

By the Committees on Judiciary; and Regulated Industries; and
Senator Bogdanoff

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1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 718.112, F.S.; revising the terms of membership for
6 board members of a condominium unit owner association;
7 revising condominium unit owner meeting notice
8 requirements; providing that certain election
9 requirements do not apply to an association governing
10 a timeshare condominium; revising recordkeeping
11 requirements of a condominium association board;
12 requiring challenges to an election to commence within
13 a certain time period; providing requirements for
14 challenging the failure of a board to duly notice and
15 hold the required board meeting or to file the
16 required petition for a recall; providing requirements
17 for recalled board members to challenge the recall;
18 providing duties of the Division of Florida
19 Condominiums, Timeshares, and Mobile Homes regarding
20 recall petitions; amending s. 718.113, F.S.; providing
21 requirements for a condominium association board
22 relating to the installation of hurricane shutters,
23 impact glass, code-compliant windows or doors, and
24 other types of code-compliant hurricane protection
25 under certain circumstances; amending s. 718.115,
26 F.S.; conforming provisions to changes made by the
27 act; amending s. 718.116, F.S.; revising liability of
28 certain condominium unit owners acquiring title;
29 amending s. 718.303, F.S.; revising provisions

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30 relating to imposing remedies against a noncompliant
31 or delinquent condominium unit owner or member;
32 revising voting requirements under certain conditions;
33 amending s. 718.403, F.S.; providing requirements for
34 the completion of phase condominiums; creating s.
35 718.406, F.S.; providing definitions; providing
36 requirements for condominiums created within
37 condominium parcels; providing for the establishment
38 of primary condominium and secondary condominium
39 units; providing requirements for association
40 declarations; providing requirements for creating a
41 secondary condominium on a primary condominium parcel;
42 providing that an owner of a secondary unit is subject
43 to both the primary condominium declaration and the
44 secondary condominium declaration; authorizing a
45 primary condominium association to provide insurance
46 and adopt hurricane shutter or hurricane protection
47 specifications under certain conditions; authorizing a
48 unit owner or holder of a first mortgage on a
49 secondary unit to register the unit owner's or
50 mortgagee's interest in the secondary unit with the
51 primary condominium association by delivery of written
52 notice; providing other requirements for the written
53 notice; providing requirements relating to
54 assessments; providing for resolution of conflicts
55 between primary condominium declarations and secondary
56 condominium declarations; providing requirements
57 relating to common expenses due the primary
58 condominium association; amending s. 718.5011, F.S.;

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59 revising the restriction on officers and full-time
60 employees of the ombudsman from engaging in other
61 businesses or professions; amending s. 718.707, F.S.;
62 revising the time limitation for classification as a
63 bulk assignee or bulk buyer; amending s. 719.104,
64 F.S.; specifying additional records that are not
65 accessible to unit owners; amending s. 719.1055, F.S.;
66 revising provisions relating to the amendment of
67 cooperative documents; providing legislative findings
68 and a finding of compelling state interest; providing
69 criteria for consent or joinder to an amendment;
70 requiring notice regarding proposed amendments to
71 mortgagees; providing criteria for notification;
72 providing for voiding certain amendments; amending s.
73 719.106, F.S.; requiring challenges to an election to
74 commence within a certain time period; specifying
75 certification or educational requirements for a newly
76 elected or appointed cooperative board director;
77 providing requirements for challenging the failure of
78 a board to duly notice and hold the required board
79 meeting or to file the required petition for a recall;
80 providing requirements for recalled board members to
81 challenge the recall; providing duties of the division
82 regarding recall petitions; amending s. 719.108, F.S.;
83 revising provisions governing assessments and liens;
84 revising liability of unit owners; providing
85 requirements for persons acquiring title; amending s.
86 719.303, F.S.; revising provisions relating to
87 imposing remedies against a noncompliant or delinquent

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88 cooperative unit owner or member; revising voting
89 requirements under certain conditions; amending s.
90 720.303, F.S.; revising the types of records that are
91 not accessible to homeowners' association members and
92 parcel owners; providing requirements for challenging
93 the failure of a board to duly notice and hold the
94 required board meeting or to file the required
95 petition for a recall; providing requirements for
96 recalled board members to challenge the recall;
97 providing duties of the division regarding recall
98 petitions; amending s. 720.305, F.S.; revising
99 provisions relating to imposing remedies against a
100 noncompliant or delinquent homeowners' association
101 member and parcel owner; revising voting requirements
102 under certain conditions; amending s. 720.306, F.S.;
103 revising provisions relating to the amendment of
104 homeowners' association declarations; providing
105 legislative findings and a finding of compelling state
106 interest; providing criteria for consent or joinder to
107 an amendment; requiring notice to mortgagees regarding
108 proposed amendments; providing criteria for
109 notification; providing for voiding certain
110 amendments; requiring challenges to an election to
111 commence within a certain time period; specifying
112 certification or educational requirements for a newly
113 elected or appointed homeowners' association board
114 director; amending s. 720.3085, F.S.; revising
115 liability of certain parcel owners acquiring title;
116 providing an effective date.

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

119

120 Section 1. Subsection (9) of section 399.02, Florida
121 Statutes, is amended to read:

122 399.02 General requirements.—

123 (9) Updates to the Safety Code for Existing Elevators and
124 Escalators, ASME A17.1 and A17.3, which require Phase II
125 Firefighters' Service on elevators may not be enforced ~~until~~
126 ~~July 1, 2015, or~~ until the elevator is replaced or requires
127 major modification, ~~whichever occurs first,~~ on elevators in
128 condominiums or multifamily residential buildings, including
129 those that are part of a continuing care facility licensed under
130 chapter 651, or similar retirement community with apartments,
131 having a certificate of occupancy by the local building
132 authority that was issued before July 1, 2008. This exception
133 does not prevent an elevator owner from requesting a variance
134 from the applicable codes ~~before or after July 1, 2015.~~ This
135 subsection does not prohibit the division from granting
136 variances pursuant to s. 120.542 and subsection (8). The
137 division shall adopt rules to administer this subsection.

138 Section 2. Paragraphs (d) and (j) of subsection (2) of
139 section 718.112, Florida Statutes, are amended to read:

140 718.112 Bylaws.—

141 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
142 following and, if they do not do so, shall be deemed to include
143 the following:

144 (d) *Unit owner meetings.*—

145 1. An annual meeting of the unit owners shall be held at

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146 the location provided in the association bylaws and, if the
147 bylaws are silent as to the location, the meeting shall be held
148 within 45 miles of the condominium property. However, such
149 distance requirement does not apply to an association governing
150 a timeshare condominium.

151 2. Unless the bylaws provide otherwise, a vacancy on the
152 board caused by the expiration of a director's term shall be
153 filled by electing a new board member, and the election must be
154 by secret ballot. An election is not required if the number of
155 vacancies equals or exceeds the number of candidates. For
156 purposes of this paragraph, the term "candidate" means an
157 eligible person who has timely submitted the written notice, as
158 described in sub-subparagraph 4.a., of his or her intention to
159 become a candidate. Except in a timeshare condominium, or if the
160 staggered term of a board member does not expire until a later
161 annual meeting, or if all members' terms would otherwise expire
162 but there are no candidates, the terms of all board members
163 expire at the annual meeting, and such members may stand for
164 reelection unless prohibited by the bylaws. If the bylaws or the
165 articles of incorporation permit ~~staggered~~ terms of no more than
166 2 years ~~and upon approval of a majority of the total voting~~
167 ~~interests~~, the association board members may serve 2-year
168 ~~staggered~~ terms. If the number of board members whose terms
169 expire at the annual meeting equals or exceeds the number of
170 candidates, the candidates become members of the board effective
171 upon the adjournment of the annual meeting. Unless the bylaws
172 provide otherwise, any remaining vacancies shall be filled by
173 the affirmative vote of the majority of the directors making up
174 the newly constituted board even if the directors constitute

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175 less than a quorum or there is only one director. In a
176 condominium association of more than 10 units or in a
177 condominium association that does not include timeshare units or
178 timeshare interests, coowners of a unit may not serve as members
179 of the board of directors at the same time unless they own more
180 than one unit or unless there are not enough eligible candidates
181 to fill the vacancies on the board at the time of the vacancy.
182 Any unit owner desiring to be a candidate for board membership
183 must comply with sub-subparagraph 4.a. and must be eligible to
184 serve on the board of directors at the time of the deadline for
185 submitting a notice of intent to run in order to have his or her
186 name listed as a proper candidate on the ballot or to serve on
187 the board. A person who has been suspended or removed by the
188 division under this chapter, or who is delinquent in the payment
189 of any fee, fine, or special or regular assessment as provided
190 in paragraph (n), is not eligible for board membership. A person
191 who has been convicted of any felony in this state or in a
192 United States District or Territorial Court, or who has been
193 convicted of any offense in another jurisdiction which would be
194 considered a felony if committed in this state, is not eligible
195 for board membership unless such felon's civil rights have been
196 restored for at least 5 years as of the date such person seeks
197 election to the board. The validity of an action by the board is
198 not affected if it is later determined that a board member is
199 ineligible for board membership due to having been convicted of
200 a felony.

201 3. The bylaws must provide the method of calling meetings
202 of unit owners, including annual meetings. Written notice must
203 include an agenda, must be mailed, hand delivered, or

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204 electronically transmitted to each unit owner at least 14 days
205 before the annual meeting, and must be posted in a conspicuous
206 place on the condominium property at least 14 continuous days
207 before the annual meeting. Upon notice to the unit owners, the
208 board shall, by duly adopted rule, designate a specific location
209 on the condominium property or association property where all
210 notices of unit owner meetings shall be posted. This requirement
211 does not apply if there is no condominium property or
212 association property for posting notices. In lieu of, or in
213 addition to, the physical posting of meeting notices, the
214 association may, by reasonable rule, adopt a procedure for
215 conspicuously posting and repeatedly broadcasting the notice and
216 the agenda on a closed-circuit cable television system serving
217 the condominium association. However, if broadcast notice is
218 used in lieu of a notice posted physically on the condominium
219 property, the notice and agenda must be broadcast at least four
220 times every broadcast hour of each day that a posted notice is
221 otherwise required under this section. If broadcast notice is
222 provided, the notice and agenda must be broadcast in a manner
223 and for a sufficient continuous length of time so as to allow an
224 average reader to observe the notice and read and comprehend the
225 entire content of the notice and the agenda. Unless a unit owner
226 waives in writing the right to receive notice of the annual
227 meeting, such notice must be hand delivered, mailed, or
228 electronically transmitted to each unit owner. Notice for
229 meetings and notice for all other purposes must be mailed to
230 each unit owner at the address last furnished to the association
231 by the unit owner, or hand delivered to each unit owner.
232 However, if a unit is owned by more than one person, the

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233 association must provide notice to the address that the
234 developer identifies for that purpose and thereafter as one or
235 more of the owners of the unit advise the association in
236 writing, or if no address is given or the owners of the unit do
237 not agree, to the address provided on the deed of record. An
238 officer of the association, or the manager or other person
239 providing notice of the association meeting, must provide an
240 affidavit or United States Postal Service certificate of
241 mailing, to be included in the official records of the
242 association affirming that the notice was mailed or hand
243 delivered in accordance with this provision.

