.06115, 723.06116, and 723.0612.

(b) Establish procedures under which applicants for payments from the corporation may have grievances reviewed by an impartial body and reported to the board of directors.

(4) The corporation may:

(a) Sue or be sued.

(b) Borrow from private finance sources in order to meet the demands of the relocation program established in s. 723.0612.

**History.**—s. 7, ch. 2001-227; s. 8, ch. 2003-263; s. 2, ch. 2005-79; s. 75, ch. 2008-240; s. 8, ch. 2015-90.

#### **723.06115 Florida Mobile Home Relocation Trust Fund.—**

(1) The Florida Mobile Home Relocation Trust Fund is established within the Department of Business and Professional Regulation. The trust fund is to be used to fund the administration and operations of the Florida Mobile Home Relocation Corporation. All interest earned from the investment or deposit of moneys in the trust fund shall be deposited in the trust fund. The trust fund shall be funded from moneys collected by the corporation from mobile home park owners under s. 723.06116, the surcharge collected by the department under s. 723.007(2), the surcharge collected by the Department of Highway Safety and Motor Vehicles, and from other appropriated funds.

(2) Moneys in the Florida Mobile Home Relocation Trust Fund may be expended only:

(a) To pay the administration costs of the Florida Mobile Home Relocation Corporation; and

(b) To carry out the purposes and objectives of the corporation by making payments to mobile home owners under the relocation program.

(3) The department shall distribute moneys in the Florida Mobile Home Relocation Trust Fund to the Florida Mobile Home Relocation Corporation in accordance with the following:

(a) Before the beginning of each fiscal year, the corporation shall submit its annual operating budget, as approved by the corporation board, for the fiscal year and set forth that amount to the department in writing. One-fourth of the operating budget shall be transferred to the corporation each quarter. The department shall make the first one-fourth quarter transfer on the first business day of the fiscal year and make the remaining one-fourth quarter transfers before the second business day of the second, third, and fourth quarters. The corporation board may approve changes to the operational budget for a fiscal year by providing written notification of such changes to the department. The written notification must indicate the changes to the operational budget and the conditions that were unforeseen at the time the corporation developed the operational budget and why the changes are essential in order to continue operation of the corporation.

(b) The corporation shall periodically submit requests to the department for the transfer of funds to the corporation needed to make payments to mobile home owners under the relocation program. Requests must include documentation indicating the amount of funds needed, the name and location of the mobile home park, the number of approved applications for moving expenses or abandonment allowance, and summary information specifying the number and type, single-section or multisection, of homes moved or abandoned. The department shall process requests that include such documentation, subject to the availability of sufficient funds within the trust fund, within 5 business days after receipt of the request. Transfer requests may be submitted electronically.

(c) Funds transferred from the trust fund to the corporation shall be transferred electronically and shall be transferred to and maintained in a qualified public depository as defined in s. 280.02 which is specified by the corporation.

(4) Other than the requirements specified under this section, neither the corporation nor the department is required to take any other action as a prerequisite to accomplishing the provisions of this section.

(5) This section does not preclude department inspection of corporation records 5 business days after receipt of written notice.

**History.**—ss. 1, 2, ch. 2001-231; s. 2, ch. 2003-249; s. 9, ch. 2003-263; s. 22, ch. 2005-3; s. 2, ch. 2013-158.

#### **723.06116 Payments to the Florida Mobile Home Relocation Corporation.—**

(1) If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the Florida Mobile Home Relocation Corporation for deposit in the Florida Mobile Home Relocation Trust Fund \$2,750 for each single-section mobile home and \$3,750 for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses. The mobile home park owner shall make the payments required by this section and by s. 723.0612(7) to the corporation within 30 days after receipt from the corporation of the invoice for payment. Failure to make such payment within the required time period shall result in a late fee being imposed.

(a) If payment is not submitted within 30 days after receipt of the invoice, a 10-percent late fee shall be assessed.

(b) If payment is not submitted within 60 days after receipt of the invoice, a 15-percent late fee shall be assessed.

(c) If payment is not submitted within 90 days after receipt of the invoice, a 20-percent late fee shall be assessed.

(d) Any payment received 120 days or more after receipt of the invoice shall include a 25-percent late fee.

(2) A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612(1), when:

(a) The mobile home park owner moves a mobile home owner to another space in the mobile home park

or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the mobile home park owner or manager before the change in use notice has been given; or

(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(7).

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

(3) This section and s. 723.0612(7) are enforceable by the corporation by action in a court of appropriate jurisdiction.

(4) In any action brought by the corporation to collect payments assessed under this chapter, the corporation may file and maintain such action in Leon County. If the corporation is a party in any other action, venue for such action shall be in Leon County.

**History.**—s. 3, ch. 2001-231; s. 105, ch. 2002-1; s. 2, ch. 2002-27; s. 10, ch. 2003-263; s. 2, ch. 2007-47.

#### **723.0612 Change in use; relocation expenses; payments by park owner.—**

(1) If a mobile home owner is required to move due to a change in use of the land comprising the mobile home park as set forth in s. 723.061(1)(d) and complies with the requirements of this section, the mobile home owner is entitled to payment from the Florida Mobile Home Relocation Corporation of:

(a) The amount of actual moving expenses of relocating the mobile home to a new location within a 50-mile radius of the vacated park, or

(b) The amount of \$3,000 for a single-section mobile home or \$6,000 for a multisection mobile home, whichever is less. Moving expenses include the cost of taking down, moving, and setting up the mobile home in a new location.

(2) A mobile home owner shall not be entitled to compensation under subsection (1) when:

(a) The park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;

(b) A mobile home owner is vacating the premises and has informed the park owner or manager before notice of the change in use has been given;

(c) A mobile home owner abandons the mobile home as set forth in subsection (7); or

(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d).

(3) Except as provided in subsection (7), in order to obtain payment from the Florida Mobile Home Relocation Corporation, the mobile home owner shall submit to the corporation, with a copy to the park owner, an application for payment which includes:

(a) A copy of the notice of eviction due to change in use; and

(b) A contract with a moving or towing contractor for the moving expenses for the mobile home.

(4) The Florida Mobile Home Relocation Corporation must approve payment within 45 days after receipt of the information set forth in subsection (3), or payment is deemed approved. A copy of the approval must be forwarded to the park owner with an invoice for payment. Upon approval, the corporation shall issue a voucher in the amount of the contract price for relocating the mobile home. The moving contractor may redeem the voucher from the corporation following completion of the relocation and upon approval of the relocation by the mobile home owner.

(5) Actions of the Florida Mobile Home Relocation Corporation under this section are not subject to the provisions of chapter 120 but are reviewable only by writ of certiorari in the circuit court in the county in which the claimant resides in the manner and within the time provided by the Florida Rules of Appellate Procedure.

(6) This section does not apply to any proceeding in eminent domain under chapter 73 or chapter 74.

(7) In lieu of collecting payment from the Florida Mobile Home Relocation Corporation as set forth in subsection (1), a mobile home owner may abandon the mobile home in the mobile home park and collect \$1,375 for a single section and \$2,750 for a multisection from the corporation as long as the mobile home owner delivers to the park owner the current title to the mobile home duly endorsed by the owner of record and valid releases of all liens shown on the title. If a mobile home owner chooses this option, the park owner shall make payment to the corporation in an amount equal to the amount the mobile home owner is entitled to under this subsection. The mobile home owner's application for funds under this subsection shall require the submission of a document signed by the park owner stating that the home has been abandoned under this subsection and that the park owner agrees to make payment to the corporation in the amount provided to the home owner under this subsection. However, in the event that the required documents are not submitted with the application, the corporation may consider the facts and circumstances surrounding the abandonment of the home to determine whether the mobile home owner is entitled to payment pursuant to this subsection. The mobile home owner is not entitled to any compensation under this subsection if there is a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in the use of the mobile home park given pursuant to s. 723.061(1)(d).

(8) The Florida Mobile Home Relocation Corporation shall not be liable to any person for recovery if funds are insufficient to pay the amounts claimed. In any such event, the corporation shall keep a record of the time and date of its approval of payment to a claimant. If sufficient funds become available, the corporation shall pay the claimant whose unpaid claim is the earliest by time and date of approval.

(9) Any person whose application for funding pursuant to subsection (1) or subsection (7) is approved for payment by the corporation shall be barred from asserting any claim or cause of action under this chapter directly relating to or arising out of the change in use of

the mobile home park against the corporation, the park owner, or the park owner's successors in interest. No application for funding pursuant to subsection (1) or subsection (7) shall be approved by the corporation if the applicant has filed a claim or cause of action, is actively pursuing a claim or cause of action, has settled a claim or cause of action, or has a judgment against the corporation, the park owner, or the park owner's successors in interest under this chapter directly relating to or arising out of the change in use of the mobile home park, unless such claim or cause of action is dismissed with prejudice.

(10) It is unlawful for any person or his or her agent to file any notice, statement, or other document required under this section which is false or contains any material misstatement of fact. Any person who violates this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(11) In an action to enforce the provisions of this section and ss. 723.0611, 723.06115, and 723.06116, the prevailing party is entitled to reasonable attorney's fees and costs.

(12) An application to the corporation for compensation under subsection (1) or subsection (7) must be received within 1 year after the expiration of the eviction period as established in the notice required under s. 723.061(1)(d). If the applicant files a claim or cause of action that disqualifies the applicant under subsection (9) and the claim is subsequently dismissed, the application must be received within 6 months following filing of the dismissal with prejudice as required under subsection (9). However, such an applicant must apply within 2 years after the expiration of the eviction period as established in the notice required under s. 723.061(1)(d).

**History.**—s. 8, ch. 2001-227; s. 3, ch. 2002-27; s. 11, ch. 2003-263; s. 1, ch. 2004-13; s. 3, ch. 2005-79; s. 3, ch. 2007-47.

#### **723.0615 Retaliatory conduct.—**

(1) It is unlawful for a mobile home park owner to discriminatorily increase a home owner's rent or discriminatorily decrease services to a home owner, or to bring or threaten to bring an action for possession or other civil action, primarily because the park owner is retaliating against the home owner. In order for the home owner to raise the defense of retaliatory conduct, the home owner must have acted in good faith and not for any improper purposes, such as to harass or to cause unnecessary delay or for frivolous purpose or needless increase in the cost of litigation. Examples of conduct for which the park owner may not retaliate include, but are not limited to, situations where:

(a) The home owner has in good faith complained to a governmental agency charged with responsibility for enforcement of a building, housing, or health code of a suspected violation applicable to the mobile home park;

(b) The home owner has organized, encouraged, or participated in a homeowners' organization; or

(c) The home owner has complained to the park owner for failure to comply with s. 723.022.

(2) Evidence of retaliatory conduct may be raised by the home owner as a defense in any action brought against him or her for possession.

(3) In any event, this section does not apply if the park owner proves that the eviction is for good cause. Examples of such good cause include, but are not limited to, good faith actions for nonpayment of the lot rental amount, violation of the rental agreement or of park rules, or violation of the terms of this chapter.

**History.**—s. 12, ch. 86-162; s. 926, ch. 97-102.

#### **723.062 Removal of mobile home owner; process.—**

(1) In an action for possession, after entry of judgment in favor of the mobile home park owner, the clerk shall issue a writ of possession to the sheriff, describing the lot or premises and commanding the sheriff to put the mobile home park owner in possession. The writ of possession shall not issue earlier than 10 days from the date judgment is granted.

(2) At the time the sheriff executes the writ of possession, the landlord or the landlord's agent may remove any personal property, including the mobile home, found on the premises to or near the property line or, in the case of the mobile home, into storage. If requested by the landlord, the sheriff shall stand by to keep the peace while the landlord removes personal property. When such a request is made, the sheriff may charge a reasonable hourly rate, and the person requesting the sheriff to stand by to keep the peace shall be responsible for paying the reasonable hourly rate set by the sheriff. Neither the sheriff nor the landlord nor his or her agent shall be responsible to the tenant or any other party for loss, destruction, or damage to the property after it has been removed.

**History.**—s. 1, ch. 84-80; s. 9, ch. 94-170; s. 927, ch. 97-102.

#### **723.063 Defenses to action for rent or possession; procedure.—**

(1) In any action based upon nonpayment of rent or seeking to recover unpaid rent, or a portion thereof, the mobile home owner may defend upon the ground of a material noncompliance with any portion of this chapter or may raise any other defense, whether legal or equitable, which he or she may have. The defense of material noncompliance may be raised by the mobile home owner only if 7 days have elapsed after he or she has notified the park owner in writing of his or her intention not to pay rent, or a portion thereof, based upon the park owner's noncompliance with portions of this chapter, specifying in reasonable detail the provisions in default. A material noncompliance with this chapter by the park owner is a complete defense to an action for possession based upon nonpayment of rent, or a portion thereof, and, upon hearing, the court or the jury, as the case may be, shall determine the amount, if any, by which the rent is to be reduced to reflect the diminution in value of the lot during the period of noncompliance with any portion of this chapter. After consideration of all other relevant issues, the court shall enter appropriate judgment.

(2) In any action by the park owner or a mobile home owner brought under subsection (1), the mobile home owner shall pay into the registry of the court that portion of the accrued rent, if any, relating to the claim of material noncompliance as alleged in the complaint, or

as determined by the court. The court shall notify the mobile home owner of such requirement. The failure of the mobile home owner to pay the rent, or portion thereof, into the registry of the court as required herein constitutes an absolute waiver of the mobile home owner's defenses other than payment, and the park owner is entitled to an immediate default.

(3) When the mobile home owner has deposited funds into the registry of the court in accordance with the provisions of this section and the park owner is in actual danger of loss of the premises or other personal hardship resulting from the loss of rental income from the premises, the park owner may apply to the court for disbursement of all or part of the funds or for prompt final hearing, whereupon the court shall advance the cause on the calendar. The court, after preliminary hearing, may award all or any portion of the funds on deposit to the park owner or may proceed immediately to a final resolution of the cause.

**History.**—s. 1, ch. 84-80; s. 928, ch. 97-102.

**723.068 Attorney's fees.**—Except as provided in s. 723.037, in any proceeding between private parties to enforce provisions of this chapter, the prevailing party is entitled to a reasonable attorney's fee.

**History.**—s. 1, ch. 84-80.

#### **723.071 Sale of mobile home parks.—**

(1)(a) If a mobile home park owner offers a mobile home park for sale, she or he shall notify the officers of the homeowners' association created pursuant to ss. 723.075-723.079 of the offer, stating the price and the terms and conditions of sale.

(b) The mobile home owners, by and through the association defined in s. 723.075, shall have the right to purchase the park, provided the home owners meet the price and terms and conditions of the mobile home park owner by executing a contract with the park owner within 45 days, unless agreed to otherwise, from the date of mailing of the notice and provided they have complied with ss. 723.075-723.079. If a contract between the park owner and the association is not executed within such 45-day period, then, unless the park owner thereafter elects to offer the park at a price lower than the price specified in her or his notice to the officers of the homeowners' association, the park owner has no further obligations under this subsection, and her or his only obligation shall be as set forth in subsection (2).

(c) If the park owner thereafter elects to offer the park at a price lower than the price specified in her or his notice to the home owners, the home owners, by and through the association, will have an additional 10 days to meet the price and terms and conditions of the park owner by executing a contract.

(2) If a mobile home park owner receives a bona fide offer to purchase the park that she or he intends to consider or make a counteroffer to, the park owner's only obligation shall be to notify the officers of the homeowners' association that she or he has received an offer and disclose the price and material terms and conditions upon which she or he would consider selling the park and consider any offer made by the home

owners, provided the home owners have complied with ss. 723.075-723.079. The park owner shall be under no obligation to sell to the home owners or to interrupt or delay other negotiations and shall be free at any time to execute a contract for the sale of the park to a party or parties other than the home owners or the association.

(3)(a) As used in subsections (1) and (2), the term “notify” means the placing of a notice in the United States mail addressed to the officers of the homeowners’ association. Each such notice shall be deemed to have been given upon the deposit of the notice in the United States mail.

(b) As used in subsection (1), the term “offer” means any solicitation by the park owner to the general public.

(4) This section does not apply to:

(a) Any sale or transfer to a person who would be included within the table of descent and distribution if the park owner were to die intestate.

(b) Any transfer by gift, devise, or operation of law.

(c) Any transfer by a corporation to an affiliate. As used herein, the term “affiliate” means any shareholder of the transferring corporation; any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation; or any other corporation or entity owned or controlled, directly or indirectly, by any shareholder of the transferring corporation.

(d) Any transfer by a partnership to any of its partners.

(e) Any conveyance of an interest in a mobile home park incidental to the financing of such mobile home park.

(f) Any conveyance resulting from the foreclosure of a mortgage, deed of trust, or other instrument encumbering a mobile home park or any deed given in lieu of such foreclosure.

(g) Any sale or transfer between or among joint tenants or tenants in common owning a mobile home park.

(h) Any exchange of a mobile home park for other real property, whether or not such exchange also involves the payment of cash or other boot.

(i) The purchase of a mobile home park by a governmental entity under its powers of eminent domain.

