CHAPTER 718
CONDOMINIUMS, COOPERATIVES, AND MOBILE HOME PARK RECREATIONAL FACILITIES

PART I
GENERAL PROVISIONS
(SECTIONS 718.101 TO 718.119)

PART II
EXCLUSIVE POSSESSION OF MOBILE HOME PARK RECREATIONAL FACILITIES
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and representations on the part of the parties, the parties hereto intend that this Agreement shall be regarded as the complete and exclusive statement of the terms and conditions of their agreement with respect to the subject matter of this Agreement, and that the parties hereto shall not be bound by any other or different terms and conditions than those set forth herein unless hereafter agreed to in writing by the parties hereto after the date of this Agreement. Any prior agreement, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement must be in writing and signed by all parties. Any waiver of any rights or obligations under this Agreement must be in writing and signed by the party waiving such rights or obligations. The failure of any party to exercise any right or privilege under this Agreement shall not be deemed a waiver of such party's right or privilege with respect to any other occasion.

[illegible] Each party represents and warrants to the other that it has the power and authority to execute, deliver and perform its obligations under this Agreement, and that the execution, delivery and performance of this Agreement by such party is not in conflict with or in violation of any agreement, covenant or other arrangement to which such party is a party or by which such party is bound, and that the execution, delivery and performance of this Agreement by such party shall not be in violation of any judgment, order or other governmental or quasi-governmental or private authorization, permit, license or other approval, or any other legal restriction, law or regulation applicable to such party, and that such execution, delivery and performance will not result in or cause any breach of, default under or violation of any such agreement, covenant or other arrangement, or any such judgment, order or other governmental or quasi-governmental or private authorization, permit, license or other approval, or any other legal restriction, law or regulation, or cause any such party to violate any of its obligations under

NOTICE OF LATE ADJUSTMENT

(a) Percent _____ of material adjustments.

The following amounts are correct for our account in _____ (name of jurisdiction) ____ and for tax year ending 20 ____ (tax year of the return).

(b) The following amounts are correct for our account in _____ (name of jurisdiction) ____ (name of other jurisdiction) ____ (name of other jurisdiction) ____ (name of other

or all parcels in the community.

(2) In order to preserve a community and the associated infrastructure and common areas for the purposes described in this section, the parcel owners in a community that was previously subject to a declaration of covenants that has ceased to govern one or more parcels in the community may revive the declaration and the association for the community upon approval by the parcel owners to be governed thereby as provided in this act, and upon approval of the declaration and the other governing documents for the association by the Department of Economic Opportunity in a manner consistent with this act.

(3) This part is intended to provide mechanisms for the revitalization of covenants or restrictions for all types of communities and property associations and is not limited to residential communities.

History.—s. 11, ch. 2004-345; s. 7, ch. 2004-353; s. 68, ch. 2011-139; s. 437, ch. 2011-142; s. 12, ch. 2018-55.

720.404 Eligible communities; requirements for revival of declaration.—Parcel owners in a community are eligible to seek approval from the Department of Economic Opportunity to revive a declaration of covenants under this act if all of the following requirements are met:

(1) All parcels to be governed by the revived declaration must have been once governed by a previous declaration that has ceased to govern some or all of the parcels in the community;

(2) The revived declaration must be approved in the manner provided in s. 720.405(6); and

(3) The revived declaration may not contain covenants that are more restrictive on the parcel owners than the covenants contained in the previous declaration, except that the declaration may:

(a) Have an effective term of longer duration than the term of the previous declaration;

(b) Omit restrictions contained in the previous declaration;

(c) Govern fewer than all of the parcels governed by the previous declaration;

(d) Provide for amendments to the declaration and other governing documents; and

(e) Contain provisions required by this chapter for new declarations that were not contained in the previous declaration.

History.—s. 12, ch. 2004-345; s. 8, ch. 2004-353; s. 438, ch. 2011-142; s. 13, ch. 2018-55.

720.405 Organizing committee; parcel owner approval.—

(1) The proposal to revive a declaration of covenants and an association for a community under the terms of this act shall be initiated by an organizing committee consisting of not less than three parcel owners located in the community that is proposed to be governed by the revived declaration. The name, address, and telephone number of each member of the organizing committee must be included in any notice or other document provided by the committee to parcel owners to be affected by the proposed revived declaration.

(2) The organizing committee shall prepare or cause to be prepared the complete text of the proposed revised declaration of covenants to be submitted to the parcel owners for approval. The proposed revived documents must identify each parcel that is to be subject to the governing documents by its legal description, and by the name of the parcel owner or the person in whose name the parcel is assessed on the last completed tax assessment roll of the county at the time when the proposed revived declaration is submitted for approval by the parcel owners.

(3) The organizing committee shall prepare the full text of the proposed articles of incorporation and bylaws of the revived association to be submitted to the parcel owners for approval, unless the association is then an existing corporation, in which case the organizing committee shall prepare the existing articles of incorporation and bylaws to be submitted to the parcel owners.

(4) The proposed revived declaration and other governing documents for the community shall:

(a) Provide that the voting interest of each parcel owner shall be the same as the voting interest of the parcel owner under the previous governing documents;

(b) Provide that the proportional-assessment obligations of each parcel owner shall be the same as proportional-assessment obligations of the parcel owner under the previous governing documents;

(c) Contain the same respective amendment provisions as the previous governing documents or, if there were no amendment provisions in the previous governing document, amendment provisions that require approval of not less than two-thirds of the affected parcel owners;

(d) Contain no covenants that are more restrictive on the affected parcel owners than the covenants contained in the previous governing documents, except as permitted under s. 720.404(3); and

(e) Comply with the other requirements for a declaration of covenants and other governing documents as specified in this chapter.