244 4. The members of the board shall be elected by written
245 ballot or voting machine. Proxies may not be used in electing
246 the board in general elections or elections to fill vacancies
247 caused by recall, resignation, or otherwise, unless otherwise
248 provided in this chapter. This subparagraph does not apply to an
249 association governing a timeshare condominium.

250 a. At least 60 days before a scheduled election, the
251 association shall mail, deliver, or electronically transmit, by
252 separate association mailing or included in another association
253 mailing, delivery, or transmission, including regularly
254 published newsletters, to each unit owner entitled to a vote, a
255 first notice of the date of the election. Any unit owner or
256 other eligible person desiring to be a candidate for the board
257 must give written notice of his or her intent to be a candidate
258 to the association at least 40 days before a scheduled election.
259 Together with the written notice and agenda as set forth in
260 subparagraph 3., the association shall mail, deliver, or
261 electronically transmit a second notice of the election to all

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262 unit owners entitled to vote, together with a ballot that lists
263 all candidates. Upon request of a candidate, an information
264 sheet, no larger than 8 1/2 inches by 11 inches, which must be
265 furnished by the candidate at least 35 days before the election,
266 must be included with the mailing, delivery, or transmission of
267 the ballot, with the costs of mailing, delivery, or electronic
268 transmission and copying to be borne by the association. The
269 association is not liable for the contents of the information
270 sheets prepared by the candidates. In order to reduce costs, the
271 association may print or duplicate the information sheets on
272 both sides of the paper. The division shall by rule establish
273 voting procedures consistent with this sub-subparagraph,
274 including rules establishing procedures for giving notice by
275 electronic transmission and rules providing for the secrecy of
276 ballots. Elections shall be decided by a plurality of ballots
277 cast. There is no quorum requirement; however, at least 20
278 percent of the eligible voters must cast a ballot in order to
279 have a valid election. A unit owner may not permit any other
280 person to vote his or her ballot, and any ballots improperly
281 cast are invalid. A unit owner who violates this provision may
282 be fined by the association in accordance with s. 718.303. A
283 unit owner who needs assistance in casting the ballot for the
284 reasons stated in s. 101.051 may obtain such assistance. The
285 regular election must occur on the date of the annual meeting.
286 Notwithstanding this sub-subparagraph, an election is not
287 required unless more candidates file notices of intent to run or
288 are nominated than board vacancies exist.

289 b. Within 90 days after being elected or appointed to the
290 board, each newly elected or appointed director shall certify in

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291 writing to the secretary of the association that he or she has
292 read the association's declaration of condominium, articles of
293 incorporation, bylaws, and current written policies; that he or
294 she will work to uphold such documents and policies to the best
295 of his or her ability; and that he or she will faithfully
296 discharge his or her fiduciary responsibility to the
297 association's members. In lieu of this written certification,
298 within 90 days after being elected or appointed to the board,
299 the newly elected or appointed director may submit a certificate
300 of having satisfactorily completed the educational curriculum
301 administered by a division-approved condominium education
302 provider within 1 year before or 90 days after the date of
303 election or appointment. The written certification or
304 educational certificate is valid and does not have to be
305 resubmitted as long as the director serves on the board without
306 interruption. A director who fails to timely file the written
307 certification or educational certificate is suspended from
308 service on the board until he or she complies with this sub-
309 subparagraph. The board may temporarily fill the vacancy during
310 the period of suspension. The secretary shall cause the
311 association to retain a director's written certification or
312 educational certificate for inspection by the members for 5
313 years after a director's election or the duration of the
314 director's uninterrupted tenure, whichever is longer. Failure to
315 have such written certification or educational certificate on
316 file does not affect the validity of any board action.

317 c. Any challenge to the election process must be commenced
318 within 60 days after the election results are announced.

319 5. Any approval by unit owners called for by this chapter

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320 or the applicable declaration or bylaws, including, but not
321 limited to, the approval requirement in s. 718.111(8), must be
322 made at a duly noticed meeting of unit owners and is subject to
323 all requirements of this chapter or the applicable condominium
324 documents relating to unit owner decisionmaking, except that
325 unit owners may take action by written agreement, without
326 meetings, on matters for which action by written agreement
327 without meetings is expressly allowed by the applicable bylaws
328 or declaration or any law that provides for such action.

329 6. Unit owners may waive notice of specific meetings if
330 allowed by the applicable bylaws or declaration or any law. If
331 authorized by the bylaws, notice of meetings of the board of
332 administration, unit owner meetings, except unit owner meetings
333 called to recall board members under paragraph (j), and
334 committee meetings may be given by electronic transmission to
335 unit owners who consent to receive notice by electronic
336 transmission.

337 7. Unit owners have the right to participate in meetings of
338 unit owners with reference to all designated agenda items.
339 However, the association may adopt reasonable rules governing
340 the frequency, duration, and manner of unit owner participation.

341 8. A unit owner may tape record or videotape a meeting of
342 the unit owners subject to reasonable rules adopted by the
343 division.

344 9. Unless otherwise provided in the bylaws, any vacancy
345 occurring on the board before the expiration of a term may be
346 filled by the affirmative vote of the majority of the remaining
347 directors, even if the remaining directors constitute less than
348 a quorum, or by the sole remaining director. In the alternative,

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349 a board may hold an election to fill the vacancy, in which case
350 the election procedures must conform to sub-subparagraph 4.a.
351 unless the association governs 10 units or fewer and has opted
352 out of the statutory election process, in which case the bylaws
353 of the association control. Unless otherwise provided in the
354 bylaws, a board member appointed or elected under this section
355 shall fill the vacancy for the unexpired term of the seat being
356 filled. Filling vacancies created by recall is governed by
357 paragraph (j) and rules adopted by the division.

358 10. This chapter does not limit the use of general or
359 limited proxies, require the use of general or limited proxies,
360 or require the use of a written ballot or voting machine for any
361 agenda item or election at any meeting of a timeshare
362 condominium association.

363
364 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
365 association of 10 or fewer units may, by affirmative vote of a
366 majority of the total voting interests, provide for different
367 voting and election procedures in its bylaws, which may be by a
368 proxy specifically delineating the different voting and election
369 procedures. The different voting and election procedures may
370 provide for elections to be conducted by limited or general
371 proxy.

372 (j) *Recall of board members.*—Subject to ~~the provisions of~~
373 s. 718.301, any member of the board of administration may be
374 recalled and removed from office with or without cause by the
375 vote or agreement in writing by a majority of all the voting
376 interests. A special meeting of the unit owners to recall a
377 member or members of the board of administration may be called

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378 by 10 percent of the voting interests giving notice of the
379 meeting as required for a meeting of unit owners, and the notice
380 shall state the purpose of the meeting. Electronic transmission
381 may not be used as a method of giving notice of a meeting called
382 in whole or in part for this purpose.

383 1. If the recall is approved by a majority of all voting
384 interests by a vote at a meeting, the recall will be effective
385 as provided in this paragraph herein. The board shall duly
386 notice and hold a board meeting within 5 full business days
387 after ~~of~~ the adjournment of the unit owner meeting to recall one
388 or more board members. At the meeting, the board shall either
389 certify the recall, in which case such member or members shall
390 be recalled effective immediately and shall turn over to the
391 board within 5 full business days any and all records and
392 property of the association in their possession, or shall
393 proceed as set forth in subparagraph 3.

394 2. If the proposed recall is by an agreement in writing by
395 a majority of all voting interests, the agreement in writing or
396 a copy thereof shall be served on the association by certified
397 mail or by personal service in the manner authorized by chapter
398 48 and the Florida Rules of Civil Procedure. The board of
399 administration shall duly notice and hold a meeting of the board
400 within 5 full business days after receipt of the agreement in
401 writing. At the meeting, the board shall either certify the
402 written agreement to recall a member or members of the board, in
403 which case such member or members shall be recalled effective
404 immediately and shall turn over to the board within 5 full
405 business days any and all records and property of the
406 association in their possession, or proceed as described in

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407 subparagraph 3.

408 3. If the board determines not to certify the written
409 agreement to recall a member or members of the board, or does
410 not certify the recall by a vote at a meeting, the board shall,
411 within 5 full business days after the meeting, file with the
412 division a petition for arbitration pursuant to the procedures
413 in s. 718.1255. For the purposes of this section, the unit
414 owners who voted at the meeting or who executed the agreement in
415 writing shall constitute one party under the petition for
416 arbitration. If the arbitrator certifies the recall as to any
417 member or members of the board, the recall will be effective
418 upon mailing of the final order of arbitration to the
419 association. If the association fails to comply with the order
420 of the arbitrator, the division may take action pursuant to s.
421 718.501. Any member or members so recalled shall deliver to the
422 board any and all records of the association in their possession
423 within 5 full business days after ~~of~~ the effective date of the
424 recall.

425 4. If the board fails to duly notice and hold a board
426 meeting within 5 full business days after ~~of~~ service of an
427 agreement in writing or within 5 full business days after ~~of~~ the
428 adjournment of the unit owner recall meeting, the recall shall
429 be deemed effective and the board members so recalled shall
430 immediately turn over to the board any and all records and
431 property of the association.

432 5. If the board fails to duly notice and hold the required
433 meeting or fails to file the required petition, the unit owner
434 representative may file a petition pursuant to s. 718.1255
435 challenging the board's failure to act. The petition must be

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436 filed within 60 days after the expiration of the applicable 5-
437 full-business-day period. The review of a petition under this
438 subparagraph is limited to the sufficiency of service on the
439 board and the facial validity of the written agreement or
440 ballots filed.

441 ~~6.5.~~ If a vacancy occurs on the board as a result of a
442 recall or removal and less than a majority of the board members
443 are removed, the vacancy may be filled by the affirmative vote
444 of a majority of the remaining directors, notwithstanding any
445 provision to the contrary contained in this subsection. If
446 vacancies occur on the board as a result of a recall and a
447 majority or more of the board members are removed, the vacancies
448 shall be filled in accordance with procedural rules to be
449 adopted by the division, which rules need not be consistent with
450 this subsection. The rules must provide procedures governing the
451 conduct of the recall election as well as the operation of the
452 association during the period after a recall but prior to the
453 recall election.

454 7. A board member who has been recalled may file a petition
455 pursuant to s. 718.1255 challenging the validity of a recall.
456 The petition must be filed within 60 days after the recall is
457 deemed certified. The association and the unit owner
458 representative shall be named as the respondents.

459 8. The division may not accept for filing a recall
460 petition, whether filed pursuant to subparagraph 1.,
461 subparagraph 2., subparagraph 5., or subparagraph 7. and
462 regardless of whether the recall was certified, if there are 60
463 days or less until the scheduled reelection of the board member
464 sought to be recalled or if 60 days or less have elapsed since

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465 the election of the board member sought to be recalled.