**History.**—s. 1, ch. 84-80; s. 929, ch. 97-102.

### **723.072 Affidavit of compliance with statutory requirements.—**

(1) A park owner may at any time record, in the official records of the county where a mobile home park is situated, an affidavit in which the park owner certifies that:

(a) With reference to an offer by him or her for the sale of such park, he or she has complied with the provisions of s. 723.071(1);

(b) With reference to an offer received by him or her for the purchase of such park, or with reference to a counteroffer which he or she intends to make, or has made, for the sale of such park, he or she has complied with the provisions of s. 723.071(2);

(c) Notwithstanding his or her compliance with the provisions of either subsection (1) or subsection (2) of s. 723.071, no contract has been executed for the sale of

such park between himself or herself and the park homeowners’ association;

(d) The provisions of subsections (1) and (2) of s. 723.071 are inapplicable to a particular sale or transfer of such park by him or her, and compliance with such subsections is not required; or

(e) A particular sale or transfer of such park is exempted from the provisions of this section and s. 723.071.

Any party acquiring an interest in a mobile home park, and any and all title insurance companies and attorneys preparing, furnishing, or examining any evidence of title, have the absolute right to rely on the truth and accuracy of all statements appearing in such affidavit and are under no obligation to inquire further as to any matter or fact relating to the park owner’s compliance with the provisions of s. 723.071.

(2) It is the purpose and intention of this section to preserve the marketability of title to mobile home parks, and, accordingly, the provisions of this section shall be liberally construed in order that all persons may rely on the record title to mobile home parks.

**History.**—s. 1, ch. 84-80; s. 60, ch. 85-62; s. 930, ch. 97-102.

### **723.073 Conveyance by the association.—**

(1) In the event that an association acquires a mobile home park and intends to reconvey a portion or portions of the property acquired to members of the association, the association shall record copies of its articles and bylaws and any additional covenants, restrictions, or declarations of servitude affecting the property with the clerk of the circuit court prior to the conveyance of any portion of the property to an individual member of the association. To create a mobile home cooperative after acquisition of the property, the association shall record the cooperative documents, as required by chapter 719, in the county where the property is located. The effective date of the cooperative shall be the date of the recording.

(2) An association that acquires a mobile home park pursuant to s. 723.071 is exempt from s. 719.1035 and the requirements of part VI of chapter 718 and part VI of chapter 719.

**History.**—s. 1, ch. 84-80; s. 8, ch. 96-396.

### **723.074 Sale of facilities serving a mobile home subdivision.—**

The owner of recreational facilities or other property exclusively serving a mobile home subdivision shall not sell such recreational facilities or other property unless she or he first gives the right to purchase such recreational facilities or other property to the owners of lots within the mobile home subdivision, in the manner provided for in s. 723.071, provided the owners of lots within the subdivision have created a homeowners’ association similar to that required by s. 723.075. A mobile home subdivision in which no more than 30 percent of the total lots are leased will not be deemed to be a mobile home park, provided the mobile home owner is granted an option to purchase the lot when the lease is entered into and provided the purchase price of the lot is included in the original lease agreement.

**History.**—s. 1, ch. 84-80; s. 931, ch. 97-102.



**723.075 Homeowners' associations.—**

(1) In order to exercise the rights of a homeowners' association as provided in this chapter, the mobile home owners shall form an association in compliance with this section and ss. 723.077, 723.078, and 723.079, which shall be a corporation for profit or not for profit and of which not less than two-thirds of all of the mobile home owners within the park shall have consented, in writing, to become members or shareholders. Upon incorporation of the association, all consenting mobile home owners in the park may become members or shareholders. The term "member" or "shareholder" means a mobile home owner who consents to be bound by the articles of incorporation, bylaws, and policies of the incorporated homeowners' association. The association may not have a member or shareholder who is not a bona fide owner of a mobile home located in the park. Upon incorporation and service of the notice described in s. 723.076, the association shall become the representative of all the mobile home owners in all matters relating to this chapter, regardless of whether the homeowner is a member of the association.

(2) It is the intent of the Legislature that any homeowners' association properly created pursuant to chapter 715 prior to the effective date of this act be deemed an association created pursuant to the provisions of this section and have all rights and powers granted under this section and ss. 723.077 and 723.079. Any inconsistency in the provisions of the charter of such previously created homeowners' association shall be deemed amended to conform herewith.

(3) Notwithstanding subsection (1), if a portion of the park contains concrete block homes occupying lots under 99-year leases, those homeowners may be part of the association and may serve on the board of directors of the association based on the percentage of lots containing concrete block homes to the total number of mobile home lots in the park.

**History.**—s. 1, ch. 84-80; s. 2, ch. 2008-45; s. 4, ch. 2016-169.

**723.0751 Mobile home subdivision homeowners' association.—**

(1) In the event that no homeowners' association has been created pursuant to ss. 720.301-720.312 to operate a mobile home subdivision, the owners of lots in such mobile home subdivision shall be authorized to create a mobile home subdivision homeowners' association in the manner prescribed in ss. 723.075, 723.076, and 723.078 which shall have the powers and duties, to the extent applicable, set forth in ss. 723.002(2) and 723.074.

(2) Rights granted to the owners of lots in a mobile home subdivision in ss. 723.002(2) and 723.074 may be exercised through an association created or authorized pursuant to this section for the owners of lots who are members of the mobile home subdivision homeowners' association.

(3) In the event that the owners of lots in a mobile home subdivision share common areas, recreational facilities, roads, and other amenities with the owners of mobile homes in a mobile home park and the mobile home owners have created a mobile home owners' association pursuant to ss. 723.075-723.079, said

mobile home owners' association shall be the authorized representative of owners of lots in said mobile home subdivision provided:

(a) The members of the mobile home owners' association have, by majority vote, authorized the inclusion of subdivision lot owners in the mobile home park homeowners' association; and

(b) The owners of lots in the mobile home subdivision are entitled to vote only on matters that effect their rights contained in ss. 723.002(2) and 723.074.

**History.**—s. 11, ch. 99-382; s. 57, ch. 2000-258.

**723.076 Incorporation; notification of park owner.—**

(1) Upon receipt of its certificate of incorporation, the homeowners' association shall notify the park owner in writing of such incorporation and shall advise the park owner of the names and addresses of the officers of the homeowners' association by personal delivery upon the park owner's representative as designated in the prospectus or by certified mail, return receipt requested. Thereafter, the homeowners' association shall notify the park owner in writing by certified mail, return receipt requested, of any change of names and addresses of its president or registered agent. Upon election or appointment of new officers or board members, the homeowners' association shall notify the park owner in writing by certified mail, return receipt requested, of the names and addresses of the new officers or board members.

(2) Upon written request by the homeowners' association, the park owner shall notify the homeowners' association by certified mail, return receipt requested, of the name and address of the park owner, the park owner's agent for service of process, and the legal description of the park. Thereafter, in the event of a change in the name or address of the park owner or the park owner's agent for service of process, the park owner shall notify in writing the president or registered agent of the homeowners' association of such change by certified mail, return receipt requested.

(3) The homeowners' association shall file a notice of its right to purchase the mobile home park as set forth in s. 723.071. The notice shall contain the name of the association, the name of the park owner, and the address or legal description of the park. The notice shall be recorded with the clerk of the circuit court in the county where the mobile home park is located. Within 10 days of the recording, the homeowners' association shall provide a copy of the recorded notice to the park owner at the address provided by the park owner by certified mail, return receipt requested.

**History.**—s. 1, ch. 84-80; s. 13, ch. 86-162; s. 17, ch. 88-147; s. 30, ch. 2020-27.

**723.077 Articles of incorporation.—**The articles of incorporation of a homeowners' association shall provide:

(1) That the association has the power to negotiate for, acquire, and operate the mobile home park on behalf of the mobile home owners.

(2) For the conversion of the mobile home park once acquired to a condominium, a cooperative, or a subdivision form of ownership, or another type of ownership.

Upon acquisition of the property, the association, by action of its board of directors, shall be the entity that creates a condominium, cooperative, or subdivision or offers condominium, cooperative, or subdivision units for sale or lease in the ordinary course of business or, if the homeowners choose a different form of ownership, the entity that owns the record interest in the property and that is responsible for the operation of property.

**History.**—s. 1, ch. 84-80; s. 13, ch. 92-148.

### **723.078 Bylaws of homeowners' associations.**

(1) The directors of the association and the operation shall be governed by the bylaws.

(2) The bylaws shall provide and, if they do not, shall be deemed to include, the following provisions:

(a) *Administration.*—The form of administration of the association shall be described, providing for the titles of the officers and for a board of directors and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and board members. Unless otherwise provided in the bylaws, the board of directors shall be composed of five members. The board of directors shall elect a president, secretary, and treasurer who shall perform the duties of those offices customarily performed by officers of corporations, and these officers shall serve without compensation and at the pleasure of the board of directors. The board of directors may elect and designate other officers and grant them those duties it deems appropriate.

(b) *Quorum; voting requirements; proxies.*—

1. Unless otherwise provided in the bylaws, 30 percent of the total membership is required to constitute a quorum. Decisions shall be made by a majority of members represented at a meeting at which a quorum is present.

2.a. A member may not vote by general proxy but may vote by limited proxies substantially conforming to a limited proxy form adopted by the division. Limited proxies and general proxies may be used to establish a quorum. Limited proxies may be used for votes taken to amend the articles of incorporation or bylaws pursuant to this section, and any other matters for which this chapter requires or permits a vote of members. A proxy, limited or general, may not be used in the election of board members in general elections or elections to fill vacancies caused by recall, resignation, or otherwise. Board members must be elected by written ballot or by voting in person. If a mobile home or subdivision lot is owned jointly, the owners of the mobile home or subdivision lot must be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot shall be counted. Any number greater than 50 percent of the total number of votes constitutes a majority. Notwithstanding this section, members may vote in person at member meetings or by secret ballot, including absentee ballots, as defined by the division.

b. Elections shall be decided by a plurality of the ballots cast. There is no quorum requirement; however, at least 20 percent of the eligible voters must cast a ballot in order to have a valid election. A member may not allow any other person to cast his or her ballot, and

any ballots improperly cast are invalid. An election is not required unless there are more candidates nominated than vacancies that exist on the board.

c. Each member or other eligible person who desires to be a candidate for the board of directors shall appear on the ballot in alphabetical order by surname. A ballot may not indicate if any of the candidates are incumbent on the board. All ballots must be uniform in appearance. Write-in candidates and more than one vote per candidate per ballot are not allowed. A ballot may not provide a space for the signature of, or any other means of identifying, a voter. If a ballot contains more votes than vacancies or fewer votes than vacancies, the ballot is invalid unless otherwise stated in the bylaws.

d. An impartial committee shall be responsible for overseeing the election process and complying with all ballot requirements. For purposes of this section, the term "impartial committee" means a committee whose members do not include any of the following people or their spouses:

(I) Current board members.

(II) Current association officers.

(III) Candidates for the association or board.

e. The association bylaws shall provide a method for determining the winner of an election in which two or more candidates for the same position receive the same number of votes.

f. The division shall adopt procedural rules to govern elections, including, but not limited to, rules for providing notice by electronic transmission and rules for maintaining the secrecy of ballots.

3. A proxy is effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. In no event shall any proxy be valid for a period longer than 90 days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it.

4. A member of the board of directors or a committee may submit in writing his or her agreement or disagreement with any action taken at a meeting that the member did not attend. This agreement or disagreement may not be used as a vote for or against the action taken and may not be used for the purposes of creating a quorum.

(c) *Board of directors' and committee meetings.*—

1. Meetings of the board of directors and meetings of its committees at which a quorum is present shall be open to all members. Notwithstanding any other provision of law, the requirement that board meetings and committee meetings be open to the members does not apply to meetings between the park owner and the board of directors or any of the board's committees, board or committee meetings held for the purpose of discussing personnel matters, or meetings between the board or a committee and the association's attorney, with respect to potential or pending litigation, when the meeting is held for the purpose of seeking or rendering legal advice, and when the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of all meetings open to members shall be posted in a conspicuous place upon the park

property at least 48 hours in advance, except in an emergency. Notice of any meeting in which dues are to be considered for any reason shall specifically contain a statement that dues will be considered and the nature of such dues.

2. A board or committee member's participation in a meeting via telephone, real-time videoconferencing, or similar real-time telephonic, electronic, or video communication counts toward a quorum, and such member may vote as if physically present. A speaker shall be used so that the conversation of those board or committee members attending by telephone may be heard by the board or committee members attending in person, as well as by members present at a meeting.

3. Members of the board of directors may use e-mail as a means of communication but may not cast a vote on an association matter via e-mail.

4. The right to attend meetings of the board of directors and its committees includes the right to speak at such meetings with reference to all designated agenda items. The association may adopt reasonable written rules governing the frequency, duration, and manner of members' statements. Any item not included on the notice may be taken up on an emergency basis by at least a majority plus one of the members of the board. Such emergency action shall be noticed and ratified at the next regular meeting of the board. Any member may tape record or videotape meetings of the board of directors and its committees, except meetings between the board of directors or its appointed homeowners' committee and the park owner. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting.

5. Except as provided in paragraph (i), a vacancy occurring on the board of directors may be filled by the affirmative vote of the majority of the remaining directors, even though the remaining directors constitute less than a quorum; by the sole remaining director; if the vacancy is not so filled or if no director remains, by the members; or, on the application of any person, by the circuit court of the county in which the registered office of the corporation is located.

6. The term of a director elected or appointed to fill a vacancy expires at the next annual meeting at which directors are elected. A directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors, but only for the term of office continuing until the next election of directors by the members.

7. A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date, may be filled before the vacancy occurs. However, the new director may not take office until the vacancy occurs.

8.a. The officers and directors of the association have a fiduciary relationship to the members.

b. A director and committee member shall discharge his or her duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner he or she reasonably believes to be in the best interests of the corporation.

9. In discharging his or her duties, a director may rely on information, opinions, reports, or statements,

including financial statements and other financial data, if prepared or presented by:

a. One or more officers or employees of the corporation who the director reasonably believes to be reliable and competent in the matters presented;

b. Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons' professional or expert competence; or

c. A committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.

10. A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subparagraph 9. unwarranted.

11. A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

(d) *Member meetings.*—Members shall meet at least once each calendar year, and the meeting shall be the annual meeting. All members of the board of directors shall be elected at the annual meeting unless the bylaws provide for staggered election terms or for their election at another meeting. The bylaws shall not restrict any member desiring to be a candidate for board membership from being nominated from the floor. All nominations from the floor must be made at a duly noticed meeting of the members held at least 27 days before the annual meeting. The bylaws shall provide the method for calling the meetings of the members, including annual meetings. The method shall provide at least 14 days' written notice to each member in advance of the meeting and require the posting in a conspicuous place on the park property of a notice of the meeting at least 14 days prior to the meeting. The right to receive written notice of membership meetings may be waived in writing by a member. Unless waived, the notice of the annual meeting shall be mailed, hand delivered, or electronically transmitted to each member, and shall constitute notice. Unless otherwise stated in the bylaws, an officer of the association shall provide an affidavit affirming that the notices were mailed, hand delivered, or provided by electronic transmission in accordance with this section to each member at the address last furnished to the corporation. These meeting requirements do not prevent members from waiving notice of meetings or from acting by written agreement without meetings, if allowed by the bylaws.

(e) *Minutes of meetings.*—

1. Notwithstanding any other provision of law, the minutes of board or committee meetings that are closed to members are privileged and confidential and are not available for inspection or photocopying.

2. Minutes of all meetings of members of an association and meetings open to members of the board of directors and a committee of the board must be maintained in written form and approved by the members, board, or committee, as applicable. 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.

3. All approved minutes of open meetings of members, committees, and the board of directors shall be kept in a businesslike manner and shall be available for inspection by members, or their authorized representatives, and board members at reasonable times. The association shall retain these minutes within this state for at least 5 years.

(f) *Manner of sharing assessments.*—The share or percentage of, and manner of sharing, assessments and expenses for each member shall be stated.

(g) *Annual budget.*—If the bylaws provide for adoption of an annual budget by the members, the board of directors shall mail a meeting notice and copies of the proposed annual budget of expenses to the members at least 30 days before the meeting at which the budget will be considered. If the bylaws provide that the budget may be adopted by the board of directors, the members shall be given written notice of the time and place at which the meeting of the board of directors to consider the budget will be held. The meeting shall be open to the members. If the bylaws do not provide for adoption of an annual budget, this paragraph shall not apply.

(h) *Amendment of articles of incorporation and bylaws.*—

1. The method by which the articles of incorporation and bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended by the board of directors and approved by a majority of members at a meeting at which a quorum is present. No bylaw shall be revised or amended by reference to its title or number only.

2. Notwithstanding any other provision of this section, if an amendment to the articles of incorporation or the bylaws is required by any action of any federal, state, or local governmental authority or agency, or any law, ordinance, or rule thereof, the board of directors may, by a majority vote of the board, at a duly noticed meeting of the board, amend the articles of incorporation or bylaws without a vote of the membership.

(i) *Recall of board members.*—Any member of the board of directors may be recalled and removed from office with or without cause by the vote of or agreement in writing by a majority of all members. A special meeting of the members to recall a member or members of the board of directors may be called by 10 percent of the members giving notice of the meeting as required for a meeting of members, and the notice shall state the purpose of the meeting. Electronic transmission may not be used as a method of giving notice of a meeting called in whole or in part for this purpose.

1. If the recall is approved by a majority of all members by a vote at a meeting, the recall is effective as provided in this paragraph. The board shall duly notice and hold a board meeting within 5 full business days after the adjournment of the member meeting to recall one or more board members. At the meeting, the board shall either certify the recall, in which case such member or members shall be recalled effective immediately and shall turn over to the board within 5 full business days any and all records and property of the association in their possession, or shall proceed under subparagraph 3.