(5) A copy of the complete text of the proposed revised declaration of covenants, the proposed new or existing articles of incorporation and bylaws of the association, and a graphic depiction of the property to be governed by the revived declaration shall be presented to all of the affected parcel owners by mail or hand delivery not less than 14 days before the time that the consent of the affected parcel owners to the proposed governing documents is sought by the organizing committee.

(6) A majority of the affected parcel owners must agree in writing to the revived declaration of covenants and governing documents of the association or approve the revived declaration and governing documents by a vote at a meeting of the affected parcel owners noticed and conducted in the manner prescribed by s. 720.306. Proof of notice of the meeting to all affected owners of the meeting and the minutes of the meeting recording the votes of the property owners shall be certified by a court reporter or an attorney licensed to practice in the state.

History.—s. 13, ch. 2004-345; s. 9, ch. 2004-353; s. 137, ch. 2005-2; s. 14, ch. 2018-55.

720.406 Department of Economic Opportunity; submission; review and determination.—

(1) No later than 60 days after the date the proposed revived declaration and other governing documents are approved by the affected parcel owners, the organizing committee or its designee must submit the proposed revived governing documents and supporting materials to the Department of Economic Opportunity to review and determine whether to approve or disapprove of the proposal to preserve the residential community. The submission to the department must include:

(a) The full text of the proposed revived declaration of covenants and articles of incorporation and bylaws of the homeowners' association;

(b) A verified copy of the previous declaration of covenants and other previous governing documents for the community, including any amendments thereto;

(c) The legal description of each parcel to be subject to the revived declaration and other governing documents and a plat or other graphic depiction of the affected properties in the community;

(d) A verified copy of the written consents of the requisite number of the affected parcel owners approving the revived declaration and other governing documents or, if approval was obtained by a vote at a meeting of affected parcel owners, verified copies of the notice of the meeting, attendance, and voting results;

(e) An affidavit by a current or former officer of the association or by a member of the organizing committee verifying that the requirements for the revived declaration set forth in s. 720.404 have been satisfied; and

(f) Such other documentation that the organizing committee believes is supportive of the policy of preserving the residential community and operating, managing, and maintaining the infrastructure, aesthetic character, and common areas serving the residential community.

(2) No later than 60 days after receiving the submission, the department must determine whether the proposed revived declaration of covenants and other governing documents comply with the requirements of this act.

(a) If the department determines that the proposed revived declaration and other governing documents comply with the act and have been approved by the parcel owners as required by this act, the department shall notify the organizing committee in writing of its approval.

(b) If the department determines that the proposed revived declaration and other governing documents do not comply with this act or have not been approved as required by this act, the department shall notify the organizing committee in writing that it does not approve the governing documents and shall state the reasons for the disapproval.

History.—s. 14, ch. 2004-345; s. 10, ch. 2004-353; s. 439, ch. 2011-142.

720.407 Recording; notice of recording; applicability and effective date.—

(1) No later than 30 days after receiving approval from the department, the organizing committee shall file the articles of incorporation of the association with the Division of Corporations of the Department of State if the articles have not been previously filed with the division.

(2) No later than 30 days after receiving approval from the division, the president and secretary of the association shall execute the revived declaration and other governing documents approved by the department in the name of the association and have the documents recorded with the clerk of the circuit court in the county where the affected parcels are located.

(3) The recorded documents shall include the full text of the approved declaration of covenants, the articles of incorporation and bylaws of the association, the letter of approval by the department, and the legal description of each affected parcel of property. For purposes of chapter 712, the association is deemed to be and shall be indexed as the grantee in a title transaction and the parcel owners named in the revived declaration are deemed to be and shall be indexed as the grantors in the title transaction.

(4) Immediately after recording the documents, a complete copy of all of the approved recorded documents must be mailed or hand delivered to the owner of each affected parcel. The revived declaration and other governing documents shall be effective upon recordation in the public records with respect to each affected parcel subject thereto, regardless of whether the particular parcel owner approved the revived declaration. Upon recordation, the revived declaration shall replace and supersede the previous declaration with respect to all affected parcels then governed by the previous declaration and shall have the same record priority as the superseded previous declaration. With respect to any affected parcels that had ceased to be governed by the previous declaration as of the recording date, the revived declaration may not have retroactive effect with respect to the parcel and shall take priority with respect to the parcel as of the recording date.

(5) With respect to any parcel that has ceased to be governed by a previous declaration of covenants as of the effective date of this act, the parcel owner may commence an action within 1 year after the effective date of this act for a judicial determination that the previous declaration did not govern that parcel as of the effective date of this act and that any revival of such declaration as to that parcel would unconstitutionally deprive the parcel owner of rights or property. A revived declaration that is implemented pursuant to this act shall not apply to or affect the rights of the respective parcel owner recognized by any court order or judgment in any such action commenced within 1 year after the effective date of this act, and any such rights so recognized may not be subsequently altered by a revived declaration implemented under this act without the consent of the affected property owner.

History.—s. 15, ch. 2004-345; s. 11, ch. 2004-353; s. 15, ch. 2018-55.

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