466 Section 3. Subsection (5) of section 718.113, Florida
467 Statutes, is amended to read:

468 718.113 Maintenance; limitation upon improvement; display
469 of flag; hurricane shutters and protection; display of religious
470 decorations.—

471 (5) Each board of administration shall adopt hurricane
472 shutter specifications for each building within each condominium
473 operated by the association which shall include color, style,
474 and other factors deemed relevant by the board. All
475 specifications adopted by the board must comply with the
476 applicable building code.

477 (a) The board may, subject to ~~the provisions of s.~~
478 718.3026~~7~~ and the approval of a majority of voting interests of
479 the condominium, install hurricane shutters, impact glass, ~~or~~
480 ~~other~~ code-compliant windows or doors, or other types of code-
481 compliant hurricane protection that comply ~~complies~~ with or
482 exceed ~~exceeds~~ the applicable building code. However, a vote of
483 the owners is not required if the maintenance, repair, and
484 replacement of hurricane shutters, impact glass, ~~or other~~ code-
485 compliant windows or doors, or other types of code-compliant
486 hurricane protection are the responsibility of the association
487 pursuant to the declaration of condominium. If hurricane
488 protection or laminated glass or window film architecturally
489 designed to function as hurricane protection that ~~which~~ complies
490 with or exceeds the current applicable building code has been
491 previously installed, the board may not install hurricane
492 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-
493 compliant windows or doors, or other types of code-compliant

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494 hurricane protection except upon approval by a majority vote of
495 the voting interests.

496 (b) The association is responsible for the maintenance,
497 repair, and replacement of the hurricane shutters, impact glass,
498 code-compliant windows or doors, or other types of code-
499 compliant hurricane protection authorized by this subsection if
500 such property ~~hurricane shutters or other hurricane protection~~
501 is the responsibility of the association pursuant to the
502 declaration of condominium. If the hurricane shutters, impact
503 glass, code-compliant windows or doors, or other types of code-
504 compliant hurricane protection ~~authorized by this subsection~~ are
505 the responsibility of the unit owners pursuant to the
506 declaration of condominium, the maintenance, repair, and
507 replacement of such items are the responsibility of the unit
508 owner.

509 (c) The board may operate shutters, impact glass, code-
510 compliant windows or doors, or other types of code-compliant
511 hurricane protection installed pursuant to this subsection
512 without permission of the unit owners only if such operation is
513 necessary to preserve and protect the condominium property and
514 association property. The installation, replacement, operation,
515 repair, and maintenance of such shutters, impact glass, code-
516 compliant windows or doors, or other types of code-compliant
517 hurricane protection in accordance with the procedures set forth
518 in this paragraph are not a material alteration to the common
519 elements or association property within the meaning of this
520 section.

521 (d) Notwithstanding any other provision in the condominium
522 documents, if approval is required by the documents, a board may

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523 not refuse to approve the installation or replacement of
524 hurricane shutters, impact glass, code-compliant windows or
525 doors, or other types of code-compliant hurricane protection by
526 a unit owner conforming to the specifications adopted by the
527 board.

528 Section 4. Paragraph (e) of subsection (1) of section
529 718.115, Florida Statutes, is amended to read:

530 718.115 Common expenses and common surplus.-

531 (1)

532 (e) The expense of installation, replacement, operation,
533 repair, and maintenance of hurricane shutters, impact glass,
534 code-compliant windows or doors, or other types of code-
535 compliant hurricane protection by the board pursuant to s.
536 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
537 ~~defined herein~~ and shall be collected as provided in this
538 section if the association is responsible for the maintenance,
539 repair, and replacement of the hurricane shutters, impact glass,
540 code-compliant windows or doors, or other types of code-
541 compliant hurricane protection pursuant to the declaration of
542 condominium. However, if the maintenance, repair, and
543 replacement of the hurricane shutters, impact glass, code-
544 compliant windows or doors, or other types of code-compliant
545 hurricane protection are ~~is~~ the responsibility of the unit
546 owners pursuant to the declaration of condominium, the cost of
547 the installation of the hurricane shutters, impact glass, code-
548 compliant windows or doors, or other types of code-compliant
549 hurricane protection is ~~shall~~ not be a common expense ~~and, but~~
550 shall be charged individually to the unit owners based on the
551 cost of installation of the hurricane shutters, impact glass,

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552 code-compliant windows or doors, or other types of code-
553 compliant hurricane protection appurtenant to the unit.
554 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
555 of whether or not the declaration requires the association or
556 unit owners to maintain, repair, or replace hurricane shutters,
557 impact glass, code-compliant windows or doors, or other types of
558 code-compliant hurricane protection, a unit owner who has
559 previously installed hurricane shutters in accordance with s.
560 718.113(5) which comply with the current applicable building
561 code shall receive a credit when the shutters are installed; a
562 unit owner who has previously installed impact glass or code-
563 compliant windows or doors that comply with the current
564 applicable building code shall receive a credit when the impact
565 glass or code-compliant windows or doors are installed; and a
566 unit owner who has installed, other types of code-compliant
567 hurricane protection that comply with the current applicable
568 building code shall receive a credit when the same type of other
569 code-compliant hurricane protection is installed, and the ~~or~~
570 ~~laminated glass architecturally designed to function as~~
571 ~~hurricane protection, which hurricane shutters or other~~
572 ~~hurricane protection or laminated glass comply with the current~~
573 ~~applicable building code, shall receive a credit shall be equal~~
574 to the pro rata portion of the assessed installation cost
575 assigned to each unit. However, such unit owner remains ~~shall~~
576 ~~remain~~ responsible for the pro rata share of expenses for
577 hurricane shutters, impact glass, code-compliant windows or
578 doors, or other types of code-compliant hurricane protection
579 installed on common elements and association property by the
580 board pursuant to s. 718.113(5), ~~and~~ remains ~~shall remain~~

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581 responsible for a pro rata share of the expense of the
582 replacement, operation, repair, and maintenance of such
583 shutters, impact glass, code-compliant windows or doors, or
584 other types of code-compliant hurricane protection.

585 Section 5. Paragraphs (a) and (b) of subsection (1) of
586 section 718.116, Florida Statutes, are amended to read:

587 718.116 Assessments; liability; lien and priority;
588 interest; collection.-

589 (1) (a) A unit owner, regardless of how the unit owner has
590 acquired his or her title has been acquired, including, but not
591 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~
592 ~~of foreclosure,~~ is liable for all assessments that ~~which~~ come
593 due while he or she is the unit owner. Additionally, a unit
594 owner is jointly and severally liable with the previous owner
595 for all unpaid assessments, late fees, interest, costs, and
596 reasonable attorney fees incurred by the association in an
597 attempt to collect all such amounts ~~is jointly and severally~~
598 ~~liable with the previous owner for all unpaid assessments~~ that
599 came due up to the time of transfer of title. This liability is
600 without prejudice to any right the owner may have to recover
601 from the previous owner the amounts paid by the owner.

602 (b)1. The liability of a first mortgagee or its successor
603 or assignees who acquire title to a unit by foreclosure or by
604 deed in lieu of foreclosure for the unpaid assessments that
605 became due before the mortgagee's acquisition of title is
606 limited to the lesser of:

607 a. The unit's unpaid common expenses and regular periodic
608 assessments which accrued or came due during the 12 months
609 immediately preceding the acquisition of title and for which

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610 payment in full has not been received by the association; or

611 b. One percent of the original mortgage debt.

612

613 The limitations on first mortgagee liability provided by
614 ~~provisions of this subparagraph~~ paragraph apply only if the
615 first mortgagee joined the association as a defendant in the
616 foreclosure action. Joinder of the association is not required
617 if, on the date the complaint is filed, the association was
618 dissolved or did not maintain an office or agent for service of
619 process at a location that ~~which~~ was known to or reasonably
620 discoverable by the mortgagee.

621 2. An association, or its successor or assignee, that
622 acquires title to a unit through the foreclosure of its lien for
623 assessments is not liable for any unpaid assessments, late fees,
624 interest, or reasonable attorney ~~attorney's~~ fees and costs that
625 came due before the association's acquisition of title in favor
626 of any other association, as defined in s. 718.103(2) or s.
627 720.301(9), which holds a ~~superior~~ lien interest on the unit.
628 This subparagraph is intended to clarify existing law.

629 Section 6. Paragraph (a) of subsection (3) and subsection
630 (5) of section 718.303, Florida Statutes, are amended to read:

631 718.303 Obligations of owners and occupants; remedies.—

632 (3) The association may levy reasonable fines for the
633 failure of the owner of the unit or its occupant, licensee, or
634 invitee to comply with any provision of the declaration, the
635 association bylaws, or reasonable rules of the association. A
636 fine may not become a lien against a unit. A fine may be levied
637 on the basis of each day of a continuing violation, with a
638 single notice and opportunity for hearing. However, the fine may

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639 not exceed \$100 per violation, or \$1,000 in the aggregate.

640 (a) An association may suspend, for a reasonable period of
641 time, the right of a unit owner, or a unit owner's tenant,
642 guest, or invitee, to use the common elements, common
643 facilities, or any other association property for failure to
644 comply with any provision of the declaration, the association
645 bylaws, or reasonable rules of the association. This paragraph
646 does not apply to limited common elements intended to be used
647 only by that unit, common elements needed to access the unit,
648 utility services provided to the unit, parking spaces, or
649 elevators.

650 (5) An association may suspend the voting rights of a unit
651 or member due to nonpayment of any monetary obligation due to
652 the association which is more than 90 days delinquent.
653 Notwithstanding an association's declaration, articles of
654 incorporation, or bylaws, the requirements to establish a
655 quorum, conduct an election, or obtain membership approval on
656 actions under this chapter or pursuant to the declaration,
657 articles of incorporation, or bylaws shall be reduced by the
658 number of suspended voting interests or consent rights. A voting
659 interest or consent right allocated to a unit or member which
660 has been suspended by the association may not be counted towards
661 the total number of voting interests necessary to constitute a
662 quorum, the number of voting interests required to conduct an
663 election, or the number of voting interests required to approve
664 an action under this chapter or pursuant to the declaration,
665 articles of incorporation, or bylaws. The suspension ends upon
666 full payment of all obligations currently due or overdue the
667 association. The notice and hearing requirements under

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668 subsection (3) do not apply to a suspension imposed under this
669 subsection.

670 Section 7. Subsection (1) of section 718.403, Florida
671 Statutes, is amended to read:

672 718.403 Phase condominiums.—

673 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a
674 developer may develop a condominium in phases, if the original
675 declaration of condominium submitting the initial phase to
676 condominium ownership or an amendment to the declaration which
677 has been approved by all of the unit owners and unit mortgagees
678 provides for and describes in detail all anticipated phases; the
679 impact, if any, which the completion of subsequent phases would
680 have upon the initial phase; and the time period (which may not
681 exceed 7 years from the date of recording the declaration of
682 condominium, unless extended as provided in this subsection)
683 within which all phases must be added to the condominium and
684 comply with the requirements of this section and at the end of
685 which the right to add additional phases expires.

686 (a) All phases must be added to the condominium within 7
687 years after the date of recording the original declaration of
688 condominium submitting the initial phase to condominium
689 ownership unless an amendment extending the 7-year period is
690 approved by the unit owners.