2. If the proposed recall is by an agreement in writing by a majority of all members, the agreement in writing or a copy thereof shall be served on the association by certified mail or by personal service in the manner authorized by chapter 48 and the Florida Rules of Civil Procedure. The board of directors shall duly notice and hold a meeting of the board within 5 full business days after receipt of the agreement in writing. At the meeting, the board shall either certify the written agreement to recall members of the board, in which case such members shall be recalled effective immediately and shall turn over to the board, within 5 full business days, any and all records and property of the association in their possession, or shall proceed as described in subparagraph 3.

3. If the board determines not to certify the written agreement to recall members of the board, or does not certify the recall by a vote at a meeting, the board shall, within 5 full business days after the board meeting, file with the division a petition for binding arbitration pursuant to the procedures of s. 723.1255. For purposes of this paragraph, the members who voted at the meeting or who executed the agreement in writing shall constitute one party under the petition for arbitration. If the arbitrator certifies the recall of a member of the board, the recall shall be effective upon mailing of the final order of arbitration to the association. If the association fails to comply with the order of the arbitrator, the division may take action under s. 723.006. A member so recalled shall deliver to the board any and all records and property of the association in the member's possession within 5 full business days after the effective date of the recall.

4. If the board fails to duly notice and hold a board meeting within 5 full business days after service of an agreement in writing or within 5 full business days after the adjournment of the members' recall meeting, the recall shall be deemed effective and the board members so recalled shall immediately turn over to the board all records and property of the association.

5. If the board fails to duly notice and hold the required meeting or fails to file the required petition, the member's representative may file a petition pursuant to s. 723.1255 challenging the board's failure to act. The petition must be filed within 60 days after expiration of the applicable 5-full-business-day period. The review of a petition under this subparagraph is limited to the sufficiency of service on the board and the facial validity of the written agreement or ballots filed.

6. If a vacancy occurs on the board as a result of a recall and less than a majority of the board members are removed, the vacancy may be filled by the affirmative vote of a majority of the remaining directors, notwithstanding any other provision of this chapter. If vacancies occur on the board as a result of a recall and a majority or more of the board members are removed, the vacancies shall be filled in accordance with procedural rules to be adopted by the division, which rules need not be consistent with this chapter. The rules must provide procedures governing the conduct of the recall election as well as the operation of the association during the period after a recall but before the recall election.

7. A board member who has been recalled may file a petition pursuant to s. 723.1255 challenging the validity of the recall. The petition must be filed within 60 days after the recall is deemed certified. The association and the member's representative shall be named as the respondents.

8. The division may not accept for filing a recall petition, whether or not filed pursuant to this subsection, and regardless of whether the recall was certified, when there are 60 or fewer days until the scheduled reelection of the board member sought to be recalled or when 60 or fewer days have not elapsed since the election of the board member sought to be recalled.

(3) The bylaws may provide the following:

(a) A method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the park property.

(b) Restrictions on, and requirements respecting, the use and maintenance of mobile homes located within the park, and the use of the park property, which restrictions and requirements are not inconsistent with the articles of incorporation.

(c) Other provisions not inconsistent with this chapter or with other documents governing the park property or mobile homes located therein.

(d) The board of directors may, in any event, propose a budget to the members at a meeting of members or in writing, and, if the budget or proposed budget is approved by the members at the meeting or by a majority of their whole number in writing, that budget shall be adopted.

(e) The manner of collecting from the members their shares of the expenses for maintenance of the park property shall be stated. Assessments shall be made against members not less frequently than quarterly, in amounts no less than are required to provide funds in advance for payments of all of the anticipated current operating expenses and for all of the unpaid operating expense previously incurred.

(4) No amendment may change the proportion or percentage by which members share in the assessments and expenses as initially established unless all the members affected by such change approve the amendment.

(5) Upon purchase of the mobile home park, the association organized under this chapter may convert to a condominium, cooperative, or subdivision. The directors shall have the authority to amend and restate the articles of incorporation and bylaws in order to comply with the requirements of chapter 718, chapter 719, or other applicable sections of the Florida Statutes.

(6) Notwithstanding the provisions of s. 723.075(1), upon purchase of the park by the association, and conversion of the association to a condominium, cooperative, or subdivision, the mobile home owners who were members of the association prior to the conversion and who no longer meet the requirements for membership, as established by the amended or restated articles of incorporation and bylaws, shall no longer be members of the converted association. Mobile home owners, as defined in this chapter, who no longer

are eligible for membership in the converted association may form an association pursuant to s. 723.075.

**History.**—s. 1, ch. 84-80; s. 61, ch. 85-62; s. 14, ch. 92-148; s. 9, ch. 2015-90; s. 5, ch. 2016-169; s. 31, ch. 2020-27.

### **723.0781 Board member training programs.—**

(1) Within 90 days after being elected or appointed to the board, a newly elected or appointed director shall certify by an affidavit in writing to the secretary of the association that he or she has read the association's current articles of incorporation, bylaws, and the mobile home park's prospectus, rental agreement, rules, regulations, and written policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the association's members.

(2) In lieu of this written certification, within 90 days after being elected or appointed to the board, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum approved by the division within 1 year before or 90 days after the date of election or appointment. The educational certificate is valid and does not have to be resubmitted as long as the director serves on the board without interruption.

(3) A director who fails to timely file the written certification or educational certificate is suspended from service on the board until he or she complies with this section. The board may temporarily fill the vacancy during the period of suspension.

(4) The secretary of the association shall retain a director's written certification or educational certificate for inspection by the members for 5 years after the director's election or the duration of the director's uninterrupted tenure, whichever is longer. Failure to have such written certification or educational certificate on file does not affect the validity of any board action.

(5) This section becomes effective on October 1, 2016. Any member of the board of directors of a homeowners' association not in compliance with the requirements of this section may not be considered in violation of this section until after October 1, 2017.

**History.**—s. 11, ch. 2015-90; s. 6, ch. 2016-169.

### **723.079 Powers and duties of homeowners' association.—**

(1) An association may contract, sue, or be sued with respect to the exercise or nonexercise of its powers. For these purposes, the powers of the association include, but are not limited to, the maintenance, management, and operation of the park property.

(2) The powers and duties of an association include those set forth in this section and ss. 723.075 and 723.077 and those set forth in the articles of incorporation and bylaws and any recorded declarations or restrictions encumbering the park property, if not inconsistent with this chapter.

(3) An association has the power to make, levy, and collect assessments and to lease, maintain, repair, and replace the common areas upon purchase of the mobile home park.

(4) The association shall maintain the following items, when applicable, which constitute the official records of the association:

(a) A copy of the association's articles of incorporation and each amendment to the articles of incorporation.

(b) A copy of the bylaws of the association and each amendment to the bylaws.

(c) A copy of the written rules or policies of the association and each amendment to the written rules or policies.

(d) The approved minutes of all meetings of the members of an association and meetings open for members of the board of directors, and committees of the board, which minutes must be retained within this state for at least 5 years.

(e) A current roster of all members and their mailing addresses and lot identifications. The association shall also maintain the e-mail addresses and the numbers designated by members for receiving notice sent by electronic transmission of those members consenting to receive notice by electronic transmission. The e-mail addresses and numbers provided by members to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the e-mail address or the number for receiving electronic transmission of notices.

(f) All of the association's insurance policies or copies thereof, which must be retained within this state for at least 5 years after the expiration date of the policy.

(g) A copy of all contracts or agreements to which the association is a party, including, without limitation, any written agreements with the park owner, lease, or other agreements or contracts under which the association or its members has any obligation or responsibility, which must be retained within this state for at least 5 years after the expiration date of the contract or agreement.

(h) The financial and accounting records of the association, kept according to good accounting practices. All financial and accounting records must be maintained within this state for at least 5 years. The financial and accounting records must include:

1. Accurate, itemized, and detailed records of all receipts and expenditures.

2. A current account and a periodic statement of the account for each member, designating the name and current address of each member who is obligated to pay dues or assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

3. All tax returns, financial statements, and financial reports of the association.

4. Any other records that identify, measure, record, or communicate financial information.

(i) All other written records of the association not specifically included in the foregoing which are related to the operation of the association must be retained within this state for at least 5 years or at least 5 years after the expiration date, as applicable.

(5) The official records shall be made available to a member for inspection or photocopying within 20 business days after receipt by the board or its designee of a written request submitted by certified mail, return receipt requested. The requirements of this subsection are satisfied by having a copy of the official records available for inspection or copying in the park or, at the option of the association, by making the records available to a member electronically via the Internet or by allowing the records to be viewed in electronic format on a computer screen and printed upon request. If the association has a photocopy machine available where the records are maintained, it must provide a member with copies on request during the inspection if the entire request is no more than 25 pages. An association shall allow a member or his or her authorized representative to use a portable device, including a smartphone, tablet, portable scanner, or any other technology capable of scanning or taking photographs, to make an electronic copy of the official records in lieu of the association's providing the member or his or her authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for the use of a portable device.

(a) The failure of an association to provide access to the records within 20 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 with this subsection.

(b) A member who is denied access to official records is entitled to damages for the association's willful failure to comply with this subsection in the amount of \$10 per calendar day up to 10 days, not to exceed \$100. The calculation for damages begins on the 21st business day after receipt of the written request, submitted by certified mail, return receipt requested.

(c) A dispute between a member and an association regarding inspecting or photocopying official records must be submitted to mandatory binding arbitration with the division, and the arbitration must be conducted pursuant to s. 723.1255 and procedural rules adopted by the division.

(d) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a member to demonstrate a proper purpose for the inspection, state a reason for the inspection, or limit a member's right to inspect records to less than 1 business day per month. The association may impose fees to cover the costs of providing copies of the official records, including the costs of copying and for personnel to retrieve and copy the records if the time spent retrieving and copying the records exceeds 30 minutes and if the personnel costs do not exceed \$20 per hour. Personnel costs may not be charged for records requests that result in the copying of 25 or fewer pages. The association may charge up to 25 cents per page for copies made on the association's photocopier. If the association does not have a photocopy machine available where the records are kept, or if the records

requested to be copied exceed 25 pages in length, the association may have copies made by an outside duplicating service and may charge the actual cost of copying, as supported by the vendor invoice. The association shall maintain an adequate number of copies of the recorded governing documents, to ensure their availability to members and prospective members. Notwithstanding this paragraph, the following records are not accessible to members or home owners:

1. A record protected by the lawyer-client privilege as described in s. 90.502 and a record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation, for adversarial administrative proceedings, or in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. E-mail addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a home owner other than as provided for association notice requirements, and other personal identifying information of any person, excluding the person's name, lot designation, mailing address, and property address. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to home owners a directory containing the name, park address, and telephone number of each home owner. However, a home owner may exclude his or her telephone number from the directory by so requesting in writing to the association. The association is not liable for the disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by a home owner and not requested by the association.

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

4. The software and operating system used by the association which allows the manipulation of data, even if the home owner owns a copy of the same software used by the association. The data is part of the official records of the association.

(6) An outgoing board or committee member must relinquish all official records and property of the association in his or her possession or under his or her control to the incoming board within 5 days after the election or removal.

(7) An association has the power to purchase lots in the park and to acquire, hold, lease, mortgage, and convey them.

(8) An association shall use its best efforts to obtain and maintain adequate insurance to protect the association and the park property upon purchase of the mobile home park. A copy of each policy of insurance in effect shall be made available for inspection by owners at reasonable times.

(9) An association has the authority, without the joinder of any home owner, to modify, move, or create any easement for ingress and egress or for the purpose of utilities if the easement constitutes part of or crosses

the park property upon purchase of the mobile home park. This subsection does not authorize the association to modify or move any easement created in whole or in part for the use or benefit of anyone other than the members, or crossing the property of anyone other than the members, without his or her consent or approval as required by law or the instrument creating the easement. Nothing in this subsection affects the rights of ingress or egress of any member of the association.

(10) Any mobile home owners' association or group of residents of a mobile home park as defined in this chapter may conduct bingo games as provided in s. 849.0931.

(11) An association organized under this chapter may offer subscriptions, for the purpose of raising the necessary funds to purchase, acquire, and operate the mobile home park, to its members or other owners of mobile homes within the park. Subscription funds collected for the purpose of purchasing the park shall be placed in an association or other escrow account prior to purchase, which funds shall be held according to the terms of the subscription agreement. The directors shall maintain accounting records according to generally accepted accounting practices and shall, upon written request by a subscriber, furnish an accounting of the subscription fund escrow account within 60 days of the purchase of the park or the ending date as provided in the subscription agreement, whichever occurs first.

(12) For a period of 180 days after the date of a purchase of a mobile home park by the association, the association shall not be required to comply with the provisions of part V of chapter 718, part V of chapter 719, or part II of chapter 720, as to mobile home owners or persons who have executed contracts to purchase mobile homes in the park.

(13) The provisions of subsections (4) and (7) shall not apply to records relating to subscription funds collected pursuant to subsection (11).

**History.**—s. 1, ch. 84-80; s. 3, ch. 91-206; s. 1, ch. 91-223; s. 2, ch. 91-421; s. 15, ch. 92-148; ss. 3, 6, ch. 92-280; s. 1, ch. 93-160; s. 932, ch. 97-102; s. 4, ch. 2007-228; s. 12, ch. 2015-90; s. 32, ch. 2020-27; s. 52, ch. 2021-51.

**723.0791 Mobile home cooperative homeowners' associations; elections.**—The provisions of s. 719.106(1)(b) notwithstanding, the election of board members in a mobile home cooperative homeowners' association may be carried out in the manner provided for in the bylaws of the association. A mobile home cooperative is a residential cooperative consisting of real property to which 10 or more mobile homes are located or are affixed.

**History.**—s. 33, ch. 93-150.

**723.081 Notice of application for change in zoning.**—The mobile home park owner shall notify in writing each mobile home owner or, if a homeowners' association has been established, the directors of the association, of any application for a change in zoning of the park within 5 days after the filing for such zoning change with the zoning authority.

**History.**—s. 1, ch. 84-80.

**723.083 Governmental action affecting removal of mobile home owners.**—No agency of municipal, local, county, or state government shall approve any application for rezoning, or take any other official action, which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

**History.**—s. 1, ch. 84-80.

**723.084 Storage charges on mobile homes.**—

(1) As provided by this section, any lien or charge against a mobile home for storage upon the real property on which the mobile home is or has been located is subordinate to the rights of a lienholder for unpaid purchase price or first lien, which is recorded on the title of the mobile home, and the assignee of such lienholder if not recorded on the title. However, storage charges, as provided in this section, may be collected by the real property owner from the lienholder and the assignee of such lienholder by an action at law as authorized by this act. The term “lienholder” as used in this act applies only to the lienholder for unpaid purchase price or first lien who has recorded said lien on the title of the mobile home.

(2) The real property owner shall be entitled to collect storage charges accruing from 5 days after the lienholder receives written notice of either an eviction proceeding instituted by the real property owner against the homeowner, or that the mobile home is abandoned or voluntarily surrendered by the homeowner. The notice shall state that an action for eviction has been filed against the homeowner, the amount of the daily storage charges calculated pursuant to this section, and the date upon which the homeowner is required to make regular payments to the property owner.

(3) The lienholder must notify the property owner within 30 days of receipt of the notice pursuant to subsection (2) whether it intends to make payment of the storage charges and, if the lienholder agrees to make payment, to pay the storage charges accruing to that date. Thereafter, the lienholder shall pay storage charges according to the schedule of payments that the homeowner was responsible for paying. In the event that the lienholder does not notify the property owner of its intention to not pay storage charges, the storage charges shall accrue and be due and owing to the property owner. In the event the lienholder notifies the property owner within 30 days of the receipt of the notice that it does not intend to pay the storage charges, the storage charges shall not accrue, but the lienholder shall not be entitled to any of the protections set forth in this act, and shall be subject to any remedies available to the property owner including retention of possession of the mobile home and foreclosure thereon to satisfy the landlord's lien for rent.

(4) In the event that the lienholder files either an action for replevin of the home or forecloses on the lien for unpaid purchase price or first lien, the lienholder is responsible for storage charges accrued from 30 days after the date of filing of the action for replevin or foreclosure.

(5) In the event that the homeowner declares bankruptcy, the lienholder is responsible for storage charges accrued from and after 5 days after the final court action discharging the bankruptcy, or releasing the collateral, whichever occurs first.

(6) The maximum storage charge available to the real property owner is a daily rate equal to one-thirtieth of the amount of the monthly payment last paid by the homeowner, the then-current lot rental amount paid by the homeowner, or if no payment has been made, the payment required pursuant to contract between the real property owner and the homeowner. The maximum daily storage charges may be increased over time in accordance with the notice requirements under applicable provisions of Florida law, including, but not limited to, this chapter.

(7) Notice required as set forth in subsection (2) shall be mailed by certified mail, return receipt requested. Notice by certified mail shall be effective on the date of receipt or, if refused, on the date of refusal. All other notices may be by regular mail, and will, for purposes of calculation of time, be considered delivered 5 days after the date postmarked.

(8) For any lien for unpaid purchase price or first lien recorded after April 8, 1992, the lienholder shall notify the property owner of the lien against the mobile home and the address of the lienholder.