691 (b) An amendment to extend the 7-year period requires the
692 approval of the owners necessary to amend the declaration of
693 condominium consistent with s. 718.110(1)(a). An extension of
694 the 7-year period may be submitted for approval only during the
695 last 3 years of the 7-year period.

696 (c) An amendment must describe the time period within which

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697 all phases must be added to the condominium and such time period
698 may not exceed 10 years after the date of recording the original
699 declaration of condominium submitting the initial phase to
700 condominium ownership.

701 (d) Notwithstanding s. 718.110, an amendment extending the
702 7-year period is not an amendment subject to s. 718.110(4).

703 Section 8. Section 718.406, Florida Statutes, is created to
704 read:

705 718.406 Condominiums created within condominium parcels.-

706 (1) Unless otherwise expressed in the declaration of
707 condominium, if a condominium is created within a condominium
708 parcel, the term:

709 (a) "Primary condominium" means any condominium that is not
710 a secondary condominium and contains one or more subdivided
711 parcels.

712 (b) "Primary condominium association" means any entity that
713 operates a primary condominium.

714 (c) "Primary condominium declaration" means the instrument
715 or instruments by which a primary condominium is created, as
716 they are from time to time amended.

717 (d) "Secondary condominium" means one or more condominium
718 parcels that have been submitted to condominium ownership
719 pursuant to a secondary condominium declaration.

720 (e) "Secondary condominium association" means any entity
721 responsible for the operation of a secondary condominium.

722 (f) "Secondary condominium declaration" means the
723 instrument or instruments by which a secondary condominium is
724 created, as they are from time to time amended.

725 (g) "Secondary unit" means a unit that is part of a

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726 secondary condominium.

727 (h) "Subdivided parcel" means a condominium parcel in a
728 primary condominium that has been submitted to condominium
729 ownership pursuant to a secondary condominium declaration.

730 (2) Unless otherwise provided in the primary condominium
731 declaration, if a condominium parcel is a subdivided parcel, the
732 secondary condominium association responsible for operating the
733 secondary condominium upon the subdivided parcel shall act on
734 behalf of all of the unit owners of secondary units in the
735 secondary condominium and shall exercise all rights of the
736 secondary unit owners in the primary condominium association,
737 other than the right of possession of the secondary unit. The
738 secondary condominium association shall designate a
739 representative who shall cast the vote of the subdivided parcel
740 in the primary condominium association and, if no person is
741 designated by the secondary condominium association to cast such
742 vote, the vote shall be cast by the president of the secondary
743 condominium association or the designee of the president.

744 (3) Unless otherwise provided in the primary condominium
745 declaration as originally recorded, no secondary condominium may
746 be created upon any condominium parcel in the primary
747 condominium, and no amendment to the primary condominium
748 declaration may permit secondary condominiums to be created upon
749 parcels in the primary condominium, unless the record owners of
750 a majority of the condominium parcels join in the execution of
751 the amendment.

752 (4) If the primary condominium declaration permits the
753 creation of a secondary condominium and a condominium parcel in
754 the primary condominium is being submitted for condominium

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755 ownership to create a secondary condominium upon the primary
756 condominium parcel, the approval of the board of administration
757 of the primary condominium association is required in order to
758 create the secondary condominium on the primary condominium
759 parcel. Unless otherwise provided in the primary condominium
760 declaration, the owners of condominium parcels in the primary
761 condominium that will not be part of the proposed secondary
762 condominium and the holders of liens upon such primary
763 condominium parcels shall not have approval rights regarding the
764 creation of the secondary condominium or the contents of the
765 secondary condominium declaration being submitted. Only the
766 primary condominium association, the owner of the subdivided
767 parcel, and the holders of liens upon the subdivided parcel
768 shall have approval rights regarding the creation of the
769 secondary condominium and the contents of the secondary
770 condominium declaration. In order for the recording of the
771 secondary condominium declaration to be effective to create the
772 secondary condominium, the board of administration of the
773 primary condominium association, the owner of the subdivided
774 parcel, and all holders of liens on the subdivided parcel must
775 execute the secondary condominium declaration for the purpose of
776 evidencing their approval.

777 (5) An owner of a secondary unit is subject to both the
778 primary condominium declaration and the secondary condominium
779 declaration.

780 (6) The primary condominium association may provide
781 insurance required by s. 718.111(11) for common elements and
782 other improvements within the secondary condominium if the
783 primary condominium declaration permits the primary condominium

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784 association to provide such insurance for the benefit of the
785 condominium property included in the subdivided parcel, in lieu
786 of such insurance being provided by the secondary condominium
787 association.

788 (7) Unless otherwise provided in the primary condominium
789 declaration, the board of administration of the primary
790 condominium association may adopt hurricane shutter or hurricane
791 protection specifications for each building within which
792 subdivided parcels are located and govern any subdivided parcels
793 in the primary condominium.

794 (8) Any unit owner of, or holder of a first mortgage on, a
795 secondary unit may register such unit owner's or mortgagee's
796 interest in the secondary unit with the primary condominium
797 association by delivering written notice to the primary
798 condominium association. Once registered, the primary
799 condominium association must provide written notice to such
800 secondary unit owner and his, her, or its first mortgagee at
801 least 30 days before instituting any foreclosure action against
802 the subdivided parcel in which the secondary unit owner and his,
803 her, or its first mortgagee hold an interest for failure of the
804 subdivided parcel owner to pay any assessments or other amounts
805 due to the primary condominium association. A foreclosure action
806 against a subdivided parcel is not effective without an
807 affidavit indicating that written notice of the foreclosure was
808 timely sent to the names and addresses of secondary unit owners
809 and first mortgagees registered with the primary condominium
810 association pursuant to this subsection. The registered
811 secondary unit owner or mortgagee has a right to pay the
812 proportionate amount of the delinquent assessment attributable

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813 to the secondary unit in which the registered unit owner or
814 mortgagee holds an interest. Upon such payment, the primary
815 condominium association shall be obligated to promptly modify or
816 partially release the record of lien on the primary condominium
817 association so that the lien no longer encumbers such secondary
818 unit. Alternatively, a registered secondary unit owner or
819 mortgagee may pay the amount of all delinquent assessments
820 attributed to the subdivided parcel and seek reimbursement for
821 all such amounts paid and all costs incurred from the secondary
822 condominium association, including, without limitation, the
823 costs of collection other than the share allocable to the
824 secondary unit on behalf of which such payment was made.

825 (9) In the event of a conflict between the primary
826 condominium declaration and the secondary condominium
827 declaration, the primary condominium declaration controls.

828 (10) All common expenses due to the primary condominium
829 association with respect to a subdivided parcel are a common
830 expense of the secondary condominium association and shall be
831 collected by the secondary condominium association from its
832 members and paid to the primary condominium association.

833 Section 9. Subsection (2) of section 718.5011, Florida
834 Statutes, is amended to read:

835 718.5011 Ombudsman; appointment; administration.—

836 (2) The Governor shall appoint the ombudsman. The ombudsman
837 must be an attorney admitted to practice before the Florida
838 Supreme Court and shall serve at the pleasure of the Governor. A
839 vacancy in the office shall be filled in the same manner as the
840 original appointment. An officer or full-time employee of the
841 ombudsman's office may not actively engage in any other business

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842 or profession that directly or indirectly relates to or
843 conflicts with his or her work in the ombudsman's office; serve
844 as the representative of any political party, executive
845 committee, or other governing body of a political party; serve
846 as an executive, officer, or employee of a political party;
847 receive remuneration for activities on behalf of any candidate
848 for public office; or engage in soliciting votes or other
849 activities on behalf of a candidate for public office. The
850 ombudsman or any employee of his or her office may not become a
851 candidate for election to public office unless he or she first
852 resigns from his or her office or employment.

853 Section 10. Section 718.707, Florida Statutes, is amended
854 to read:

855 718.707 Time limitation for classification as bulk assignee
856 or bulk buyer.—A person acquiring condominium parcels may not be
857 classified as a bulk assignee or bulk buyer unless the
858 condominium parcels were acquired on or after July 1, 2010, but
859 before July 1, 2015 ~~2012~~. The date of such acquisition shall be
860 determined by the date of recording a deed or other instrument
861 of conveyance for such parcels in the public records of the
862 county in which the condominium is located, or by the date of
863 issuing a certificate of title in a foreclosure proceeding with
864 respect to such condominium parcels.

865 Section 11. Paragraph (c) of subsection (2) of section
866 719.104, Florida Statutes, is amended to read:

867 719.104 Cooperatives; access to units; records; financial
868 reports; assessments; purchase of leases.—

869 (2) OFFICIAL RECORDS.—

870 (c) The official records of the association shall be open

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871 to inspection by any association member or the authorized
872 representative of such member at all reasonable times. Failure
873 to permit inspection of the association records as provided in
874 this subsection ~~herein~~ entitles any person prevailing in an
875 enforcement action to recover reasonable attorney ~~attorney's~~
876 fees from the person in control of the records who, directly or
877 indirectly, knowingly denies access to the records for
878 inspection. The right to inspect the records includes the right
879 to make or obtain copies, at the reasonable expense, if any, of
880 the association member. The association may adopt reasonable
881 rules regarding the frequency, time, location, notice, and
882 manner of record inspections and copying. The failure of an
883 association to provide the records within 10 working days after
884 receipt of a written request creates a rebuttable presumption
885 that the association willfully failed to comply with this
886 paragraph. A unit owner who is denied access to official records
887 is entitled to the actual damages or minimum damages for the
888 association's willful failure to comply with this paragraph. The
889 minimum damages shall be \$50 per calendar day up to 10 days, the
890 calculation to begin on the 11th day after receipt of the
891 written request. The association shall maintain an adequate
892 number of copies of the declaration, articles of incorporation,
893 bylaws, and rules, and all amendments to each of the foregoing,
894 as well as the question and answer sheet provided for in s.
895 719.504, on the cooperative property to ensure their
896 availability to unit owners and prospective purchasers, and may
897 charge its actual costs for preparing and furnishing these
898 documents to those requesting the same. Notwithstanding ~~the~~
899 ~~provisions of~~ this paragraph, the following records shall not be

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900 accessible to unit owners:

901 1. Any record protected by the lawyer-client privilege as
902 provided in s. 90.502; protected by the work-product privilege,
903 including any record ~~A record that was~~ prepared by an
904 association attorney or prepared at the attorney's express
905 direction; reflecting ~~that reflects~~ a mental impression,
906 conclusion, litigation strategy, or legal theory of the attorney
907 or the association; or ~~that was~~ prepared exclusively for civil
908 or criminal litigation or for adversarial administrative
909 proceedings or in anticipation of imminent civil or criminal
910 litigation or imminent adversarial administrative proceedings,
911 until the conclusion of the litigation or adversarial
912 administrative proceedings.

913 2. Information obtained by an association in connection
914 with the approval of the lease, sale, or other transfer of a
915 unit.

916 3. Medical records of unit owners.