(9) It shall be unlawful for the property owner to refuse to allow the lienholder to repossess and move the mobile home for failure to pay any charges which were not noticed in accordance with the requirements of this section. In the event that the real property owner refuses to allow the lienholder to repossess and move the mobile home, then the real property owner shall be liable to the lienholder for each day that the real property owner unlawfully maintains possession of the home, at a daily rate equal to one-thirtieth of the monthly payment last paid by the homeowner to the real property owner, or, if no payment has been made, the payment required pursuant to contract between the real property owner and the homeowner.

**History.**—s. 16, ch. 92-148; s. 62, ch. 95-211.

**723.085 Rights of lienholder on mobile homes in rental mobile home parks.**—

(1) It shall be unlawful for a mobile home park owner to execute on a writ of possession of a mobile home that is either undergoing foreclosure of a lien for unpaid purchase price or first lien, properly noticed pursuant to this act, or that has been foreclosed on by the lienholder, and the lienholder is the titleholder of the mobile home, so long as the lot rental amount is paid in accordance with s. 723.084(6).

(2) Upon the foreclosure of the lien for unpaid purchase price and sale of the mobile home, the owner of the mobile home must qualify for tenancy in the mobile home park in accordance with the rules and regulations of the mobile home park. The park owner shall comply with the provisions of s. 723.061 in determining whether the homeowner may qualify as a tenant.

**History.**—s. 17, ch. 92-148; s. 78, ch. 99-3.



**723.086 Property and lienholder contracts.—**

The property owner and lienholder may enter into any contract providing rights, duties, and obligations different from those set forth in this act, and the terms and conditions of such contract shall control the rights, duties, and obligations of the parties with respect to any action at law brought to enforce the provisions of this act. Any such contract shall control the rights, duties, and obligations of the parties to the extent of any inconsistency with the provisions of this act.

**History.**—s. 18, ch. 92-148; s. 63, ch. 95-211.

**723.0861 Attorney's fees and costs.**—The prevailing party in any action brought to enforce the provisions of <sup>1</sup>this section shall be entitled to reasonable attorney's fees and costs.

**History.**—s. 19, ch. 92-148.

<sup>1</sup>**Note.**—As enacted; the reference to "this section" is probably intended to refer to ss. 723.085, 723.086, and 723.0861. Section 12 of H.B. 2179 and s. 11 of C.S. for H.B. 2179 included in one section the provisions compiled as ss. 723.085, 723.086, and 723.0861. C.S. for H.B. 2179 was amended on the floor. See Journal of the House of Representatives 1992, p. 1806. These provisions were separated in that amendment into ss. 17, 18, and 19 (see pp. 1809-1810), and the amendment was adopted (see p. 1812).

**723.1255 Alternative resolution of recall, election, and inspection and photocopying of official records disputes.—**

(1) A dispute between a mobile home owner and a homeowners' association regarding the election and recall of officers or directors under s. 723.078(2)(b) or regarding the inspection and photocopying of official records under s. 723.079(5) must be submitted to mandatory binding arbitration with the division. The arbitration shall be conducted in accordance with this section and the procedural rules adopted by the division.

(2) Each party shall be responsible for paying its own attorney fees, expert and investigator fees, and associated costs. The cost of the arbitrators shall be divided equally between the parties regardless of the outcome.

(3) The division shall adopt procedural rules to govern mandatory binding arbitration proceedings.

**History.**—s. 10, ch. 2015-90; s. 33, ch. 2020-27.



# **Chapters 61B-29 through 33, 35, and 50 Florida Administrative Code**



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**Provided by  
Federation of Manufactured Home Owners of Florida, Inc. (FMO)**

Includes laws enacted through the 2022 legislative session

**CHAPTER 61B-29**  
**MOBILE HOME RULES DEFINITIONS**

61B-29.001      Definitions

**61B-29.001 Definitions.**

For purposes of Rule Chapters 61B-30, 61B-31, 61B-32, 61B-33, and 61B-35, F.A.C., the definitions in this rule shall apply.

(1) “Promoting” means the use of advertising material which describes any aspect of the mobile park or the terms of the lease used in connection with the sale of a new mobile home or a lease of a mobile home lot. Descriptions which are limited to the name and address of a park shall not be deemed promoting.

(2) “Offer” means any advertisement, inducement, solicitation or attempt to encourage any person to enter into a rental agreement or extend or renew an existing rental agreement for a mobile home lot, whether existing or proposed.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.016 FS. History—New 3-20-95, Amended 1-26-97, 7-10-16.*

**CHAPTER 61B-30**  
**FEES, FILINGS, AND ADVERTISING**

61B-30.006	Procedure for Filing and Use of Advertising
61B-30.001	Fees
61B-30.002	Filing and Examination of a Prospectus
61B-30.008	Provider Filing and Curriculum for Educational and Training Programs

**61B-30.001 Fees.**

(1) Fees shall be paid online at [www.MyFloridaLicense.com](http://www.MyFloridaLicense.com) or by check or money order made payable to Division of Florida Condominiums, Timeshares, and Mobile Homes.

(2) Annual fee – If the number of mobile home lots in the park changes during the year, the fee shall be paid for the maximum number of mobile home lots owned by the park owner during the year.

(3) Prospectus filing fee – Upon filing the prospectus required by Section 723.011, F.S., the park owner shall pay a prospectus filing fee for each prospectus filed as follows:

(a) If any of the mobile home lots were covered under a Department of Health (DOH) mobile home park permit prior to June 4, 1984, the fee described in Section 723.011(1)(c)2., F.S., shall be based upon the number of mobile home lots required to be covered under a DOH permit at the time of the prospectus filing, unless the park owner files a prospectus for a greater number of mobile home lots than were covered under the permit. In that event, the fee shall be based upon the number of lots for which the prospectus is filed.

(b) For parks which obtain a permit on or after June 4, 1984, the filing shall be accompanied by a fee of \$10 for each mobile home lot covered under the permit offered for lease with the prospectus; provided that the fee shall not be less than \$100. If the park owner wishes to file a prospectus for a greater number of mobile home lots than are covered under the permit, the fee shall be based upon the number of mobile home lots for which the prospectus is filed; provided that the fee shall not be less than \$100.

(4) If subsequent to the initial filing described in subsection (3) of this rule, additional mobile home lots become covered by the DOH permit which were not previously included in the prospectus filing, the fee shall be \$10 for each additional mobile home lot.

(5) Successors or assigns of a mobile home park may be responsible for payment of any delinquent or due fees, penalties or fines.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.007, 723.011(1)(a), (c) FS. History—New 1-10-85, Formerly 7D-30.01, Amended 8-2-87, 3-28-89, Formerly 7D-30.001, Amended 8-31-94, 11-15-95, 1-19-97, 9-1-15, 3-10-16.*

**61B-30.002 Filing and Examination of a Prospectus.**

(1) “Filing” occurs when all of the following have been received by the division:

(a) All forms and documents, completed, tabbed, labeled and assembled in accordance with these rules;

(b) The completed Park Owner Prospectus Filing Statement, BPR Form 402, incorporated herein by reference and effective 8-31-94, and which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030; and, <https://www.flrules.org/Gateway/reference.asp?No=Ref-06507>.

(c) The correct filing fees as required by Section 723.011, F.S.

(2) In determining whether a prospectus must be filed pursuant to Section 723.011, F.S., all existing and planned lots, irrespective of whether all lots are currently covered under a Department of Health permit, shall be counted. As used herein, planned lots means all lots platted or otherwise approved by local authorities.

(3) The park owner may enter into rental agreements only for those lots for which fees have been paid and a prospectus has been filed.

(4) A filing may be amended to include additional lots by submitting to the division the following items:

(a) A completed Supplemental Filing Statement, BPR Form 406, incorporated herein by reference and effective 8-31-94, which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030; and,

(b) The additional filing fees.

(5) If more than one prospectus is filed and approved for use in the park, the park owner shall inform the division which prospectus applies to each of the lots. The information shall be submitted in the following manner:

(a) If known at the time of filing, the information shall be stated in the appropriate blanks in BPR Form 402.

(b) If the park owner does not know at the time of filing which prospectus will be delivered to each lot; or if the information provided in BPR Form 402 changes after filing, the park owner shall, no later than the first day of March and September of each year, submit to the division a listing of each lot number with the corresponding form prospectus identification number assigned by the division. If there have been no changes from the previous reporting, no additional notification is required.

(6) Documents submitted to the division for filing shall be securely bound and fastened between firm covers. The filing shall be accompanied by the Park Owner Prospectus Filing Statement and the correct filing fees. Exhibits to the prospectus shall be tabbed and labeled on the side. Each label shall identify the exhibit by appropriate word, phrase or abbreviation.

(7) Amendment means any change to the prospectus filing as permitted by Rule 61B-31.001, F.A.C..

(8) Each park owner shall file amendments with the Division for approval no later than 10 days after a change has occurred. The filing shall contain a version of the proposed amendment, that shows the deletions stricken, and the additions underlined or otherwise highlighted. The park owner shall also submit with the amendments the following information on a separate cover sheet:

(a) Name and address of the park to which the amendments apply;

(b) Division file number;

(c) Park owner's name and address;

(d) Attorney's name and address, if applicable.

(9) The examination process for a filing, described herein, shall apply to the examination of amendments, except for paragraph 61B-30.002(1)(c), F.A.C.

(10) Amendments shall not be delivered to existing home owners prior to approval by the Division, except that proposed rule changes shall be delivered to home owners as required by Section 723.037, F.S., and shall be filed with the Division no later than 10 days after the effective date of the changes. All other approved amendments shall be provided to existing home owners no later than 30 days after approval by the Division.

(11) The park owner shall have 45 days from the date of the Division's notification of deficiencies to correct any deficiencies noted by the Division. The Division shall notify the park owner of the pending rejection and shall provide an opportunity for the park owner to request formal or informal proceedings pursuant to Section 120.57, F.S., prior to final agency action rejecting the prospectus. If a filing is rejected, a complete refiling of the documents pursuant to the requirements of Chapter 723, F.S., and these rules, including the payment of filing fees, shall be required prior to entering into additional rental agreements.

(12) Upon resolution of all deficiencies, the park owner shall file with the division a corrected and revised version of the pending prospectus prior to the division's notification to the park owner that the prospectus is adequate to meet the requirements of Chapter 723, F.S. The division's notification of approval shall be accompanied by the approved version of the prospectus. Upon receipt of the approved prospectus, the mobile home park owner shall submit a statement in writing for each prospectus that the approved version of that prospectus is the only version which is being distributed.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.011(1), 723.012, 723.006(8) FS. History—New 1-10-85, Formerly 7D-30.02, Amended 8-2-87, Formerly 7D-30.002, Amended 8-31-94, 11-15-95, 1-19-97, 4-30-00, 3-10-16.*

#### **61B-30.006 Procedure for Filing and Use of Advertising.**

(1) All advertising, including scripts for radio, telephone and television, used in promoting a mobile home park under the jurisdiction of the division must be filed pursuant to the requirements of Section 723.016, F.S.

(2) "Filed with the division" means that advertising materials and a completed BPR form 403, Advertising Filing Statement, incorporated herein by reference and effective 8-31-94, which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030, have been received by the division in the Tallahassee, Florida office. The date of receipt shall constitute the date of filing.

(3) The developer, park owner or mobile home dealer is not required to refile an advertising piece once it has been filed provided there are no changes made to that advertising piece. Changes only in the size of the advertising piece shall not be considered a change.

(4) Advertising filed with the Division may provide blank spaces for dollar amounts and the number of available lots if it clearly

indicates the type of information to be included. For example, a blank space for rent may be preceded by a dollar sign.

(5) In determining whether advertising materials violate Section 723.016, F.S., or these rules, the Division shall consider both explicit representations and reasonable inferences created by such material. To determine whether misrepresentations or misleading impressions are made, the Division shall review the advertising materials in their totality.

(6) Advertising shall be consistent with the disclosures in the prospectus required by Section 723.012, F.S.

(7) Advertising shall not use such terms as “minutes away”, “short distance”, “only miles”, “near” or similar terms to indicate distances unless the actual distance in road miles is used in conjunction with such terms.

(8) Advertising shall not contain statements, photographs, or sketches relating to facilities for recreation, sports or other conveniences which are not presently in existence or located in the park unless it is clearly stated that such facilities are merely proposed if they do not exist; or, if they are not located in the park, a statement to that effect and the actual distance thereto in road miles is stated.

(9) Forecasts of future events or population trends contained in advertising shall be based upon verifiable facts and shall be pertinent to the offering.

(10) Any reference to a guarantee must specifically state what is guaranteed.

(11) The advertising shall not represent that the lot rental amount or any part of the lot rental amount of the lessee will not increase unless all financial obligations of the lessee are guaranteed not to increase or a conspicuous statement is made disclosing that the lessee will be required to pay other charges which are not guaranteed.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.012, 723.016, 723.017 FS. History—New 1-10-85, Formerly 7D-30.06, 7D-30.006, Amended 8-31-94, 1-19-97.*

#### **61B-30.008 Provider Filing and Curriculum for Educational and Training Programs.**

(1) Anyone seeking to be a division approved mobile home education provider shall file with the division the educational materials required by Section 723.006(14)(a), F.S.

(2) All materials must be submitted to the division via e-mail to [CTMH.BdMbrCertProviders@myfloridalicense.com](mailto:CTMH.BdMbrCertProviders@myfloridalicense.com), by providing access to web-based training programs, or in either printed form or CD ROM format to the following address:

Department of Business and Professional Regulation

Division of Florida Condominiums, Timeshares, and Mobile Homes

2601 Blair Stone Road

Tallahassee, FL 32399-1030

(3) Programs shall cover at least four of the following topics in order to meet the requirements of an educational curriculum for a mobile home education program as provided in Section 723.006(14), F.S.:

(a) Homeowners’ Association statutory rights and regulatory responsibilities to the association and the mobile home owners.

(b) Elections.

(c) Financial reporting.

(d) Association operations.

(e) Records maintenance, including mobile home owner access to records.

(f) Dispute resolution.

(g) Homeowners’ Association Formation.

(4) Programs and materials shall not contain editorial comments.

(5) Within 45 days from receipt of the materials, the division shall notify the provider of any deficiencies or that the materials have been approved. If the notice is not given within 45 days from receipt of the materials, the materials are deemed approved.

(6) The provider shall have 45 days from the date of the division’s notification of deficiencies to correct such deficiencies. If the deficiencies are not corrected within the 45-day period, the division shall reject the filing.

(7) Within 20 days from receipt of the corrections to the noted deficiencies, the division shall notify the provider of any deficiencies or that the materials have been approved. If the notice is not given within 20 days from receipt of the corrections, the materials are deemed approved.

(8) Approved materials may be provided to participants via web-based training programs, seminars, or printed media.

(9) The division will maintain a list of approved programs and providers on the Department of Business and Professional Regulation’s website at <http://www.myfloridalicense.com/dbpr/lsc/condominiums/CondoEducation.html>.

(10) The division reserves the right to require changes to approved education and training programs.

(11) The provider will issue a certificate of completion to a board member who has successfully completed the approved educational curriculum.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.006(12), (13), (14) FS. History—New 3-14-16.*



**CHAPTER 61B-31**  
**MOBILE HOME PROSPECTUS AND RENTAL AGREEMENT RULE**

61B-31.001     Prospectus and Rental Agreement

**61B-31.001 Prospectus and Rental Agreement.**

(1) The prospectus shall clearly describe all matters required by chapter 723, Florida Statutes, and shall not contain other information except as permitted by the Division to fully and fairly disclose all aspects of the park and the offer.

(2) Subject to the provisions of section 723.011(3), F.S., if the park is to be developed in defined sections, the information required in the prospectus may be described by section.

(3) With regard to a tenancy in existence on June 4, 1984, the prospectus shall contain the same terms and conditions as rental agreements which were required to be offered pursuant to section 83.760, F.S. (1983), and any provisions required by chapter 723, F.S., not inconsistent therewith. A copy of each form of the existing rental agreements identified by the lots to which it applies shall be included in the prospectus filing filed with the Division. The Division will not as part of the examination of the prospectus investigate to determine if the content of the prospectus contains the same terms and conditions as the rental agreements which were required to be offered. If it is later determined that the prospectus varies from the offered rental agreements, an amendment to the prospectus will be required.

(4) The prospectus distributed to a home owner or prospective home owner shall be binding for the length of the tenancy, including any assumptions of that tenancy, and may not be changed except in the following circumstances:

(a) Amendments consented to by each affected home owner and the park owner.

(b) Amendments to reflect new rules or rules that have been changed in accordance with procedures described in section 723.037, F.S., and the prospectus.

(c) Amendments to reflect changes in the name or address of the owner of the park, name or address of the mobile home park or the name or address of the park manager or management company.

(d) Amendments to reflect changes in zoning.

(e) Amendments to reflect a change in the person authorized to receive notices and demands on the park owner's behalf.

(f) Amendments to reflect changes in the entity furnishing utility or other services.

(g) Amendments required by the Division.

(h) Amendments required as a result of revisions of chapter 723, F.S.

(i) Amendments to add, delete or modify user fees for homeowners, so long as the park owner does not violate section 723.031, F.S. by charging a user fee for a service previously included in lot rental amount unless a corresponding reduction in lot rental amount is provided.

(j) Amendments to correct scrivener's errors.

(k) Amendments to reflect changes to the mobile home park property description due to a change in land use, condemnation or other legal action which changes the mobile home park property or a portion thereof.

(l) Amendments made to conform the prospectus to requirements of federal, state and local government ordinances, statutes, and regulations, including, but not limited to, the Fair Housing Act, the Americans with Disabilities Act, or the Telecommunications Act of 1996, where there is no charge to the home owner, except as provided in section 723.031, F.S.

(m) Amendments to reflect changes in facilities or structural amenities after a natural disaster, as long as the requirements of section 723.037, F.S. are met.

(n) Amendments to revise, renew, or extend an underlying ground lease.

(o) Amendments to reflect reduction in services or utilities in accordance with the procedures described in section 723.037, F.S.

(p) Amendments to describe new facilities, services or utilities in the park.

(5) The park owner shall describe in the prospectus the manner in which lot rental amount or user fees may be raised as follows:

(a) In the case of lot rental amount, a statement that the mobile home owner shall be notified of the increase at least 90 days prior to the increase. In the case of user fees, a description of the notice will be provided.

(b) Disclosure of all components of lot rental amounts and disclosure of all user fees to be paid by the home owner. Each type of charge shall be separately listed. The disclosure of all charges except user fees, shall appear in one section of the prospectus. User fees shall be disclosed in a separate section immediately following the section relating to lot rental amount.

(c) A description of all factors, including cost where applicable, for each type of charge which may result in an increase of those

charges to the home owner. The factors shall be preceded or followed by a statement that an increase in one or more of the factors may result in an increase in the lot rental amount or user fees.

(d) If the home owner is responsible for pass-through charges, a statement of that fact and a description of the manner in which the pass-through charges will be assessed. The manner shall include the method of allocating the charges.

(6) The current dollar amount of each type of charge shall also be stated in the prospectus and rental agreement. The park owner may provide blank spaces for the required amounts and write in the amount prior to delivery to the home owner.

(7) If there are user fees, a copy of the user fee agreement shall be included as an exhibit to the prospectus.

(8) For those rental agreements in effect on June 4, 1984, the annual period shall commence with the effective date of any change initiated by the park owner on or after June 4, 1984; or, if a written agreement was then in effect, the duration period stated in the rental agreement. Initial tenancies commencing on or after June 4, 1984, may be for a period of less than one year where the park owner elects to have the term of all rental agreements within the park expire on the same date. Initial tenancy, as used herein, shall mean neither a rental agreement nor occupancy occurred prior to June 4, 1984.

(9) The park owner may use more than one form of the prospectus in the park. Each form prospectus shall be filed with the Division as a separate filing.

(10) The last page of the prospectus shall contain the date the prospectus is determined by the Division to be adequate to meet the requirements of chapter 723, F.S., and an identification number assigned by the Division and the lot number to which the prospectus applies. If the prospectus has been revised to include amendments as described in this rule, the date shall be the original approval date and the latest revision date.

(11) Only a prospectus which has been determined by the Division to meet the requirements of the Statutes and these rules may be delivered to a mobile home owner.

(12) The park owner shall deliver the prospectus to existing home owners prior to the renewal of their rental agreements, or prior to entering into a new rental agreement, or prior to increasing the lot rental amount. Once a home owner has been given a prospectus, the park owner shall not be required to provide another prospectus but shall provide amendments, as described in rule 61B-30.002, F.A.C., and this rule.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.003(6),(17), (21), 723.031, 723.006(8),(10), 723.011, 723.012, 723.031(7) FS. History—New 1-10-85, Amended 10-20-85, Formerly 7D-31.01, Amended 8-2-87, 10-13-87, Formerly 7D-31.001, Amended 11-15-95, 4-30-00.*

**CHAPTER 61B-32**  
**MOBILE HOME MEDIATION RULES**

61B-32.002	Notice of Lot Rental Increase; Reduction in Services or Utilities; or Change in Rules and Regulations
61B-32.003	Designation of Homeowners' Committee
61B-32.004	Meeting Between Park Owner and Homeowners' Committee
61B-32.0056	Appointment of a Mediator and Mediation Fees

**61B-32.002 Notice of Lot Rental Increase; Reduction in Services or Utilities; or Change in Rules and Regulations.**

(1) The provisions of section 723.037, F.S., apply to mobile home subdivisions, except for increases in maintenance fees.

(2) A copy of the notice shall be retained by the park owner or subdivision developer with a dated written statement signed by the park owner or subdivision developer certifying the date the notice was given to all affected homeowners in the park or subdivision and the board of directors of the homeowners' association if one has been established. If all notices are mailed, the park owner or developer may retain a post office certificate of mailing in lieu of the written statement.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.037 FS. History—New 2-6-85, Formerly 7D-32.02, Amended 8-2-87, 10-13-87, Formerly 7D-32.002, Amended 8-31-94, 11-15-95, 1-19-97.*

**61B-32.003 Designation of Homeowners' Committee.**

(1) Any homeowner or group of homeowners may obtain the approval of the required homeowners to the designation of a homeowners' committee either at a meeting, by agreement in writing, or a combination thereof.

(2) If a mobile home or subdivision lot is owned jointly, the owners of that mobile home or subdivision lot shall be counted as one for the purpose of determining the number of votes required for a majority. Only one vote per mobile home or subdivision lot shall be counted. A majority shall constitute any number greater than 50 percent of the total.

(3) The homeowners' association or committee shall retain records to verify the selection of the committee by a majority of the affected homeowners or the board of directors of the association. The records shall be retained until the dispute is resolved or the mediation process described in section 723.037, F.S., has been completed, or, in the case of a homeowners' association, for not less than 7 years.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.037 FS. History—New 2-6-85, Formerly 7D-32.03, Amended 8-2-87, 10-2-90, Formerly 7D-32.003, Amended 11-15-95.*

**61B-32.004 Meeting Between Park Owner and Homeowners' Committee.**

(1) The park owner or subdivision developer shall make and maintain a written record of the reasons for the increase in lot rental amount or reduction in services or utilities or changes to rules and regulations as applicable, which shall be as specific as the explanation required by subsection 61B-32.004(2), F.A.C., and which shall be retained for a period of 3 years.

(2) At the meeting required by section 723.037(4), F.S., the park owner or subdivision developer shall in good faith disclose and explain all material factors resulting in the decision to increase lot rental amount, reduce services or utilities, or change rules and regulations, including how those factors justify the specific change proposed. The park owner or subdivision developer may not limit the discussion of the reasons for the change to generalities only, such as, but not limited to, increases in operational costs, changes in economic conditions, or rents charged by comparable mobile home parks. For example, if the reason for an increase in lot rental amount is an increase in operational costs, the park owner must disclose the item or items which have increased, the amount of the increase, any similar item or items which have decreased and the amount of the decrease. If an increase is based upon the lot rental amount charged by comparable mobile home parks, the park owner shall disclose the name, address, lot rental amount and any other relevant factors concerning the mobile home parks relied upon by the park owner.

(3) If an agreement is reached between the committee and the park owner or subdivision developer, the terms of the agreement shall be stated in writing and signed by the committee and the park owner or subdivision developer.

(4) If an agreement is not reached in the meeting, the homeowners' committee may petition the division to initiate mediation by mailing or delivering the following items to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030 within 30 days after the meeting required by section 723.037(4), F.S.:

(a) A completed BPR form 34-001, PETITION FOR MEDIATION BY HOMEOWNERS, incorporated herein by reference and effective 1-19-97, which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030; and,

(b) A copy of the written designation required by section 723.037(5), F.S., which shall include lot identification for each signature; and

(c) A copy of the notice or notices of lot rental increase, reduction in services or utilities, or change in rules and regulations which is being challenged as unreasonable; and,

(d) A copy of the records which verify the selection of the homeowner's committee in accordance with rule 61B-32.003, F.A.C., and section 723.037(4), F.S.

(5)(a) Mediation will not be initiated pursuant to section 723.037(5)(a), F.S., if the following items are not mailed or delivered to the division within 30 days after the date of the meeting required by section 723.037(4), F.S.:

1. Completed BPR form 34-001; and,

2. A copy of the written designation required by paragraph (4)(b) of this rule and section 723.037(5), F.S.

(b) A petition that does not include the items identified in paragraphs (4)(c) and (d) of this rule, or the lot identification required by paragraph (4)(b) of this rule, shall be considered deficient. The division will notify the committee in writing of the deficiency. The committee shall have 14 days after the date of the notice to mail or deliver to the Division corrections of the deficiencies. If the deficiency corrections are not mailed or delivered within 14 days after the date of the notice, mediation will not be initiated pursuant to section 723.037(5)(a), F.S. A petition will be considered received pursuant to section 723.038(4), F.S., when all items required by this rule have been received and all deficiencies have been corrected.

(6) If the homeowners' committee petitions for mediation, a copy of the four items required by subsection (4) of this rule, shall be furnished to the park owner by Certified U.S. Mail, Return Receipt Requested, at the time the petition is filed with the Division. Notwithstanding this requirement, a mediator will be appointed within the time required by section 723.038(4), F.S.

(7) A decision by the Division regarding the sufficiency of a petition to initiate mediation does not constitute an adjudication of any issue arising under section 723.037, F.S. Any dispute concerning the applicability of section 723.037(6), F.S., must be submitted to a court of competent jurisdiction in the event that judicial proceedings are initiated.

(8) The park owner may petition the division to initiate mediation by mailing or delivering the following items to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030, within 30 days after the date of the meeting required by section 723.037(4), F.S.:

(a) A completed BPR form 34-002, PETITION FOR MEDIATION BY PARK OWNER, incorporated herein by reference and effective 1-19-97, and which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030; and,

(b) A copy of the notice or notices of the lot rental increase, reduction in services or utilities, or change in the rules and regulations identifying the issue for mediation.

(9) Mediation will not be initiated pursuant to section 723.037(5)(a), F.S., if a completed BPR Form 34-002, PETITION FOR MEDIATION BY PARK OWNER, is not mailed or delivered to the division within 30 days after the date of the meeting required by section 723.037(4), F.S.

(10) A petition that does not include the items identified in paragraph (8)(b) of this rule, shall be considered deficient. The division will notify the park owner in writing of the deficiency. The park owner shall have 14 days after the date of the notice to mail or deliver to the division corrections of any deficiency. If the deficiency corrections are not mailed or delivered to the division within 14 days after the date of the notice, mediation will not be initiated pursuant to section 723.037(5)(a), F.S. A petition will be considered received pursuant to section 723.038(4), F.S., when all items required by this rule have been received and all deficiencies have been corrected.

(11) If the park owner petitions for mediation, a copy of the two items required by subsection (8) of this rule, shall be furnished by the park owner to the homeowners' committee by Certified U.S. Mail, Return Receipt Requested, at the time the petition is filed with the division. Notwithstanding this requirement, a mediator will be appointed within the time required by section 723.038(4), F.S.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.037, 723.038 FS. History—New 2-6-85, Formerly 7D-32.04, Amended 8-2-87, 10-13-87, 10-2-90, Formerly 7D-32.004, Amended 8-31-94, 11-15-95, 1-19-97.*

**61B-32.0056 Appointment of a Mediator and Mediation Fees.**

(1) In order to be appointed by the division, a mediator meeting the requirements of section 723.038(2), F.S., must file an application with the division. The application must be submitted on BPR form 34-003, APPLICATION FOR MEDIATORS, incorporated herein by reference and effective 1-19-97. The form may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030.

(2) If a mediator in the circuit in which the mobile home park is located is unavailable from both a list of circuit court mediators in the judicial circuit and from the Florida Growth Management Conflict Resolution Consortium list, the division will appoint a mediator from outside the circuit, beginning with circuits which are located in the same geographic region.

(3) The division will select a mediator from the following lists using an alphabetical rotation:

(a) An alphabetical list of circuit court mediators by judicial circuit consisting of mediators willing to mediate in that judicial circuit.

(b) An alphabetical list of mediators maintained by the Florida Growth Management Conflict Resolution Consortium.

(4) Unless otherwise agreed to by the parties, the first mediation conference shall be held within 60 days of the appointment of the mediator by the division.

(5) Notice. Within 10 days after the appointment of the mediator, the mediator shall schedule and notify the parties in writing of the time, date and place of the mediation conference.

(a) Conclusion of Mediation. Mediation shall be completed within 45 days of the first mediation conference unless agreed to by both parties. The mediator shall notify the division in writing that mediation is concluded by submitting a completed BPR form 34-005, MEDIATION REPORT, incorporated herein by reference and effective 1-19-97, and which may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030. The report shall be mailed or delivered to the division within 10 days after the conclusion of the mediation. Conclusion means the mediation process has ended by either full or partial impasse or agreement on the issues or failure of either party to appear at the mediation conference.

(b) Waiver or Deferral of Mediation. Prior to the mediation conference, any party may withdraw its petition for mediation. The party withdrawing its petition shall notify all interested parties, the mediator and the division.

(c) Adjournments. The mediator may adjourn the mediation conference at any time and may set times for reconvening the adjourned conference, notwithstanding Rule 1.710(a), Florida Rules of Civil Procedure. No further notification is required for parties present at the adjourned conference.

(d) Counsel. The mediator shall at all times be in control of the mediation and the procedures to be followed in the mediation. Counsel shall be permitted to communicate privately with their clients. In the discretion of the mediator and with the agreement of the parties, mediation may proceed in the absence of counsel.

(e) Communication with Parties. The mediator may meet and consult privately with any party or parties or their counsel.

(6) Any party may request the division to replace a mediator. Upon request from either party for replacement of an appointed mediator, the division will appoint a qualified replacement in accordance with this rule. Nothing in this provision shall preclude mediators from disqualifying themselves or refusing any assignment. The time for mediation shall be tolled during any periods in which a mediation request for replacement is pending.

(7) In computing any period of time prescribed or allowed by these rules, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. As used in these rules, "legal holiday" means those days designated in section 110.117, F.S.

(8)(a) Fees. For mobile home parks located in Dade County, the mediator shall collect an all inclusive fee of \$175 for up to 2 hours, and above 2 hours an additional fee of \$85 per hour, or any fraction of an hour.

(b) For mobile home parks located in all counties other than Dade County and the Sixth Judicial Circuit, the mediator shall collect an all inclusive fee of \$125 per hour, or any fraction of an hour.

(c) For mobile home parks located in the 6th Judicial Circuit, the mediator shall collect an all inclusive fee of \$125 per hour, prorated by one quarter hour increments.

(d) Any mediation fees incurred by a mediator subsequent to appointment by the division shall be the responsibility of the parties. The parties shall be responsible for paying the mediator fee in accordance with this rule.

(e) Mediation fees shall be based on time utilized for scheduling and mediation conference or conferences.

*Rulemaking Authority 723.006(7) FS. Law Implemented 723.037, 723.038 FS. History—New 10-2-90, Formerly 7D-32.0056, Amended 8-31-94, 11-15-95, 1-19-97.*

**CHAPTER 61B-33**  
**MOBILE HOME RULES FOR RECALLS IN HOMEOWNERS' ASSOCIATIONS**

61B-33.001	Class Voting
61B-33.0015	Absentee Ballot
61B-33.002	Recall of One or More Directors of a Board of Administration at a Member Meeting; Board Certification; Filling Vacancies
61B-33.003	Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies
61B-33.004	Operation of the Homeowners' Association

**61B-33.001 Class Voting.**

When the governing documents provide that a specific class of members of a homeowners' association created pursuant to Section 723.075, F.S., is entitled to elect a director or directors to the board, the class of homeowners electing such director or directors to the board shall constitute all the voting interests that may recall or remove such director or directors.

*Rulemaking Authority 723.1255 FS. Law Implemented 723.078(2)(i) FS. History—New 2-24-16.*

**61B-33.0015 Absentee Ballot.**

"Absentee ballot," as provided by Section 723.078(2)(b)2., F.S., means a ballot completed and delivered in advance of a member meeting, in accordance with the homeowners' association's bylaws, by a member who is not present at the time the vote is taken.

*Rulemaking Authority 723.078(2)(b)2. FS. Law Implemented 723.078(2)(b)2. FS. History—New 4-24-17.*

**61B-33.002 Recall of One or More Directors of a Board of Administration at a Member Meeting; Board Certification; Filling Vacancies.**

(1) Calling a Recall Meeting. Ten percent of the voting interests of a homeowners' association created pursuant to Section 723.075, F.S., may call a meeting of the members to recall one or more directors of the association's board by giving notice as specified in subsection (2) below.

(2) Noticing a Recall Meeting.

(a) Signature List. Prior to noticing a members' meeting to recall one or more directors of the board, a list shall be circulated for the purpose of obtaining signatures of not less than 10 percent of the voting interests. The signature list shall:

1. State that the purpose for obtaining signatures is to call a meeting of the members to recall one or more directors of the board;
2. State that replacement directors shall be elected at the meeting, if a majority or more of the existing directors are successfully recalled at the meeting; and,
3. Contain lines for the voting interest to fill in his or her mobile home lot number, signature and date of signature.

(b) Recall Meeting Notice. The recall meeting notice shall:

1. State that the purpose of the members' meeting is to recall one or more directors of the board and, if a majority or more of the board is subject to recall, the notice shall also state that an election to replace recalled directors will be conducted at the meeting;
2. List by name each director sought to be recalled at the meeting, even if all directors are sought to be recalled;
3. Specify a person, other than a director subject to recall at the meeting, who shall determine whether a quorum is present, call the meeting to order, preside, and proceed as provided in paragraph (3)(b) of this rule;
4. List at least as many eligible persons who are willing to be candidates for replacement directors as there are directors sought to be recalled, in those cases where a majority or more of the board is sought to be recalled. Candidates for replacement directors shall not be listed when a minority of the board is sought to be recalled, as the remaining directors may appoint replacements. In addition, the notice must state that nominations for replacement directors may be taken from the floor at the meeting;
5. Have attached to it a copy of the signature list referred to in paragraph (2)(a) above;
6. Be mailed or delivered to all members as required in the governing documents for a meeting of the members; and,
7. Be delivered to the board at least 10 days prior to the recall meeting. The notice shall become an official record of the association upon actual receipt by the board.