917 4. Personnel records of association employees, including,
918 but not limited to, disciplinary, payroll, health, and insurance
919 records. For purposes of this subparagraph, the term "personnel
920 records" does not include written employment agreements with an
921 association employee or budgetary or financial records that
922 indicate the compensation paid to an association employee.

923 5. Social security numbers, driver license numbers, credit
924 card numbers, e-mail addresses, telephone numbers, emergency
925 contact information, any addresses of a unit owner other than
926 addresses provided to fulfill the association's notice
927 requirements, and other personal identifying information of any
928 person, excluding the person's name, unit designation, mailing

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929 address, and property address.

930 6. Any electronic security measures that are used by the
931 association to safeguard data, including passwords.

932 7. The software and operating system used by the
933 association which allows manipulation of data, even if the owner
934 owns a copy of the same software used by the association. The
935 data is part of the official records of the association.

936 Section 12. Subsection (7) is added to section 719.1055,
937 Florida Statutes, to read:

938 719.1055 Amendment of cooperative documents; alteration and
939 acquisition of property.—

940 (7) The Legislature finds that the procurement of mortgagee
941 consent to amendments that do not affect the rights or interests
942 of mortgagees is an unreasonable and substantial logistical and
943 financial burden on the unit owners and that there is a
944 compelling state interest in enabling the members of an
945 association to approve amendments to the association's
946 cooperative documents through legal means. Accordingly, and
947 notwithstanding any provision to the contrary contained in this
948 subsection:

949 (a) As to any mortgage recorded on or after July 1, 2012,
950 any provision in the association's cooperative documents that
951 requires the consent or joinder of some or all mortgagees of
952 units or any other portion of the association's common areas to
953 amend the association's cooperative documents or for any other
954 matter is enforceable only as to amendments to the association's
955 cooperative documents that adversely affect the priority of the
956 mortgagee's lien or the mortgagee's rights to foreclose its lien
957 or that otherwise materially affect the rights and interests of

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958 the mortgagees.

959 (b) As to mortgages recorded before July 1, 2012, any
960 existing provisions in the association's cooperative documents
961 requiring mortgagee consent are enforceable.

962 (c) In securing consent or joinder, the association is
963 entitled to rely upon the public records to identify the holders
964 of outstanding mortgages. The association may use the address
965 provided in the original recorded mortgage document, unless
966 there is a different address for the holder of the mortgage in a
967 recorded assignment or modification of the mortgage, which
968 recorded assignment or modification must reference the official
969 records book and page on which the original mortgage was
970 recorded. Once the association has identified the recorded
971 mortgages of record, the association shall, in writing, request
972 of each unit owner whose unit is encumbered by a mortgage of
973 record any information the owner has in his or her possession
974 regarding the name and address of the person to whom mortgage
975 payments are currently being made. Notice shall be sent to such
976 person if the address provided in the original recorded mortgage
977 document is different from the name and address of the mortgagee
978 or assignee of the mortgage as shown by the public record. The
979 association is deemed to have complied with this requirement by
980 making the written request of the unit owners required under
981 this paragraph. Any notices required to be sent to the
982 mortgagees under this paragraph shall be sent to all available
983 addresses provided to the association.

984 (d) Any notice to the mortgagees required under paragraph
985 (c) may be sent by a method that establishes proof of delivery,
986 and any mortgagee who fails to respond within 60 days after the

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987 date of mailing is deemed to have consented to the amendment.

988 (e) For those amendments requiring mortgagee consent on or
989 after July 1, 2012, in the event mortgagee consent is provided
990 other than by properly recorded joinder, such consent shall be
991 evidenced by affidavit of the association recorded in the public
992 records of the county in which the declaration is recorded.

993 (f) Any amendment adopted without the required consent of a
994 mortgagee is voidable only by a mortgagee who was entitled to
995 notice and an opportunity to consent. An action to void an
996 amendment is subject to the statute of limitations beginning 5
997 years after the date of discovery as to the amendments described
998 in paragraph (a) and 5 years after the date of recordation of
999 the certificate of amendment for all other amendments. This
1000 paragraph applies to all mortgages, regardless of the date of
1001 recordation of the mortgage.

1002 Section 13. Paragraphs (c), (d), and (f) of subsection (1)
1003 of section 719.106, Florida Statutes, are amended to read:

1004 719.106 Bylaws; cooperative ownership.—

1005 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
1006 documents shall provide for the following, and if they do not,
1007 they shall be deemed to include the following:

1008 (c) *Board of administration meetings.*—Meetings of the board
1009 of administration at which a quorum of the members is present
1010 shall be open to all unit owners. Any unit owner may tape record
1011 or videotape meetings of the board of administration. The right
1012 to attend such meetings includes the right to speak at such
1013 meetings with reference to all designated agenda items. The
1014 division shall adopt reasonable rules governing the tape
1015 recording and videotaping of the meeting. The association may

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1016 adopt reasonable written rules governing the frequency,
1017 duration, and manner of unit owner statements. Adequate notice
1018 of all meetings shall be posted in a conspicuous place upon the
1019 cooperative property at least 48 continuous hours preceding the
1020 meeting, except in an emergency. Any item not included on the
1021 notice may be taken up on an emergency basis by at least a
1022 majority plus one of the members of the board. Such emergency
1023 action shall be noticed and ratified at the next regular meeting
1024 of the board. However, written notice of any meeting at which
1025 nonemergency special assessments, or at which amendment to rules
1026 regarding unit use, will be considered shall be mailed,
1027 delivered, or electronically transmitted to the unit owners and
1028 posted conspicuously on the cooperative property not less than
1029 14 days prior to the meeting. Evidence of compliance with this
1030 14-day notice shall be made by an affidavit executed by the
1031 person providing the notice and filed among the official records
1032 of the association. Upon notice to the unit owners, the board
1033 shall by duly adopted rule designate a specific location on the
1034 cooperative property upon which all notices of board meetings
1035 shall be posted. In lieu of or in addition to the physical
1036 posting of notice of any meeting of the board of administration
1037 on the cooperative property, the association may, by reasonable
1038 rule, adopt a procedure for conspicuously posting and repeatedly
1039 broadcasting the notice and the agenda on a closed-circuit cable
1040 television system serving the cooperative association. However,
1041 if broadcast notice is used in lieu of a notice posted
1042 physically on the cooperative property, the notice and agenda
1043 must be broadcast at least four times every broadcast hour of
1044 each day that a posted notice is otherwise required under this

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1045 section. When broadcast notice is provided, the notice and
1046 agenda must be broadcast in a manner and for a sufficient
1047 continuous length of time so as to allow an average reader to
1048 observe the notice and read and comprehend the entire content of
1049 the notice and the agenda. Notice of any meeting in which
1050 regular assessments against unit owners are to be considered for
1051 any reason shall specifically contain a statement that
1052 assessments will be considered and the nature of any such
1053 assessments. Meetings of a committee to take final action on
1054 behalf of the board or to make recommendations to the board
1055 regarding the association budget are subject to the provisions
1056 of this paragraph. Meetings of a committee that does not take
1057 final action on behalf of the board or make recommendations to
1058 the board regarding the association budget are subject to the
1059 provisions of this section, unless those meetings are exempted
1060 from this section by the bylaws of the association.

1061 Notwithstanding any other law to the contrary, the requirement
1062 that board meetings and committee meetings be open to the unit
1063 owners does not apply ~~is inapplicable~~ to board or committee
1064 meetings held for the purpose of discussing personnel matters or
1065 meetings between the board or a committee and the association's
1066 attorney, with respect to proposed or pending litigation, if
1067 ~~when~~ the meeting is held for the purpose of seeking or rendering
1068 legal advice.

1069 (d) *Shareholder meetings.*—There shall be an annual meeting
1070 of the shareholders. All members of the board of administration
1071 shall be elected at the annual meeting unless the bylaws provide
1072 for staggered election terms or for their election at another
1073 meeting. Any unit owner desiring to be a candidate for board

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1074 membership must comply with subparagraph 1. The bylaws must
1075 provide the method for calling meetings, including annual
1076 meetings. Written notice, which must incorporate an
1077 identification of agenda items, shall be given to each unit
1078 owner at least 14 days before the annual meeting and posted in a
1079 conspicuous place on the cooperative property at least 14
1080 continuous days preceding the annual meeting. Upon notice to the
1081 unit owners, the board must by duly adopted rule designate a
1082 specific location on the cooperative property upon which all
1083 notice of unit owner meetings are posted. In lieu of or in
1084 addition to the physical posting of the meeting notice, the
1085 association may, by reasonable rule, adopt a procedure for
1086 conspicuously posting and repeatedly broadcasting the notice and
1087 the agenda on a closed-circuit cable television system serving
1088 the cooperative association. However, if broadcast notice is
1089 used in lieu of a posted notice, the notice and agenda must be
1090 broadcast at least four times every broadcast hour of each day
1091 that a posted notice is otherwise required under this section.
1092 If broadcast notice is provided, the notice and agenda must be
1093 broadcast in a manner and for a sufficient continuous length of
1094 time to allow an average reader to observe the notice and read
1095 and comprehend the entire content of the notice and the agenda.
1096 Unless a unit owner waives in writing the right to receive
1097 notice of the annual meeting, the notice of the annual meeting
1098 must be sent by mail, hand delivered, or electronically
1099 transmitted to each unit owner. An officer of the association
1100 must provide an affidavit or United States Postal Service
1101 certificate of mailing, to be included in the official records
1102 of the association, affirming that notices of the association

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1103 meeting were mailed, hand delivered, or electronically
1104 transmitted, in accordance with this provision, to each unit
1105 owner at the address last furnished to the association.

1106 1. The board of administration shall be elected by written
1107 ballot or voting machine. A proxy may not be used in electing
1108 the board of administration in general elections or elections to
1109 fill vacancies caused by recall, resignation, or otherwise
1110 unless otherwise provided in this chapter.

1111 a. At least 60 days before a scheduled election, the
1112 association shall mail, deliver, or transmit, whether by
1113 separate association mailing, delivery, or electronic
1114 transmission or included in another association mailing,
1115 delivery, or electronic transmission, including regularly
1116 published newsletters, to each unit owner entitled to vote, a
1117 first notice of the date of the election. Any unit owner or
1118 other eligible person desiring to be a candidate for the board
1119 of administration must give written notice to the association at
1120 least 40 days before a scheduled election. Together with the
1121 written notice and agenda as set forth in this section, the
1122 association shall mail, deliver, or electronically transmit a
1123 second notice of election to all unit owners entitled to vote,
1124 together with a ballot that ~~which~~ lists all candidates. Upon
1125 request of a candidate, the association shall include an
1126 information sheet, no larger than 8 1/2 inches by 11 inches,
1127 which must be furnished by the candidate at least 35 days before
1128 the election, to be included with the mailing, delivery, or
1129 electronic transmission of the ballot, with the costs of
1130 mailing, delivery, or transmission and copying to be borne by
1131 the association. The association is not liable for the contents

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1132 of the information sheets provided by the candidates. In order
1133 to reduce costs, the association may print or duplicate the
1134 information sheets on both sides of the paper. The division
1135 shall by rule establish voting procedures consistent with this
1136 subparagraph, including rules establishing procedures for giving
1137 notice by electronic transmission and rules providing for the
1138 secrecy of ballots. Elections shall be decided by a plurality of
1139 those ballots cast. There is no quorum requirement. However, at
1140 least 20 percent of the eligible voters must cast a ballot in
1141 order to have a valid election. A unit owner may not permit any
1142 other person to vote his or her ballot, and any such ballots
1143 improperly cast are invalid. A unit owner who needs assistance
1144 in casting the ballot for the reasons stated in s. 101.051 may
1145 obtain assistance in casting the ballot. Any unit owner
1146 violating this provision may be fined by the association in
1147 accordance with s. 719.303. The regular election must occur on
1148 the date of the annual meeting. This subparagraph does not apply
1149 to timeshare cooperatives. Notwithstanding this subparagraph, an
1150 election and balloting are not required unless more candidates
1151 file a notice of intent to run or are nominated than vacancies
1152 exist on the board. Any challenge to the election process must
1153 be commenced within 60 days after the election results are
1154 announced.

1155 b. Within 90 days after being elected or appointed to the
1156 board, each new director shall certify in writing to the
1157 secretary of the association that he or she has read the
1158 association's bylaws, articles of incorporation, proprietary
1159 lease, and current written policies; that he or she will work to
1160 uphold such documents and policies to the best of his or her

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1161 ability; and that he or she will faithfully discharge his or her
1162 fiduciary responsibility to the association's members. Within 90
1163 days after being elected or appointed to the board, in lieu of
1164 this written certification, the newly elected or appointed
1165 director may submit a certificate of having satisfactorily
1166 completed the educational curriculum administered by an
1167 education provider as approved by the division pursuant to the
1168 requirements established in chapter 718 within 1 year before or
1169 90 days after the date of election or appointment. The
1170 educational certificate is valid and does not have to be
1171 resubmitted as long as the director serves on the board without
1172 interruption. A director who fails to timely file the written
1173 certification or educational certificate is suspended from
1174 service on the board until he or she complies with this sub-
1175 subparagraph. The board may temporarily fill the vacancy during
1176 the period of suspension. The secretary shall cause the
1177 association to retain a director's written certification or
1178 educational certificate for inspection by the members for 5
1179 years after a director's election or the duration of the
1180 director's uninterrupted tenure, whichever is longer. Failure to
1181 have such written certification or educational certificate on
1182 file does not affect the validity of any board action.

1183 2. Any approval by unit owners called for by this chapter,
1184 or the applicable cooperative documents, must be made at a duly
1185 noticed meeting of unit owners and is subject to this chapter or
1186 the applicable cooperative documents relating to unit owner
1187 decisionmaking, except that unit owners may take action by
1188 written agreement, without meetings, on matters for which action
1189 by written agreement without meetings is expressly allowed by

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1190 the applicable cooperative documents or law which provides for
1191 the unit owner action.

1192 3. Unit owners may waive notice of specific meetings if
1193 allowed by the applicable cooperative documents or law. If
1194 authorized by the bylaws, notice of meetings of the board of
1195 administration, shareholder meetings, except shareholder
1196 meetings called to recall board members under paragraph (f), and
1197 committee meetings may be given by electronic transmission to
1198 unit owners who consent to receive notice by electronic
1199 transmission.

1200 4. Unit owners have the right to participate in meetings of
1201 unit owners with reference to all designated agenda items.
1202 However, the association may adopt reasonable rules governing
1203 the frequency, duration, and manner of unit owner participation.

1204 5. Any unit owner may tape record or videotape meetings of
1205 the unit owners subject to reasonable rules adopted by the
1206 division.

1207 6. Unless otherwise provided in the bylaws, a vacancy
1208 occurring on the board before the expiration of a term may be
1209 filled by the affirmative vote of the majority of the remaining
1210 directors, even if the remaining directors constitute less than
1211 a quorum, or by the sole remaining director. In the alternative,
1212 a board may hold an election to fill the vacancy, in which case
1213 the election procedures must conform to the requirements of
1214 subparagraph 1. unless the association has opted out of the
1215 statutory election process, in which case the bylaws of the
1216 association control. Unless otherwise provided in the bylaws, a
1217 board member appointed or elected under this subparagraph shall
1218 fill the vacancy for the unexpired term of the seat being

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1219 filled. Filling vacancies created by recall is governed by
1220 paragraph (f) and rules adopted by the division.

1221
1222 Notwithstanding subparagraphs (b)2. and (d)1., an association
1223 may, by the affirmative vote of a majority of the total voting
1224 interests, provide for a different voting and election procedure
1225 in its bylaws, which vote may be by a proxy specifically
1226 delineating the different voting and election procedures. The
1227 different voting and election procedures may provide for
1228 elections to be conducted by limited or general proxy.

1229 (f) *Recall of board members.*—Subject to ~~the provisions of~~
1230 s. 719.301, any member of the board of administration may be
1231 recalled and removed from office with or without cause by the
1232 vote or agreement in writing by a majority of all the voting
1233 interests. A special meeting of the voting interests to recall
1234 any member of the board of administration may be called by 10
1235 percent of the unit owners giving notice of the meeting as
1236 required for a meeting of unit owners, and the notice shall
1237 state the purpose of the meeting. Electronic transmission may
1238 not be used as a method of giving notice of a meeting called in
1239 whole or in part for this purpose.

1240 1. If the recall is approved by a majority of all voting
1241 interests by a vote at a meeting, the recall shall be effective
1242 as provided in this paragraph herein. The board shall duly
1243 notice and hold a board meeting within 5 full business days
1244 after ~~of~~ the adjournment of the unit owner meeting to recall one
1245 or more board members. At the meeting, the board shall either
1246 certify the recall, in which case such member or members shall
1247 be recalled effective immediately and shall turn over to the

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1248 board within 5 full business days any and all records and
1249 property of the association in their possession, or shall
1250 proceed as set forth in subparagraph 3.

1251 2. If the proposed recall is by an agreement in writing by
1252 a majority of all voting interests, the agreement in writing or
1253 a copy thereof shall be served on the association by certified
1254 mail or by personal service in the manner authorized by chapter
1255 48 and the Florida Rules of Civil Procedure. The board of
1256 administration shall duly notice and hold a meeting of the board
1257 within 5 full business days after receipt of the agreement in
1258 writing. At the meeting, the board shall either certify the
1259 written agreement to recall members of the board, in which case
1260 such members shall be recalled effective immediately and shall
1261 turn over to the board, within 5 full business days, any and all
1262 records and property of the association in their possession, or
1263 proceed as described in subparagraph 3.

1264 3. If the board determines not to certify the written
1265 agreement to recall members of the board, or does not certify
1266 the recall by a vote at a meeting, the board shall, within 5
1267 full business days after the board meeting, file with the
1268 division a petition for binding arbitration pursuant to the
1269 procedures of s. 719.1255. For purposes of this paragraph, the
1270 unit owners who voted at the meeting or who executed the
1271 agreement in writing shall constitute one party under the
1272 petition for arbitration. If the arbitrator certifies the recall
1273 as to any member of the board, the recall shall be effective
1274 upon mailing of the final order of arbitration to the
1275 association. If the association fails to comply with the order
1276 of the arbitrator, the division may take action pursuant to s.

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1277 719.501. Any member so recalled shall deliver to the board any
1278 and all records and property of the association in the member's
1279 possession within 5 full business days after ~~of~~ the effective
1280 date of the recall.

1281 4. If the board fails to duly notice and hold a board
1282 meeting within 5 full business days after ~~of~~ service of an
1283 agreement in writing or within 5 full business days after ~~of~~ the
1284 adjournment of the unit owner recall meeting, the recall shall
1285 be deemed effective and the board members so recalled shall
1286 immediately turn over to the board any and all records and
1287 property of the association.

1288 5. If the board fails to duly notice and hold the required
1289 meeting or fails to file the required petition, the unit owner
1290 representative may file a petition pursuant to s. 719.1255
1291 challenging the board's failure to act. The petition must be
1292 filed within 60 days after the expiration of the applicable 5-
1293 full-business-day period. The review of a petition under this
1294 subparagraph is limited to the sufficiency of service on the
1295 board and the facial validity of the written agreement or
1296 ballots filed.

1297 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1298 recall and less than a majority of the board members are
1299 removed, the vacancy may be filled by the affirmative vote of a
1300 majority of the remaining directors, notwithstanding any
1301 provision to the contrary contained in this chapter. If
1302 vacancies occur on the board as a result of a recall and a
1303 majority or more of the board members are removed, the vacancies
1304 shall be filled in accordance with procedural rules to be
1305 adopted by the division, which rules need not be consistent with

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1306 this chapter. The rules must provide procedures governing the
1307 conduct of the recall election as well as the operation of the
1308 association during the period after a recall but prior to the
1309 recall election.

1310 7. A board member who has been recalled may file a petition
1311 pursuant to s. 719.1255 challenging the validity of a recall.
1312 The petition must be filed within 60 days after the recall is
1313 deemed certified. The association and the unit owner
1314 representative shall be named as the respondents.

1315 8. The division may not accept for filing a recall
1316 petition, whether filed pursuant to subparagraph 1.,
1317 subparagraph 2., subparagraph 5., or subparagraph 7. and
1318 regardless of whether the recall was certified, if there are 60
1319 days or less until the scheduled reelection of the board member
1320 sought to be recalled or if 60 days or less have not elapsed
1321 since the election of the board member sought to be recalled.

1322 Section 14. Subsections (1), (3), (4), and (9) of section
1323 719.108, Florida Statutes, are amended to read:

1324 719.108 Rents and assessments; liability; lien and
1325 priority; interest; collection; cooperative ownership.—

1326 (1) A unit owner, regardless of how title is acquired,
1327 including, without limitation, a purchaser at a judicial sale,
1328 ~~is shall be~~ liable for all rents and assessments coming due
1329 while the unit owner owns the unit ~~is in exclusive possession of~~
1330 ~~a unit.~~ Additionally, a ~~In a voluntary transfer, the unit owner~~
1331 ~~is in exclusive possession shall be~~ jointly and severally liable
1332 with the previous unit owner for all unpaid rents and
1333 assessments, late fees, interest costs, and reasonable attorney
1334 fees incurred in an attempt to collect all such amounts that

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1335 ~~came due against the previous unit owner for his or her share of~~
1336 ~~the common expenses up to the time of the transfer of title.~~
1337 This liability is, without prejudice to the rights of the
1338 present unit owner ~~in exclusive possession~~ to recover from the
1339 previous unit owner any ~~the~~ amounts paid by the present unit
1340 owner ~~in exclusive possession therefor.~~

1341 (3) Rents and assessments, and installments on them, not
1342 paid when due bear interest at the rate provided in the
1343 cooperative documents from the date due until paid. This rate
1344 may not exceed the rate allowed by law and, if a rate is not
1345 provided in the cooperative documents, accrues at 18 percent per
1346 annum. If the cooperative documents or bylaws so provide, the
1347 association may charge an administrative late fee in addition to
1348 such interest, not to exceed the greater of \$25 or 5 percent of
1349 each installment of the assessment for each delinquent
1350 installment that the payment is late. Any payment received by an
1351 association must be applied first to any interest accrued by the
1352 association, then to any administrative late fee, then to any
1353 costs and reasonable attorney ~~attorney's~~ fees incurred in
1354 collection, and then to the delinquent assessment. The foregoing
1355 applies notwithstanding any restrictive endorsement,
1356 designation, or instruction placed on or accompanying a payment.
1357 A late fee is not subject to chapter 687 or s. 719.303(4).