(3) Recall Meeting; Electing Replacements.

(a) Date for Recall Meeting. A recall meeting shall be held not less than 10 days nor more than 20 days from the date when the notice of the recall meeting is mailed or delivered.

(b) Conducting the Recall Meeting. After determining that a quorum exists (proxies may be used to establish a quorum) and the meeting is called to order, the voting interests shall proceed as follows:

1. A representative to receive pleadings (e.g., copies of a petition for recall arbitration, motions), notices, or other papers on behalf of the recalling members shall be elected or designated by the presiding officer in the event the board disputes the recall.

2. A person to record the minutes of the recall meeting, who shall not be a board director subject to recall at that meeting, shall be elected or designated by the presiding officer.

3. The requirements of this subsection do not prohibit the voting interests from electing one person to perform one or more of these functions.

(c) Recall Meeting Minutes. The minutes of the recall meeting shall:

1. Record the date and time the recall meeting was called to order and adjourned;

2. Record the name or names of the person or persons chosen as the presiding officer, the recorder of the official minutes, and the member representative's name and address;

3. Record the vote count taken on each director of the board sought to be recalled;

4. State whether the recall was effective as to each director sought to be recalled;

5. Record the vote count taken on each candidate to replace the directors subject to recall and, if applicable, the specific seat each replacement director was elected to, in those cases where a majority or more of the existing board was subject to recall; and,

6. Be delivered to the board, and upon such delivery to the board become an official record of the association.

(d) Separate Recall Vote. The voting interests shall vote to recall each director separately.

(e) Filling Vacancies. When the voting interests have recalled one or more directors at a members' meeting, the following provisions apply regarding the filling of vacancies on the board:

1. If less than a majority of the existing board is recalled at the meeting, no election of replacement directors shall be conducted at the members' meeting as the existing board may, in its discretion, fill these vacancies, subject to the provisions of Section 723.078(2)(i), F.S., by the affirmative vote of the remaining directors. In the alternative, if less than a majority of the existing board is recalled at the members meeting, the board may call and conduct an election to fill a vacancy or vacancies;

2. If a majority or more of the existing board is recalled at the meeting, an election shall be conducted at the recall meeting to fill vacancies on the board occurring as a result of recall. The voting interests may vote to elect replacement directors in an amount equal to the number of recalled directors.

(f) Taking Office. When a majority or more of the board is recalled at a members' meeting, replacement directors shall take office:

1. Upon the expiration of five full business days after adjournment of the members' recall meeting, if the board fails to hold its board meeting to determine whether to certify the recall within five full business days of the adjournment of the members' recall meeting; or

2. Upon the expiration of five full business days after adjournment of the board meeting to determine whether to certify the recall, if the board fails to certify the recall and fails to file a petition for arbitration; or

3. Upon certification of the recall by the board; or

4. Upon certification of the recall by the arbitrator, in accordance with subparagraph (5)(b)4. of this rule, if the board files a petition for recall arbitration.

(g) After adjournment of the meeting to recall one or more members of the board of administration:

1. Any rescission of an individual member's vote or any additional votes received in regard to the recall shall be ineffective.

2. Where the board determines not to certify the recall of a director and that director resigns, any appointment to fill the resulting vacancy shall be temporary pending the arbitration decision.

(4) Substantial compliance with the provisions of subsections (1), (2) and (3) of this rule shall be required for the effective recall of one or more directors of the board.

(5) Board Meeting Concerning a Recall at a Meeting of the Members; Filling Vacancies. The board shall properly notice the board meeting at which it will determine whether to certify (i.e., to validate or accept) the recall of one or more directors at a members' meeting. It shall be presumed that recall of one or more directors at a members' meeting shall not, in and of itself,



constitute grounds for an emergency meeting of the board, if the board has been provided notice of the recall meeting as provided in subparagraph (2)(b)7. of this rule.

(a) Certified Recall. If the recall of one or more directors by vote at a members' meeting is certified by the board, the recall shall be effective upon certification, and the following provisions apply:

1. Each recalled director shall return to the board all association records in his or her possession within five full business days after adjournment of the board meeting at which the recall was certified.

2. If less than a majority of the existing board is recalled in a certified recall, a vacancy or vacancies on the board may be filled by the affirmative vote of a majority of the remaining board members, subject to the provisions of Section 723.078(2)(i), F.S., regardless of whether the authority to fill vacancies in this manner is provided in the governing documents. No recalled director shall be appointed by the board to fill any vacancy on the board. A director appointed pursuant to this rule shall fill the vacancy for the unexpired term of the seat being filled. If the board determines not to fill vacancies by vote of the remaining directors or if it is unable to fill vacancies in this manner (e.g., if there is a tie vote on the proposed replacement director, if a quorum is not obtained, or otherwise), the board may, in its discretion, call and hold an election in the manner provided by Section 723.078(2)(d), F.S., in which case any person elected shall fill the entire remaining term.

3. If a majority or more of the board is recalled in a certified recall, those replacement directors elected at the recall meeting shall take office upon adjournment of the board meeting at which it was determined to certify the recall. A director who is elected to fill a vacancy caused by recall shall fill the vacancy for the unexpired term of the seat being filled.

(b) Non-certification of Recall by the Board. If the board votes for any reason not to certify the recall of one or more directors at a meeting of the members, the following provisions apply:

1. The board shall, subject to the provisions of these rules, file a petition for arbitration with the division (i.e., be received by the division) within five full business days after adjournment of the board meeting at which the board determined not to certify the recall of one or more directors.

2. Any director sought to be recalled shall, unless he or she resigns, continue to serve on the board until a final order regarding the validity of the recall is mailed by the arbitrator.

3. If the arbitrator certifies the recall of less than a majority of the board, the remaining directors may fill the vacancy or vacancies as provided in subparagraph (5)(a)2. of this rule.

4. If the arbitrator certifies the recall of a majority or more of the board, the term of office of those replacement directors elected at the recall meeting shall become effective upon mailing of the final order of arbitration. The term of office of replacement directors elected at the recall meeting shall expire in accordance with the provisions of subparagraph (5)(a)3. of this rule.

(6) Failure to Duly Notice and Hold a Board Meeting. If the board fails to duly notice and hold a meeting to determine whether to certify the recall within five full business days of the adjournment of the members' recall meeting, the following shall apply:

(a) The recall shall be deemed effective immediately upon expiration of the last day of five full business days after adjournment of the members' recall meeting.

(b) If a majority of the board is recalled, replacement directors elected at the members' meeting shall take office immediately upon expiration of the last day of five full business days after adjournment of the members' recall meeting, in the manner specified in this rule.

*Rulemaking Authority 723.1255., 723.006(7), 723.078(2)(i) FS. Law Implemented 723.078(2)(i) FS. History--New 2-24-16.*

### **61B-33.003 Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies.**

(1) Form of Written Agreement. All written agreements used for the purpose of recalling one or more directors of a homeowners' association created pursuant to Section 723.075, F.S., shall:

(a) List by name each director sought to be recalled;

(b) Provide spaces by the name of each director sought to be recalled so that the person executing the agreement may indicate whether that individual director should be recalled or retained;

(c) List, in the form of a ballot, at least as many eligible persons who are willing to be candidates for replacement directors as there are directors subject to recall, in those cases where a majority or more of the board is sought to be recalled. Candidates for replacement directors shall not be listed when a minority of the board is sought to be recalled, as the remaining board may appoint replacements. A space shall be provided by the name of each candidate so that the person executing the agreement may vote for as many replacement candidates as there are directors sought to be recalled. A space shall be provided and designated for write-in

votes. The failure to comply with the requirements of this subsection shall not effect the validity of the recall of a director or directors;

(d) Provide a space for the person signing the written agreement to state his or her name, identify his mobile home lot number, and indicate the date the written agreement is signed;

(e) Provide a signature line for the person executing the written agreement to affirm that he or she is authorized in the manner required by the governing documents to cast the vote for that mobile home lot; and,

(f) Designate a representative who shall open the written agreements, tally the votes, serve copies on the board and, in the event the board does not certify the recall by written agreement and files a petition for arbitration, receive pleadings (e.g., copies of a petition for recall arbitration, motions), notices, or other papers on behalf of the persons executing the written agreement.

(2) The written agreement or a copy shall be served on the board by certified mail or by personal service. Service on the board after 5:00 p.m. on a business day or on a Saturday, Sunday or legal holiday, as prescribed by Section 110.117, F.S., shall be deemed effective as of the next business day that is not a Saturday, Sunday, or legal holiday. Service of the written agreement on an officer, association manager, director, or the association's registered agent will be deemed effective service on the association. Service upon an attorney who has represented the association in other legal matters will not be effective on the association unless that attorney is a director, the association's registered agent, or has otherwise been retained by the association to represent it in the recall proceeding. Personal service shall be effected in the manner authorized in Chapter 48, F.S., and the Florida Rules of Civil Procedure.

(3) Substantial compliance with the provisions of subsections (1) through (2) of this rule shall be required for an effective recall of a director or directors.

(4) Written recall ballots in a recall by written agreement may be reused in one subsequent recall effort. A written recall ballot expires 120 days after it is signed by a member. Written recall ballots become void with respect to the director sought to be recalled where that director is elected during a regularly scheduled election.

(5) Written recall ballots may be executed by an individual holding a power of attorney or limited or general proxy given by the member(s) of record.

(6) Any rescission or revocation of a member's written recall ballot or agreement must be done in writing and must be delivered to the board prior to the board being served the written recall agreements.

(7) Board Meeting Concerning a Recall by Written Agreement; Filling Vacancies. The board shall hold a duly noticed meeting of the board to determine whether to certify (i.e., to validate or accept) the recall by written agreement within five full business days after service of the written agreement upon the board. It shall be presumed that service of a written agreement to recall one or more directors shall not, in and of itself, constitute grounds for an emergency meeting of the board to determine whether to certify the recall.

(a) Certified Recall. If the board votes to certify the written agreement to recall, the recall shall be effective upon certification, and the following provisions apply:

1. Each recalled director shall return to the board all association records in his or her possession within five full business days after adjournment of the board meeting at which the recall was certified.

2. If less than a majority of the existing board is recalled in a certified recall, a vacancy or vacancies on the board may be filled by the affirmative vote of a majority of the remaining directors, subject to the provisions of Section 723.078(2)(i), F.S., regardless of whether the authority to fill vacancies in this manner is provided in the governing documents. No recalled director shall be appointed by the board to fill any vacancy on the board. A director appointed pursuant to this rule shall fill the vacancy for the unexpired term of the seat being filled. If the board determines not to fill vacancies by vote of the remaining directors or if it is unable to fill vacancies in this manner (e.g., if there is a tie vote on the proposed replacement director, if a quorum is not obtained, or otherwise) the board may, in its discretion, call and hold an election in the manner provided by Section 723.078(2)(d), F.S., in which case any person elected shall fill the entire remaining term.

3. If a majority or more of the board is recalled in a certified recall, those replacement directors elected by the written agreement pursuant to the procedure referenced in paragraph (1)(c) of this rule shall take office upon adjournment of the board meeting at which it was determined to certify the recall. A director who is elected to fill a vacancy caused by recall shall fill the vacancy for the unexpired term of the seat being filled.

(b) Non-certification of Recall by the Board. If the board votes not to certify the written agreement to recall for any reason, the following provisions apply:

1. The board shall, consistent with the provisions of Chapter 61B-50, F.A.C., file a petition for arbitration with the division (i.e., be received by the division) within five full business days after adjournment of the board meeting at which the board determined not to certify the written agreement to recall.

2. Any director sought to be recalled shall, unless he or she resigns, continue to serve on the board until a final order regarding the validity of the recall is mailed by the arbitrator.

3. If the arbitrator certifies the recall of less than a majority of the board, the remaining directors may fill the vacancy or vacancies as provided in subparagraph (3)(a)2. of this rule.

4. If the arbitrator certifies the recall of a majority or more of the board, the term of office of those replacement board members elected by written agreement of the voting interests shall become effective upon mailing of the final order of arbitration. The term of office of those replacement directors elected by written agreement of the voting interests shall expire in accordance with the provisions of subparagraph (3)(a)3. of this rule.

5. A majority of the total voting interests entitled to vote in favor of recall is sufficient to recall a director, regardless of any provision to the contrary in the governing documents.

6. The failure of the association to enforce a voting certificate requirement in past association elections and member votes shall preclude the association from rejecting a written recall ballot or agreement for failing to comply with a voting certificate requirement.

(8) Board Meeting Minutes. The minutes of the board meeting at which the board determines whether to certify the recall are an official record of the association and shall record the following information:

(a) A majority of the total voting interests entitled to vote in favor of recall is sufficient to recall a director, regardless of any provision to the contrary in the governing documents;

(b) The failure of the association to enforce a voting certificate requirement in past association elections and member votes shall preclude the association from rejecting a written recall ballot or agreement for failing to comply with a voting certificate requirement;

(c) The date and time the board meeting is called to order and adjourned;

(d) Whether the recall is certified by the board;

(e) The manner in which any vacancy on the board occurring as a result of recall will be filled, if the recall is certified; and,

(f) If the recall was not certified, the specific reasons it was not certified.

(9) After service of a written agreement on the board:

(a) Any written rescission of an individual member vote or any additional votes received in regard to the recall shall be ineffective.

(b) Where the board determines not to certify the recall of a director and that director resigns, any appointment to fill the resulting vacancy shall be temporary pending the arbitration decision.

(10) Taking Office. When a majority or more of the board is recalled by written agreement, replacement directors shall take office:

(a) Upon the expiration of five full business days after service of the written agreement on the board, if the board fails to hold its board meeting to determine whether to certify the recall within five full business days after service of the written agreement;

(b) Upon the expiration of five full business days after adjournment of the board meeting to determine whether to certify the recall, if the board fails to certify the recall and fails to file a petition for arbitration;

(c) Upon certification of the recall by the board; or

(d) Upon certification of the recall by the arbitrator, in accordance with subparagraph (3)(b)4. of this rule, if the board files a petition for recall arbitration.

(11) Failure to Duly Notice and Hold a Board Meeting. If the board fails to duly notice and hold a meeting to determine whether to certify the recall within five full business days of service of the written agreement, the following shall apply:

(a) The recall shall be deemed effective immediately upon expiration of the last day of the five full business days after service of the written agreement on the board.

(b) If a majority of the board is recalled, replacement directors elected by the written agreement shall take office upon expiration of five full business days after service of the written agreement on the board in the manner specified in this rule.

(c) If the entire board is recalled, each recalled director shall immediately return to the replacement board all association records in his or her possession. If less than the entire board is recalled, each recalled director shall immediately return to the board all association records in his or her possession.

(12) The written agreement shall become an official record of the association upon service upon the board.

*Rulemaking Authority 723.1255., 723.006(7), 723.078(2)(i) FS. Law Implemented 723.078(2)(i) FS. History—New 2-24-16.*

#### **61B-33.004 Operation of the Homeowners' Association.**

Excluding meetings between the board of directors or its appointed homeowners' committee and the park owner, any member of the homeowners' association may tape record or videotape meetings of the board of directors of the homeowners' association and its committees, subject to the following:

(1) Mobile home owners are authorized to utilize at any such meeting audio and video equipment and devices which do not produce distracting sound or light emissions.

(2) If adopted in advance by the board or mobile home owners as a written rule, advance notice must be given to the board by any mobile home owner desiring to utilize any audio or video recording equipment at a meeting.

(3) If adopted in advance by the board or mobile home owners as a written rule, audio and video equipment must be assembled and placed in position in advance of the commencement of the meeting.

(4) If adopted in advance by the board or mobile home owners as a written rule, anyone using audio or video recording equipment at a meeting is not permitted to move about the meeting room in order to facilitate the recording.

*Rulemaking Authority 723.078(2)(c)4. FS. Law Implemented 723.078(2)(c)4. FS. History—New 7-10-16.*

## **CHAPTER 61B-35**

### **MOBILE HOME MINOR VIOLATIONS**

61B-35.001	Purpose and Effect (Repealed)
61B-35.002	Minor Violations Categories
61B-35.003	Enforcement of Minor Violations
61B-35.004	Suggested Notice Forms

#### **61B-35.001 Purpose and Effect.**

*Rulemaking Authority 723.006(9) FS. Law Implemented 723.006 FS. History--New 12-3-98, Repealed 7-14-19.*

#### **61B-35.002 Minor Violations Categories.**

(1) Pursuant to section 723.006, F.S., the following items are designated as minor violations of chapter 723, F.S.:

(a) Failure to provide a prospectus to a mobile home owner that incorporates the 1988 legislative amendments to the prospectus pursuant to section 723.011, F.S.

(b) Failure to file copies of advertising required by section 723.016(1), F.S.

(c) Failure to post park rules and regulations required by section 723.035(1), F.S.

(d) Failure to file copies of lot rental increases with the agency required by section 723.037(3), F.S.