1358 (4) The association has a lien on each cooperative parcel
1359 for any unpaid rents and assessments, plus interest, and any
1360 authorized administrative late fees. If authorized by the
1361 cooperative documents, the lien also secures reasonable attorney
1362 ~~attorney's~~ fees incurred by the association incident to the
1363 collection of the rents and assessments or enforcement of such

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1364 lien. The lien is effective from and after recording a claim of
1365 lien in the public records in the county in which the
1366 cooperative parcel is located which states the description of
1367 the cooperative parcel, the name of the unit owner, the amount
1368 due, and the due dates. The lien expires if a claim of lien is
1369 not filed within 1 year after the date the assessment was due,
1370 and the lien does not continue for longer than 1 year after the
1371 claim of lien has been recorded unless, within that time, an
1372 action to enforce the lien is commenced. Except as otherwise
1373 provided in this chapter, a lien may not be filed by the
1374 association against a cooperative parcel until 30 days after the
1375 date on which a notice of intent to file a lien has been
1376 delivered to the owner.

1377 (a) The notice must be sent to the unit owner at the
1378 address of the unit by first-class United States mail and:

1379 1. If the most recent address of the unit owner on the
1380 records of the association is the address of the unit, the
1381 notice must be sent by registered or certified mail, return
1382 receipt requested, to the unit owner at the address of the unit.

1383 2. If the most recent address of the unit owner on the
1384 records of the association is in the United States, but is not
1385 the address of the unit, the notice must be sent by registered
1386 or certified mail, return receipt requested, to the unit owner
1387 at his or her most recent address.

1388 3. If the most recent address of the unit owner on the
1389 records of the association is not in the United States, the
1390 notice must be sent by first-class United States mail to the
1391 unit owner at his or her most recent address.

1392 (b) A notice that is sent pursuant to this subsection is

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1393 deemed delivered upon mailing.

1394 (9) The specific purposes of any special assessment,
1395 including any contingent special assessment levied in
1396 conjunction with the purchase of an insurance policy authorized
1397 by s. 719.104(3), approved in accordance with the cooperative
1398 documents shall be set forth in a written notice of such
1399 assessment sent or delivered to each unit owner. The funds
1400 collected pursuant to a special assessment may ~~shall~~ be used
1401 only for the specific purpose or purposes set forth in such
1402 notice or returned to the unit owners. However, upon completion
1403 of such specific purposes, any excess funds shall be considered
1404 common surplus and may, at the discretion of the board, either
1405 be returned to the unit owners or applied as a credit toward
1406 future assessments.

1407 Section 15. Paragraph (a) of subsection (3) and subsection
1408 (5) of section 719.303, Florida Statutes, are amended to read:

1409 719.303 Obligations of owners.—

1410 (3) The association may levy reasonable fines for failure
1411 of the unit owner or the unit's occupant, licensee, or invitee
1412 to comply with any provision of the cooperative documents or
1413 reasonable rules of the association. A fine may not become a
1414 lien against a unit. A fine may be levied on the basis of each
1415 day of a continuing violation, with a single notice and
1416 opportunity for hearing. However, the fine may not exceed \$100
1417 per violation, or \$1,000 in the aggregate.

1418 (a) An association may suspend, for a reasonable period of
1419 time, the right of a unit owner, or a unit owner's tenant,
1420 guest, or invitee, to use the common elements, common
1421 facilities, or any other association property for failure to

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1422 comply with any provision of the cooperative documents or
1423 reasonable rules of the association. This paragraph does not
1424 apply to limited common elements intended to be used only by
1425 that unit, common elements needed to access the unit, utility
1426 services provided to the unit, parking spaces, or elevators.

1427 (5) An association may suspend the voting rights of a unit
1428 or member due to nonpayment of any monetary obligation due ~~to~~
1429 the association which is more than 90 days delinquent.
1430 Notwithstanding an association's cooperative documents, the
1431 requirements to establish a quorum, conduct an election, or
1432 obtain membership approval on actions under this chapter or
1433 pursuant to the association's cooperative documents shall be
1434 reduced by the number of suspended voting interests or consent
1435 rights. A voting interest or consent right allocated to a unit
1436 or member which has been suspended by the association may not be
1437 counted towards the total number of voting interests for any
1438 purpose, including, but not limited to, the number of voting
1439 interests necessary to constitute a quorum, the number of voting
1440 interests required to conduct an election, or the number of
1441 voting interests required to approve an action under this
1442 chapter or pursuant to the cooperative documents, articles of
1443 incorporation, or bylaws. The suspension ends upon full payment
1444 of all obligations currently due or overdue the association. The
1445 notice and hearing requirements under subsection (3) do not
1446 apply to a suspension imposed under this subsection.

1447 Section 16. Paragraph (c) of subsection (5) and subsection
1448 (10) of section 720.303, Florida Statutes, are amended to read:
1449 720.303 Association powers and duties; meetings of board;
1450 official records; budgets; financial reporting; association

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1451 funds; recalls.—

1452 (5) INSPECTION AND COPYING OF RECORDS.—The official records
1453 shall be maintained within the state and must be open to
1454 inspection and available for photocopying by members or their
1455 authorized agents at reasonable times and places within 10
1456 business days after receipt of a written request for access.
1457 This subsection may be complied with by having a copy of the
1458 official records available for inspection or copying in the
1459 community. If the association has a photocopy machine available
1460 where the records are maintained, it must provide parcel owners
1461 with copies on request during the inspection if the entire
1462 request is limited to no more than 25 pages.

1463 (c) The association may adopt reasonable written rules
1464 governing the frequency, time, location, notice, records to be
1465 inspected, and manner of inspections, but may not require a
1466 parcel owner to demonstrate any proper purpose for the
1467 inspection, state any reason for the inspection, or limit a
1468 parcel owner's right to inspect records to less than one 8-hour
1469 business day per month. The association may impose fees to cover
1470 the costs of providing copies of the official records,
1471 including, without limitation, the costs of copying. The
1472 association may charge up to 50 cents per page for copies made
1473 on the association's photocopier. If the association does not
1474 have a photocopy machine available where the records are kept,
1475 or if the records requested to be copied exceed 25 pages in
1476 length, the association may have copies made by an outside
1477 vendor or association management company personnel and may
1478 charge the actual cost of copying, including any reasonable
1479 costs involving personnel fees and charges at an hourly rate for

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1480 vendor or employee time to cover administrative costs to the
1481 vendor or association. The association shall maintain an
1482 adequate number of copies of the recorded governing documents,
1483 to ensure their availability to members and prospective members.
1484 Notwithstanding this paragraph, the following records are not
1485 accessible to members or parcel owners:

1486 1. Any record protected by the lawyer-client privilege as
1487 described in s. 90.502 and any record protected by the work-
1488 product privilege, including, but not limited to, a record
1489 prepared by an association attorney or prepared at the
1490 attorney's express direction which reflects a mental impression,
1491 conclusion, litigation strategy, or legal theory of the attorney
1492 or the association and which was prepared exclusively for civil
1493 or criminal litigation or for adversarial administrative
1494 proceedings or which was prepared in anticipation of such
1495 litigation or proceedings until the conclusion of the litigation
1496 or proceedings.

1497 2. Information obtained by an association in connection
1498 with the approval of the lease, sale, or other transfer of a
1499 parcel.

1500 3. Personnel records of association or management company
1501 ~~the association's~~ employees, including, but not limited to,
1502 disciplinary, payroll, health, and insurance records. For
1503 purposes of this subparagraph, the term "personnel records" does
1504 not include written employment agreements with an association or
1505 management company employee or budgetary or financial records
1506 that indicate the compensation paid to an association or
1507 management company employee.

1508 4. Medical records of parcel owners or community residents.

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1509 5. Social security numbers, driver ~~driver's~~ license
1510 numbers, credit card numbers, electronic mailing addresses,
1511 telephone numbers, facsimile numbers, emergency contact
1512 information, any addresses for a parcel owner other than as
1513 provided for association notice requirements, and other personal
1514 identifying information of any person, excluding the person's
1515 name, parcel designation, mailing address, and property address.
1516 However, an owner may consent in writing to the disclosure of
1517 protected information described in this subparagraph. The
1518 association is not liable for the disclosure of information that
1519 is protected under this subparagraph if the information is
1520 included in an official record of the association and is
1521 voluntarily provided by an owner and not requested by the
1522 association.

1523 6. Any electronic security measure that is used by the
1524 association to safeguard data, including passwords.

1525 7. The software and operating system used by the
1526 association which allows the manipulation of data, even if the
1527 owner owns a copy of the same software used by the association.
1528 The data is part of the official records of the association.

1529 (10) RECALL OF DIRECTORS.—

1530 (a)1. Regardless of any provision to the contrary contained
1531 in the governing documents, subject to the provisions of s.
1532 720.307 regarding transition of association control, any member
1533 of the board of directors may be recalled and removed from
1534 office with or without cause by a majority of the total voting
1535 interests.

1536 2. When the governing documents, including the declaration,
1537 articles of incorporation, or bylaws, provide that only a

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1538 specific class of members is entitled to elect a board director
1539 or directors, only that class of members may vote to recall
1540 those board directors so elected.

1541 (b)1. Board directors may be recalled by an agreement in
1542 writing or by written ballot without a membership meeting. The
1543 agreement in writing or the written ballots, or a copy thereof,
1544 shall be served on the association by certified mail or by
1545 personal service in the manner authorized by chapter 48 and the
1546 Florida Rules of Civil Procedure.

1547 2. The board shall duly notice and hold a meeting of the
1548 board within 5 full business days after receipt of the agreement
1549 in writing or written ballots. At the meeting, the board shall
1550 either certify the written ballots or written agreement to
1551 recall a director or directors of the board, in which case such
1552 director or directors shall be recalled effective immediately
1553 and shall turn over to the board within 5 full business days any
1554 and all records and property of the association in their
1555 possession, or proceed as described in paragraph (d).

1556 3. When it is determined by the department pursuant to
1557 binding arbitration proceedings that an initial recall effort
1558 was defective, written recall agreements or written ballots used
1559 in the first recall effort and not found to be defective may be
1560 reused in one subsequent recall effort. However, in no event is
1561 a written agreement or written ballot valid for more than 120
1562 days after it has been signed by the member.

1563 4. Any rescission or revocation of a member's written
1564 recall ballot or agreement must be in writing and, in order to
1565 be effective, must be delivered to the association before the
1566 association is served with the written recall agreements or

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1567 ballots.

1568 5. The agreement in writing or ballot shall list at least
1569 as many possible replacement directors as there are directors
1570 subject to the recall, when at least a majority of the board is
1571 sought to be recalled; the person executing the recall
1572 instrument may vote for as many replacement candidates as there
1573 are directors subject to the recall.