(e) Failure to meet to discuss a notice of change as required by section 723.037(4), F.S., if there is mutual written agreement between the homeowners' committee and the park owner to meet at a time beyond the 30-day requirement, if a meeting is requested by either party.

(f) Failure to file rule changes with the division no later than 10 days after the effective date of the changes as provided in the notice of rules change.

(2) The listing of a violation as minor violation in this section does not preclude the division from finding that any other violation of chapter 723, F.S., or of the rules adopted thereunder is a minor violation as provided by section 723.006, F.S. The listing of a violation as a minor violation in this section does not create any presumption that any other violation of chapter 723, F.S., or of the rules adopted thereunder, is or is not a minor violation.

*Rulemaking Authority 723.006(9) FS. Law Implemented 723.006 FS. History--New 12-3-98.*

#### **61B-35.003 Enforcement of Minor Violations.**

For statutory or rule violations determined to be minor in rule 61B-35.002, F.A.C., the division will take the following approach:

(1) If the division has reasonable cause to believe that a violation may have occurred, a Warning Letter will be sent to the alleged violator. The Warning Letter will give the alleged violator forty-five (45) days from the postmark date of the letter in which to address, correct, or dispute the violation. In its Warning Letter, the division shall recommend that the alleged violator review other mobile home parks owned by the alleged violator, if any, to determine whether a similar violation exists. To avoid any civil penalties in these other mobile home parks, the alleged violator must initiate corrective or mitigative action in response to the initial Warning Letter in those other mobile home parks. The corrective or mitigative action must be completed within 90 days of the postmark of the Warning Letter. The Warning Letter will identify the alleged violation stating the relevant facts supporting the alleged violation, and provide a contact telephone number and an investigator's name so that the alleged violator may contact the division for information in obtaining compliance. However, it is solely the responsibility of the alleged violator to take action to achieve statutory or rule compliance and to provide proof of such compliance to the division. The division shall only issue a Warning Letter if the alleged violator has no prior Warning Letter, Notice to Show Cause, Final Order or Consent Order for the same violation. The Warning Letter shall not be considered final agency action. The agency will advise the complainant of the resolution of the complaint.

(2) If, as a result of the Warning Letter, the alleged violator corrects the statutory or rule violation within the 45-day time period referenced in subsection (1) above, no civil penalty shall be assessed for the violation.

(3) If the alleged violator fails to correct the minor statutory or rule violation within the time period specified in subsection (1) above, or if an alleged violator commits repeated violations of the same statutory or rule provisions, a civil penalty may be assessed of up to \$250.00 per violation. For purposes of this rule, the prior issuance of a Warning Letter shall not be considered evidence of a

prior rule or statutory violation.

*Rulemaking Authority 723.006(9) FS. Law Implemented 723.006 FS. History—New 12-3-98.*

**61B-35.004 Suggested Notice Forms.**

(1) The division adopts the forms below as suggested forms for use by park owners and operators.

(a) “90-Day Notice of Lot Rental Amount Increase,” DBPR Form MH 6000-8, incorporated herein by reference and effective 12-3-98;

(b) “90-Day Notice of Reduction in Services or Utilities,” DBPR Form MH 6000-9, incorporated herein by reference and effective 12-3-98;

(c) “90-Day Notice of Proposed Rules Change,” DBPR Form MH 6000-10, incorporated herein by reference and effective 12-3-98; and

(d) “Notice of Increase in Lot Rental Amount Due to Pass-Through Charge,” DBPR Form MH 6000-11, incorporated herein by reference and effective 12-3-98.

(2) All forms referenced in these rules may be obtained by writing to the Department of Business and Professional Regulation, Division of Condominiums, Timeshares, and Mobile Homes, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030.

(3) A timely notice to the affected homeowners and the board of directors, if one has been formed, of a lot rental amount increase, reduction in services or utilities, proposed change in rules and regulations or increase in lot rental amount due to a pass-through charge using the forms as set forth above shall be considered to be in compliance with the requirements addressing the form of notice in sections 723.037(1), (2) and 723.046, F.S.

(4) It shall not be a violation for a park owner to fail to use the suggested forms noted in subsection (1), above, and set forth in this rule as long as the information required by section 723.037, F.S., is included in the notice actually given.

*Rulemaking Authority 723.006(9) FS. Law Implemented 723.006 FS. History—New 12-3-98.*

<p style="text-align: center;"><b>CHAPTER 61B-50</b> <b>THE RULES OF PROCEDURE GOVERNING RECALL ARBITRATION</b></p>
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**61B-50.101 Scope, Organization, Procedure, and Title.**

(1) This chapter shall be entitled “The Rules of Procedure Governing Recall Arbitration” and shall govern the arbitration of a recall of one or more members of a board of administration of a condominium, cooperative, or mobile home homeowners’ association. These rules shall be construed to secure the just, speedy and inexpensive determination of every proceeding. Specifically, this chapter applies to all proceedings held pursuant to Section 718.112(2)(j), 719.106(1)(f) or 723.078(2)(i), F.S. The provisions of Chapter 682, F.S., and Chapter 61B-45, F.A.C., do not apply.

(2) All petitions and other papers filed with the division for recall arbitration pursuant to Sections 718.112(2)(j), 719.106(1)(f) and 723.078(2)(i), F.S., and these rules, shall be filed at the official headquarters of the Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, and Mobile Homes, Attention: Arbitration Division, 2601 Blair Stone Road, Tallahassee, Florida 32399-1030.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255, 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.01, Amended 7-27-88, Formerly 7D-50.001, Amended 1-17-93, Formerly 7D-50.101, Amended 1-19-97, 6-24-04, 3-2-16.*

**61B-50.105 Initiation of Recall Arbitration.**

(1) When one or more members of a board of administration of a condominium, cooperative, or mobile homeowners’ association have been recalled, the board of administration may initiate a recall arbitration by filing a petition for recall arbitration with the division, as follows:

(a) Recall at a Unit Owner or Member Meeting. Where the unit owners or members attempt to recall one or more members of a board at a unit owner or member meeting, and the board does not certify the recall, the board shall file a petition for arbitration with the division within five full business days after adjournment of the board meeting at which the board determined not to certify the recall.

(b) Recall by Written Agreement. Where the unit owners or members attempt to recall one or more members of a board by written agreement of a majority of the voting interests, and the board does not certify the written agreement to recall, the board shall file a petition for arbitration with the division within five full business days after adjournment of the board meeting at which the board determined not to certify the written agreement to recall.

(2) The time periods contained in Section 718.112(2)(j), 719.106(1)(f) and 723.078(2)(i), F.S., operate, for purposes of these

arbitration rules and not for enforcement purposes under Sections 718.501, 719.501 or 723.005, F.S., in the manner of statutes of limitation and are therefore subject to equitable considerations. However, where the board fails to timely comply with these rules relating to the filing of the petition for recall arbitration, the board must provide legitimate justification and must demonstrate that its actions or inactions were taken or based in good faith. The board's claims of excusable neglect or the inability to identify defects in the recall effort within the time provided, or other unremarkable excuses will not be considered as proper defenses. The failure of an association to timely file a petition for recall arbitration within the time limits imposed under these rules or Chapters 718, 719 and 723, F.S., will result in the certification of the recall and the immediate removal of the board members subject to recall; however, the failure of the association to timely file a petition for recall arbitration will not validate a written recall that is otherwise void at the outset for failing to obtain a majority of the voting interests or is deemed fatally defective for failing to substantially comply with the provisions of Rules 61B-23.0028, 61B-75.008 or 61B-33.003, F.A.C.

(3) Only the board of an association may file a petition for recall arbitration. Where the board fails to file a petition for recall arbitration as required by these rules and Chapters 718, 719 and 723, F.S., the unit owners or members seeking to challenge the board's decision not to file for recall arbitration may file a petition for arbitration pursuant to Section 718.1255(1)(b), 719.1255 or 723.1255, F.S.

(4) Form of Petition. The term "petition" as used in this rule includes any application or other document that expresses a request for arbitration of a recall of one or more board members. The petition shall comply with the provisions of this rule, and be printed, typewritten or otherwise duplicated in legible form on one side of the paper only with lines double-spaced.

(5) All petitions for arbitration of a recall shall be signed by either a duly authorized board member, a member of the Florida Bar, or a qualified representative who has been retained by the board. Each petition shall contain:

- (a) The name and address of the association and the number of voting interests;
  - (b) The name or names of the board member or members who were recalled;
  - (c) The name and address of the unit owner or member representative selected, pursuant to subparagraph 61B-23.0027(3)(b)2., paragraph 61B-23.0028(1)(f), subparagraph 61B-75.007(3)(b)2., paragraph 61B-75.008(1)(f), subparagraph 61B-33.002(3)(b)1. or paragraph 61B-33.003(1)(f), F.A.C., to receive pleadings, notices, or other papers on behalf of the recalling unit owners or members;
  - (d) A statement of whether the recall was by vote at a meeting of the membership or by written agreement;
  - (e) If the recall was by vote at a meeting, the petition shall state the date of the meeting of the membership and the time the meeting was adjourned; if the recall was by written agreement, the petition shall state the date and time of receipt of the written agreement by the board, and a copy of the written agreement to recall shall be attached to the petition;
  - (f) The date of the board meeting at which the board determined not to certify the recall, and the time the meeting was called to order and adjourned;
  - (g) A copy of the minutes of the board meeting at which the board determined not to certify the recall;
  - (h) Each specific basis upon which the board based its determination not to certify the recall, including the unit or mobile home lot number and specific defect to which each challenge applies. Any specific reason upon which the board bases its decision not to certify the recall that is stated in the petition for recall arbitration, but absent from the board meeting minutes or attachments thereto, shall be ineffective and shall not be considered by the arbitrator. A board member may be recalled with or without cause. The fact that a unit owner or member may have received misinformation is not a valid basis for rejecting a recall agreement and shall not be considered by the arbitrator;
  - (i) Any relevant sections of the bylaws, articles of incorporation, the declaration of condominium, cooperative documents, and rules, including all amendments thereto, as well as any or other documents which are pertinent to the petition; and
  - (j) Any other information which the petitioner contends is material.
- (6) If, during the pendency of a recall arbitration, the unit owners in the condominium, cooperative, or members in the mobile home homeowners' association attempt another recall effort and the board files another petition for arbitration, the newly filed petition shall be consolidated with the pending case.

(7) Upon receipt and review of a petition for arbitration of a recall of one or more board members, the division shall either accept or deny the petition. If the petition is accepted, within 10 days the arbitrator shall serve the respondent unit owners or members by mailing a copy of the petition and an order allowing answer by United States certified mail to the representative of the recalling unit owners or members identified in the petition.



#### **61B-50.106 Computation of Time.**

(1) In computing the five full business days prescribed by Sections 718.112(2)(j), 719.106(1)(f) and 723.078(2)(i), F.S., and these rules, the day of the act from which the period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday as prescribed by Section 110.117, F.S., in which event the period shall run until the end of the next business day.

(2) Additional Time After Service By Mail. Unless otherwise ordered by the arbitrator, during the pendency of a case, when a party is required or permitted by these rules or by order of the arbitrator to do an act within a prescribed period after the service of a paper upon that party and the paper is served by regular United States mail, five days shall be added to the prescribed period. This provision does not apply to the filing of the petition for recall arbitration. No additional time shall be added to the prescribed period if service is made by hand, facsimile transmission, or other electronic transmission.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 719.106(1)(f), 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.02, 7D-50.002, Amended 1-17-93, Formerly 7D-50.106, Amended 11-15-95, 6-24-04, 3-2-16.*

#### **61B-50.107 Parties.**

(1) Parties in any proceeding conducted in accordance with Section 718.112(2)(j), 719.106(1)(f) or 723.078(2)(i), F.S., are petitioners or respondents.

(2) The petitioner shall be the board of administration of an association that files a petition for binding arbitration of a recall of one or more members of the board.

(3) The respondent shall be the group of members of an association who voted at a meeting, or who executed a written agreement, to recall one or more members of the board.

(4) All parties shall receive copies of all pleadings, motions, notices, orders, and other matters filed in arbitration proceedings in the manner provided by Rule 61B-50.115, F.A.C.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 719.106(1)(f), 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.03, Amended 7-27-88, Formerly 7D-50.003, Amended 1-17-93, Formerly 7D-50.107, Amended 6-24-04, 3-2-16.*

#### **61B-50.108 Who May Appear; Criteria for Other Qualified Representatives.**

(1) Any person who appears before an arbitrator has the right, at that person's own expense, to be accompanied, represented and advised by a member of the Florida Bar or by a qualified representative who is not a member of the Florida Bar, but who shall demonstrate his or her familiarity with and understanding of the arbitration rules of procedure, and with any relevant portions of Chapter 718, 719 or 723, F.S., and the rules promulgated by the Division.

(2) If a person wishes to be represented by a qualified non-attorney representative, the arbitrator shall make diligent inquiry of the prospective representative during a non-adversarial proceeding, under oath, to assure that the prospective representative is qualified to appear in the arbitration proceedings and is capable of representing the rights and interests of the person. In lieu of the above, the arbitrator may consider the prospective representative's sworn affidavit setting forth the representative's qualifications.

(3) If the arbitrator is satisfied that the prospective non-attorney representative has the necessary qualifications to render competent and responsible representation of the unit owner's or member's interest in a manner that will not impair the fairness of the proceedings or the correctness of the action to be taken, the arbitrator shall authorize the prospective non-attorney representative to appear in the pending arbitration.

(4) The arbitrator shall make a determination of the qualifications of the prospective non-attorney representative in light of the nature, scope and extent of the proceedings, the proposed representation, the applicable federal and state laws, rules and regulations, and the factual and legal issues to be presented during the arbitration proceeding. (The prospective non-attorney representative shall not, however, be required to disclose facts and legal theories to the prejudice of his client.) In determining the qualifications of a prospective non-attorney representative, the arbitrator shall consider the following criteria to the extent they are relevant, material, and applicable to the proceeding:

(a) The prospective representative's knowledge of jurisdiction and supportive legal authority to file the initial petition;

(b) The knowledge or experience of the prospective representative regarding Chapter 61B-50, F.A.C., The Rules of Procedure Governing Recall Arbitration, Section 718.112(2)(j), 719.106(1)(f) or 723.078(2)(i), F.S., and the scope and remedies of the arbitration process;

(c) The knowledge or experience of the prospective representative regarding the application and interpretation of the Florida

Rules of Civil Procedure as they relate to discovery in an arbitration proceeding;

(d) The knowledge or experience of the prospective representative regarding the rules of evidence, including the concept of hearsay and its use in an arbitration proceeding;

(e) The knowledge or experience of the prospective representative regarding the statutes of rules which may be at issue;

(f) The educational background, training or work experience of the prospective representative relevant to the subject matter involved in the proceeding;

(g) The relationship of the prospective representative to the person, and the need of the person to have a representative speak on the person's behalf; and

(h) Any other matters which are deemed relevant and material by the arbitrator.

(5) A representative named in the initial petition or who has filed a notice of appearance shall remain the representative of record and shall receive pleadings and continue in a representative capacity until the representative's withdrawal has been approved in writing by the arbitrator.

(6) Any successor or associated attorney or other non-attorney representative shall file a notice of appearance prior to, or at the time of, the filing of any pleading with, or appearance before, the arbitrator.

(7) Members of the Florida Bar and certified law students are bound by the Rules of Professional Conduct of the Rules Regulating the Florida Bar. For other qualified representatives, the following standards have been written. These standards of conduct are adopted as a mandatory guide for all representatives, including unit owner and member representatives chosen pursuant to subparagraph 61B-23.0027(3)(b)2., paragraph 61B-23.0028(1)(f), subparagraph 61B-75.007(3)(b)2., paragraph 61B-75.008(1)(f), subparagraph 61B-33.002(3)(b)1. or paragraph 61B-33.003(1)(f), F.A.C., appearing in any arbitration proceeding, except counsel subject to disciplinary procedures of the Florida Bar.

(8) Standards of Conduct.

(a) A representative shall exercise due diligence in the filing and argument of any motion or pleading. All motions or pleadings shall be filed and argued in good faith.

(b) The signature of a representative upon any motion or pleading shall constitute a certificate that the representative has read the motion or pleading, that to the best of the representative's knowledge it is supported by good faith grounds and that it has not been presented solely for the purpose of delay.

(c) A representative shall advise the client to observe and to obey the law.

(d) A representative shall not:

1. Engage in conduct involving dishonesty, fraud, deceit or misrepresentation; or engage in conduct that is prejudicial to the administration of the arbitration process;

2. File a pleading, assert a position, conduct a defense, delay an arbitration proceeding or take other action on behalf of the client when such action would serve merely to harass or maliciously injure another;

3. Handle a legal or factual matter which the representative knows or should know that the representative is not competent to handle without associating an attorney or another qualified representative; or handle a legal or factual matter without adequate preparation;

4. State or imply that he or she is able to improperly influence the arbitrator or any agency or public official;

5. Communicate or cause another to communicate with an adverse party regarding matters at issue in the arbitration proceeding where the representative knows that the adverse party is represented by an attorney or other qualified representative;

6. Disregard or advise the client to disregard a rule or statute of an agency or a ruling of an arbitrator made in the course of an arbitration proceeding;

7. Conceal or knowingly fail to disclose that which one is bound to reveal by law;

8. Knowingly use perjured testimony or false evidence, or withhold any evidence that the representative or the client should produce;

9. Knowingly make a false statement of law or fact;

10. Advise or cause a person to secrete himself or leave the jurisdiction of any agency for the purpose of making the person unavailable as a witness therein; pay, offer to pay or acquiesce in the payment of compensation to a witness contingent upon the content of the witness's testimony or the outcome of the case; counsel or advise a witness to provide other than honest testimony.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255, 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.04, Amended 7-27-88, Formerly 7D-50.004, Amended 1-17-93, Formerly 7D-50.108,*

*Amended 2-13-97, 6-24-04, 3-2-16.*

**61B-50.110 Communication with an Arbitrator.**

(1) While a case is pending, no party or other person directly or indirectly interested in an arbitration proceeding nor anyone authorized to act on behalf of a party or other interested person shall communicate verbally or in writing in the absence of all parties with an arbitrator or with the Department of Business and Professional Regulation concerning the merits of the arbitration proceeding, threaten an arbitrator, or offer an arbitrator any reward with respect to the conduct or outcome of a proceeding.

(2) An arbitrator who has received a communication prohibited by this rule, or who has received a threat or offer of reward by any person with respect to the conduct or outcome of a proceeding, shall place upon the record all written communications received, all written responses to such communications and a memorandum stating the substance of all oral communications received and all oral responses made, simultaneously serving all parties.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255 FS. History—New 1-17-93, Formerly 7D-50.110, Amended 1-19-97, 6-24-04.*

**61B-50.112 Withdrawal of Petition.**

(1) A petition for arbitration of a recall may be withdrawn at any time prior to the commencement of the scheduled final hearing. Such withdrawal shall be in writing and directed to the arbitrator. Withdrawal may be made by telephone, but must be subsequently confirmed in writing, or by an order certifying the recall entered by the arbitrator if the petitioner fails to file written notice.

(2) Withdrawal of a petition for arbitration of a recall shall be with prejudice. If the board withdraws the petition, the recall shall be deemed certified and the board members recalled. The board member or members recalled shall turn over all association records in his or their possession within five full business days after the withdrawal is filed (i.e., received by the division).

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 718.1255, 719.1255 FS. History—New 1-17-93, Formerly 7D-50.112, Amended 11-15-95, 6-24-04.*

**61B-50.115 Filing; Service of Papers; Signing.**

(1) Filing. Unless specifically ordered, every pleading or other paper filed in the proceedings, including the initial petition, shall also be served on each party. A pleading or other paper is considered “filed” when it is received by the division.

(2) Method and Proof of Service.

(a) When service is to be made upon a party represented by an attorney or by a qualified representative, service shall be made upon the attorney or representative unless service upon the party is ordered by the arbitrator. Service shall be made by delivering or mailing, by United States mail postage prepaid, a copy of the document to the attorney, representative, or party at that person's last known address.

(b) When the unit owners or members have not designated a unit owner or member representative to represent their interest in a recall proceeding or when the unit owner or member representative cannot be ascertained, the arbitrator shall require that the association post a copy of the petition for recall arbitration and the order allowing answer on the condominium, cooperative, or mobile home park property in a conspicuous location as a means of notifying the unit owners or members of the recall arbitration.

(c) Certificate of Service. When any attorney, representative, or unrepresented party signs a certificate of service such as the following, the certificate of service shall be taken as evidence of service in compliance with these rules:

“I certify that a copy hereof has been furnished  
to (here insert name or names and address or addresses) by U.S. mail this \_\_\_\_ day of \_\_\_, 20\_\_.

\_\_\_\_\_  
Signature”

(3) Number of Copies. Only the original of all pleadings shall be filed with the arbitrator; no copies shall be filed. However, the initial petition for recall arbitration shall be accompanied by one (1) copy for the respondents.

(4) “Filing” shall mean receipt by the Division during normal business hours or by the arbitrator during the course of a hearing. Pleadings including the initial petition or other communications may be filed by regular hard copy or facsimile, and if filed by facsimile, a hard copy of the pleading or other communication need not be filed with the arbitrator; however, the party using facsimile filing bears the burden of ensuring that the pleading or other correspondence has actually been filed with the arbitrator. If a

document is filed via facsimile, the facsimile confirmation sheet shall be evidence of the date on which the Division received the document. Except for the initial petition for recall arbitration, a facsimile copy is filed within the meaning of this rule when the facsimile copy of the document is received by the Division. No pleadings shall be faxed that exceed 30 pages in length including attachments. When a party files a facsimile document with the arbitrator, the party shall also provide a facsimile copy to the other party if the fax number is available. If a party desires to receive orders via e-mail, the party must provide its e-mail address to the arbitrator assigned to the case.

(5) Any pleading or other document received after 5:00 p.m. shall be deemed to be filed as of 8:00 a.m. on the next regular business day.

(6) All pleadings and motions filed shall contain the following:

(a) The style of the proceeding involved;

(b) The case number, if any;

(c) The name of the party on whose behalf the pleading or motion is filed;

(d) The name, address, and telephone number of the person filing the pleading or motion;

(e) The signature of the person filing the pleading or motion; and

(f) A certificate of service attesting that copies have been furnished to other parties as required by subsection (2) of this rule.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255, 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.09, 7D-50.009, Amended 1-17-93, Formerly 7D-50.115, Amended 1-19-97, 6-24-04, 3-2-16.*

#### **61B-50.117 Motions.**

An application to the arbitrator for an order shall be made by written motion, unless made during a hearing. The motion shall state in detail the grounds for the relief requested and shall set forth the relief or order sought. The arbitrator shall conduct such proceedings and render such orders as are deemed necessary to dispose of issues raised by motion. Other parties may, within 7 business days of service of a written motion, file a written response in opposition to the motion.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106, 719.1255 FS. History—New 7-1-82, Formerly 7D-50.12, 7D-50.012, Amended 1-17-93, Formerly 7D-50.117, Amended 1-19-97, 6-24-04.*

#### **61B-50.119 Summary Disposition; Simplified Arbitration Procedure; No Disputed Issues of Material Fact.**

(1) Any dispute which does not involve a disputed issue of material fact shall be arbitrated as hereinafter provided.

(2) At any time after the filing of the petition, if no disputed issues of material fact exist, the arbitrator shall summarily enter a final order denying relief and certifying the recall if the arbitrator finds that no preliminary basis for relief has been demonstrated in the petition.

(3) At any time after the filing of the petition, if no disputed issues of material fact exist, the arbitrator shall summarily enter a final order awarding relief and failing to certify the recall if the arbitrator finds that no meritorious defense exists or if substantial compliance with the requirements of the rules and statutes relating to recall has not been demonstrated, and the petition is otherwise appropriate for relief.

(4) No formal evidentiary hearing as described by Rule 61B-50.131, F.A.C., shall be conducted for arbitrations determined pursuant to this rule. The arbitrator shall decide the dispute based solely upon the pleadings and evidence filed by the parties.

(5) Any party may move for summary final order whenever there are no disputed issues of material fact. The motion shall be accompanied by supporting affidavits if necessary. All other parties may, within 7 days of service of the motion, file a response in opposition, with or without supporting affidavits.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106, 719.1255 FS. History—New 1-17-93, Formerly 7D-50.119, Amended 2-13-97, 6-24-04.*

#### **61B-50.124 Discovery.**

(1) The discovery process shall be used sparingly and only for the discovery of those things that are necessary for the proper disposition of the petition. Parties may obtain discovery only upon the prior approval of the arbitrator. A motion to conduct discovery shall describe with specificity the subject matter of the discovery and the method(s) by which discovery will be sought.

The arbitrator may issue appropriate orders to effectuate the purposes of discovery and to prevent delay.

(2) Except as otherwise specified herein, parties may obtain discovery through the means and in the manner provided in Rules 1.280 through 1.390, Florida Rules of Civil Procedure. However, a unit owner or member desiring to obtain copies of official association records for use in the proceeding shall utilize the owner's right of access to the official records as provided by Sections 718.111(12), 719.104(2) and 723.079(4), F.S., in lieu of formal discovery.

(3) A party may seek enforcement of an order directing discovery by filing a petition for enforcement in the circuit court of the judicial circuit in which the person failing to comply with the order resides.

(4) At any time after the filing of the petition for arbitration, the arbitrator may enter an order requiring the parties to submit supplemental information, evidence or affidavits in support of or refuting the reason(s) listed in the petition as grounds for failing to certify the recall.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255, 723.078(2)(i) FS. History—New 7-1-82, Formerly 7D-50.15, 7D-50.015, Amended 1-17-93, Formerly 7D-50.124, Amended 1-19-97, 6-24-04, 3-2-16.*

#### **61B-50.126 Conduct of Proceeding by Arbitrator.**

(1) The failure or refusal of a respondent to comply with a provision of these rules or any lawful order of the arbitrator shall result in the striking of the answer including any defenses or pending claims where such failure is deemed willful, intentional, or a result of neglect.

(2) The failure or refusal of an association to comply with any lawful order of the arbitrator or with a provision of these rules shall result in a dismissal of the petition where such failure is deemed willful, intentional, or a result of neglect.

(3) In order to expedite the case, the arbitrator may, without the agreement of the parties, conduct any proceeding permitted under these rules, including a motion hearing or final hearing, by telephone or video conference.

(4) At any time after a petition has been filed with the division for arbitration, the arbitrator may direct the parties to confer for the purpose of clarifying and simplifying issues, discussing the possibility of settlement, examining documents and other exhibits, exchanging names and addresses of witnesses, resolving other procedural matters, and entering into a prehearing stipulation.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(k), (l), 718.1255, 719.106(1)(f) FS. History—New 1-17-93, Formerly 7D-50.126, Amended 1-19-97.*

#### **61B-50.1265 Non-Final Orders.**

(1) The presiding arbitrator before whom a case is pending may issue any orders necessary to effectuate discovery, to prevent delay, and to promote the just, speedy, and inexpensive determination of all aspects of the case.

(2) When a case is placed in abeyance or abated by a non-final order, no filing fee is necessary to reopen the case or otherwise proceed with the matter.

*Rulemaking Authority 718.1255(4) FS. Law Implemented 718.1255(3)(c), 718.1255(4) FS. History—New 9-22-14.*

#### **61B-50.127 Subpoenas and Witnesses; Fees.**

(1) A subpoena requiring the attendance of witnesses or the production of documents, whether for purposes of discovery or for purposes of a final hearing, may be served by any person authorized by law to serve process or by any person who is not a party and who is of majority age, as provided in Rule 1.410, Florida Rules of Civil Procedure, or as that rule may subsequently be renumbered. Proof of such service shall be made by affidavit of the person making service if not served by an officer authorized by law to do so.

(2) All witnesses, other than public employees subpoenaed to appear in their official capacity, appearing pursuant to a subpoena shall be paid such fees and mileage for their attendance as set forth in Section 92.142, F.S., or as that statute may subsequently be renumbered. In the case of a public employee, such expenses shall be processed and paid in the manner provided for agency employee travel expense reimbursement; and, in the case of a witness who is not a public employee, payment of such fees and expenses shall accompany the subpoena.

(3) Any party or any person upon whom a subpoena is served or to whom a subpoena is directed may file a motion to quash or for protective order.

(4) Subpoenas shall be issued from the arbitrator in blank except for the case style, the case number, the name, address and

telephone number of the attorney or party requesting issuance of the subpoena and the signature of the arbitrator assigned. Subpoenas shall be completed and served by the party requesting issuance of the subpoenas.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255 FS. History—New 7-1-82, Formerly 7D-50.19, 7D-50.019, Amended 1-17-93, Formerly 7D-50.127, Amended 1-19-97, 6-24-04.*

#### **61B-50.130 Stenographic Record and Transcript.**

(1) Any party wishing to obtain a stenographic record shall make such arrangements directly with the court reporter for such services and shall notify the other parties of such arrangements in advance of the hearing. The requesting party or parties shall bear all the costs of obtaining such a record.

(2) Any party may have a stenographic record and transcript made of the final hearing at the party's own expense. The record transcript may be used in subsequent legal proceedings subject to the applicable rules of evidence.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106, 719.1255 FS. History—New 1-17-93, Formerly 7D-50.130, Amended 1-19-97, 6-24-04.*

#### **61B-50.131 Conduct of Formal Hearing; Evidence.**

(1) Hearings shall be open to the public. However, the arbitrator shall exclude any observer, witness or party who is disruptive to the conduct of the hearing.

(2) Each party shall have the right to present evidence, cross examine the other party's witnesses, enter objections, and to rebut the evidence presented against the party.

(3) The arbitrator is authorized to administer oaths. Oral testimony shall be taken only upon oath or affirmation.

(4) Unless otherwise ordered by the arbitrator, the petitioner shall present its evidence and witnesses. Thereafter, the respondent may present its evidence and witnesses.

(5) Evidence.

(a) An arbitration proceeding is less formal than a court proceeding. The arbitrator shall admit any relevant evidence if it is the kind of evidence on which reasonable, prudent persons rely in the conduct of their affairs. Reliable, relevant evidence may be presented by the parties. Facts are to be proven through the testimony of witnesses under oath at the final hearing and through documents admitted into evidence at the request of a party. Hearsay evidence (i.e., statements not made at the final hearing under oath, used to establish the truth of the matter asserted) may be used to supplement or explain other evidence, but is not sufficient to support a finding, unless the hearsay evidence would be admissible in a court of law. The rules of privilege shall be effective to the same extent that they are recognized in civil actions. Irrelevant and unduly repetitious evidence shall not be admitted into evidence.

(b) All exhibits shall be identified as petitioner's exhibits, respondent's exhibits, or as joint exhibits. The exhibits shall be marked in the order that they are received and made a part of the record.

(c) Documentary evidence may be received in the form of a photocopy.

(6) The arbitrator shall afford the parties an opportunity to submit proposed findings of fact, conclusions of law, and proposed orders, or legal briefs or memoranda on the issues, within a time designated by the arbitrator after the final hearing.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255 FS. History—New 7-1-82, Formerly 7D-50.22, 7D-50.022, Amended 1-17-93, Formerly 7D-50.131, Amended 1-19-97, 6-24-04.*

#### **61B-50.136 Notice of Final Hearing; Scheduling; Venue; Continuances.**

(1) The arbitrator shall set the time and place for all final hearings. The arbitrator shall serve written notice of the final hearing by regular mail on all parties of record.

(2) All hearings shall be held in the state of Florida. Whenever possible, hearings shall be held in the area of residence of the parties and witnesses or at the place most convenient to all parties as determined by the arbitrator.

(3) In the arbitrator's discretion, a continuance of a hearing shall be granted for good cause shown. Requests for continuance shall be made in writing. Except in cases of emergency, requests for continuance must be made at least 10 days prior to the date noticed for the final hearing.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255 FS. History—New 7-1-*

82, Formerly 7D-50.24, 7D-50.024, Amended 1-17-93, Formerly 7D-50.136, Amended 1-19-97, 6-24-04.

#### **61B-50.139 Final Orders.**

(1) Unless waived, a final order shall be entered within 30 days after any final hearing, receipt by the arbitrator of the hearing transcript if one is timely filed, or receipt of any post-hearing memoranda, whichever is applicable. The final order shall be in writing and shall include a statement of whether or not the recall was certified. Failure to render a decision within such time period shall not invalidate the decision.

(2) The final order shall be mailed to the parties, if unrepresented, or to their counsel or other qualified representative of record by regular U.S. mail. The final order shall include a certificate of service which shall show the date of mailing of the final order to the parties.

(3) In reaching a decision, the arbitrator may take official notice of and find as true without proof, any fact which may be judicially noticed by the courts of this state, including any arbitration final order or any final order of the division involving a similar or related issue.

(4) A final order certifying the recall of one or more board members takes effect upon the mailing of the final order. As of the moment of mailing, those board members found to be recalled cease to be authorized board members and shall not exercise the authority of the association.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106(1)(f), 719.1255 FS. History—New 7-1-82, Formerly 7D-50.25, 7D-50.025, Amended 1-17-93, Formerly 7D-50.139, Amended 1-19-97, 6-24-04.*

#### **61B-50.140 Technical Corrections; Rehearing.**

(1) Any party may file a motion to correct any clerical mistake or error arising from oversight or omission in any final order entered by an arbitrator within 10 days of the date on which the order was entered. "Clerical corrections" shall be generally defined as computational corrections, correction of clerical mistake or typographical error or other minor corrections of error arising from oversight or omission; or an evident miscalculation of figures or an evident mistake in the description of any thing, person, or property referred to in the order; or an award by the arbitrator upon a matter not submitted. The order may be corrected without affecting the merits of the decision upon the issues submitted. Such correction shall be achieved by the entry of a corrected order. The substance of the order itself may not be modified.

(2) The arbitrator may on his or her own motion initiate entry of a corrected order as described by subsection (1) above within 60 days of the entry of the final order.

(3) No motion for rehearing of a final order certifying the recall shall be filed.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f) FS. Law Implemented 718.112(2)(j), 718.1255, 719.106, 719.1255 FS. History—New 1-17-93, Formerly 7D-50.140, Amended 1-19-97, 6-24-04.*

#### **61B-50.1405 Motions for Attorney's Fees and Costs.**

No party shall be entitled to recover its costs and attorney's fees in a recall proceeding initiated pursuant to Section 718.112(2)(j), 719.106(1)(f) or 723.078(2)(i), F.S.

*Rulemaking Authority 718.501(1)(f), 719.501(1)(f), 723.1255 FS. Law Implemented 718.112(2)(j), 719.106(1)(f), 723.078(2)(i) FS. History—New 6-24-04, Amended 3-2-16.*