1574 (c)1. If the declaration, articles of incorporation, or
1575 bylaws specifically provide, the members may also recall and
1576 remove a board director or directors by a vote taken at a
1577 meeting. If so provided in the governing documents, a special
1578 meeting of the members to recall a director or directors of the
1579 board of administration may be called by 10 percent of the
1580 voting interests giving notice of the meeting as required for a
1581 meeting of members, and the notice shall state the purpose of
1582 the meeting. Electronic transmission may not be used as a method
1583 of giving notice of a meeting called in whole or in part for
1584 this purpose.

1585 2. The board shall duly notice and hold a board meeting
1586 within 5 full business days after the adjournment of the member
1587 meeting to recall one or more directors. At the meeting, the
1588 board shall certify the recall, in which case such member or
1589 members shall be recalled effective immediately and shall turn
1590 over to the board within 5 full business days any and all
1591 records and property of the association in their possession, or
1592 shall proceed as set forth in subparagraph (d).

1593 (d) If the board determines not to certify the written
1594 agreement or written ballots to recall a director or directors
1595 of the board or does not certify the recall by a vote at a

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1596 meeting, the board shall, within 5 full business days after the
1597 meeting, file with the department a petition for binding
1598 arbitration pursuant to the applicable procedures in ss.
1599 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1600 the purposes of this section, the members who voted at the
1601 meeting or who executed the agreement in writing shall
1602 constitute one party under the petition for arbitration. If the
1603 arbitrator certifies the recall as to any director or directors
1604 of the board, the recall will be effective upon mailing of the
1605 final order of arbitration to the association. The director or
1606 directors so recalled shall deliver to the board any and all
1607 records of the association in their possession within 5 full
1608 business days after the effective date of the recall.

1609 (e) If a vacancy occurs on the board as a result of a
1610 recall and less than a majority of the board directors are
1611 removed, the vacancy may be filled by the affirmative vote of a
1612 majority of the remaining directors, notwithstanding any
1613 provision to the contrary contained in this subsection or in the
1614 association documents. If vacancies occur on the board as a
1615 result of a recall and a majority or more of the board directors
1616 are removed, the vacancies shall be filled by members voting in
1617 favor of the recall; if removal is at a meeting, any vacancies
1618 shall be filled by the members at the meeting. If the recall
1619 occurred by agreement in writing or by written ballot, members
1620 may vote for replacement directors in the same instrument in
1621 accordance with procedural rules adopted by the division, which
1622 rules need not be consistent with this subsection.

1623 (f) If the board fails to duly notice and hold a board
1624 meeting within 5 full business days after service of an

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1625 agreement in writing or within 5 full business days after the
1626 adjournment of the member recall meeting, the recall shall be
1627 deemed effective and the board directors so recalled shall
1628 immediately turn over to the board all records and property of
1629 the association.

1630 (g) If the board fails to duly notice and hold the required
1631 meeting or fails to file the required petition, the unit owner
1632 representative may file a petition pursuant to s. 718.1255
1633 challenging the board's failure to act. The petition must be
1634 filed within 60 days after the expiration of the applicable 5-
1635 full-business-day period. The review of a petition under this
1636 paragraph is limited to the sufficiency of service on the board
1637 and the facial validity of the written agreement or ballots
1638 filed.

1639 (h)~~(g)~~ If a director who is removed fails to relinquish his
1640 or her office or turn over records as required under this
1641 section, the circuit court in the county where the association
1642 maintains its principal office may, upon the petition of the
1643 association, summarily order the director to relinquish his or
1644 her office and turn over all association records upon
1645 application of the association.

1646 (i)~~(h)~~ The minutes of the board meeting at which the board
1647 decides whether to certify the recall are an official
1648 association record. The minutes must record the date and time of
1649 the meeting, the decision of the board, and the vote count taken
1650 on each board member subject to the recall. In addition, when
1651 the board decides not to certify the recall, as to each vote
1652 rejected, the minutes must identify the parcel number and the
1653 specific reason for each such rejection.

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1654 (j)~~(i)~~ When the recall of more than one board director is
1655 sought, the written agreement, ballot, or vote at a meeting
1656 shall provide for a separate vote for each board director sought
1657 to be recalled.

1658 (k) A board member who has been recalled may file a
1659 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1660 rules adopted challenging the validity of the recall. The
1661 petition must be filed within 60 days after the recall is deemed
1662 certified. The association and the unit owner representative
1663 shall be named as respondents.

1664 (l) The division may not accept for filing a recall
1665 petition, whether filed pursuant to paragraph (b), paragraph
1666 (c), paragraph (g), or paragraph (k) and regardless of whether
1667 the recall was certified, if there are 60 days or less until the
1668 scheduled reelection of the board member sought to be recalled
1669 or if 60 days or less have not elapsed since the election of the
1670 board member sought to be recalled.

1671 Section 17. Subsections (2) and (4) of section 720.305,
1672 Florida Statutes, are amended to read:

1673 720.305 Obligations of members; remedies at law or in
1674 equity; levy of fines and suspension of use rights.—

1675 (2) The association may levy reasonable fines of up to \$100
1676 per violation against any member or any member's tenant, guest,
1677 or invitee for the failure of the owner of the parcel or its
1678 occupant, licensee, or invitee to comply with any provision of
1679 the declaration, the association bylaws, or reasonable rules of
1680 the association. A fine may be levied for each day of a
1681 continuing violation, with a single notice and opportunity for
1682 hearing, except that the fine may not exceed \$1,000 in the

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1683 aggregate unless otherwise provided in the governing documents.
1684 A fine of less than \$1,000 may not become a lien against a
1685 parcel. In any action to recover a fine, the prevailing party is
1686 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1687 the nonprevailing party as determined by the court.

1688 (a) An association may suspend, for a reasonable period of
1689 time, the right of a member, or a member's tenant, guest, or
1690 invitee, to use common areas and facilities for the failure of
1691 the owner of the parcel or its occupant, licensee, or invitee to
1692 comply with any provision of the declaration, the association
1693 bylaws, or reasonable rules of the association. This paragraph
1694 does not apply to that portion of common areas used to provide
1695 access or utility services to the parcel. A suspension may not
1696 impair the right of an owner or tenant of a parcel to have
1697 vehicular and pedestrian ingress to and egress from the parcel,
1698 including, but not limited to, the right to park.

1699 (b) A fine or suspension may not be imposed without at
1700 least 14 days' notice to the person sought to be fined or
1701 suspended and an opportunity for a hearing before a committee of
1702 at least three members appointed by the board who are not
1703 officers, directors, or employees of the association, or the
1704 spouse, parent, child, brother, or sister of an officer,
1705 director, or employee. If the committee, by majority vote, does
1706 not approve a proposed fine or suspension, it may not be
1707 imposed. If the association imposes a fine or suspension, the
1708 association must provide written notice of such fine or
1709 suspension by mail or hand delivery to the parcel owner and, if
1710 applicable, to any tenant, licensee, or invitee of the parcel
1711 owner.

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1712 (4) An association may suspend the voting rights of a
1713 parcel or member for the nonpayment of any monetary obligation
1714 due ~~to~~ the association that is more than 90 days delinquent.
1715 Notwithstanding an association's governing documents, the
1716 requirements to establish a quorum, conduct an election, or
1717 obtain membership approval on actions under this chapter or
1718 pursuant to the association's governing documents shall be
1719 reduced by the number of suspended voting interests or consent
1720 rights. ~~A voting interest or consent right allocated to a parcel~~
1721 ~~or member which has been suspended by the association may not be~~
1722 ~~counted towards the total number of voting interests for any~~
1723 ~~purpose, including, but not limited to, the number of voting~~
1724 ~~interests necessary to constitute a quorum, the number of voting~~
1725 ~~interests required to conduct an election, or the number of~~
1726 ~~voting interests required to approve an action under this~~
1727 ~~chapter or pursuant to the governing documents.~~ The notice and
1728 hearing requirements under subsection (2) do not apply to a
1729 suspension imposed under this subsection. The suspension ends
1730 upon full payment of all obligations currently due or overdue to
1731 the association.

1732 Section 18. Paragraph (d) is added to subsection (1) of
1733 section 720.306, Florida Statutes, and subsection (9) of that
1734 section is amended, to read:

1735 720.306 Meetings of members; voting and election
1736 procedures; amendments.—

1737 (1) QUORUM; AMENDMENTS.—

1738 (d) The Legislature finds that the procurement of mortgagee
1739 consent to amendments that do not affect the rights or interests
1740 of mortgagees is an unreasonable and substantial logistical and

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1741 financial burden on the parcel owners and that there is a
1742 compelling state interest in enabling the members of an
1743 association to approve amendments to the association's governing
1744 documents through legal means. Accordingly, and notwithstanding
1745 any provision to the contrary contained in this paragraph:

1746 1. As to any mortgage recorded on or after July 1, 2012,
1747 any provision in the association's governing documents that
1748 requires the consent or joinder of some or all mortgagees of
1749 parcels or any other portion of the association's common areas
1750 to amend the association's governing documents or for any other
1751 matter is enforceable only as to amendments to the association's
1752 governing documents that adversely affect the priority of the
1753 mortgagee's lien or the mortgagee's rights to foreclose its lien
1754 or that otherwise materially affect the rights and interests of
1755 the mortgagees.

1756 2. As to mortgages recorded before July 1, 2012, any
1757 existing provisions in the association's governing documents
1758 requiring mortgagee consent are enforceable.

1759 3. In securing consent or joinder, the association is
1760 entitled to rely upon the public records to identify the holders
1761 of outstanding mortgages. The association may use the address
1762 provided in the original recorded mortgage document, unless
1763 there is a different address for the holder of the mortgage in a
1764 recorded assignment or modification of the mortgage, which
1765 recorded assignment or modification must reference the official
1766 records book and page on which the original mortgage was
1767 recorded. Once the association has identified the recorded
1768 mortgages of record, the association shall, in writing, request
1769 of each parcel owner whose parcel is encumbered by a mortgage of

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1770 record any information the owner has in his or her possession
1771 regarding the name and address of the person to whom mortgage
1772 payments are currently being made. Notice shall be sent to such
1773 person if the address provided in the original recorded mortgage
1774 document is different from the name and address of the mortgagee
1775 or assignee of the mortgage as shown by the public record. The
1776 association is deemed to have complied with this requirement by
1777 making the written request of the parcel owners required under
1778 this subparagraph. Any notices required to be sent to the
1779 mortgagees under this subparagraph shall be sent to all
1780 available addresses provided to the association.

1781 4. Any notice to the mortgagees required under subparagraph
1782 3. may be sent by a method that establishes proof of delivery,
1783 and any mortgagee who fails to respond within 60 days after the
1784 date of mailing is deemed to have consented to the amendment.

1785 5. For those amendments requiring mortgagee consent on or
1786 after July 1, 2012, in the event mortgagee consent is provided
1787 other than by properly recorded joinder, such consent shall be
1788 evidenced by affidavit of the association recorded in the public
1789 records of the county in which the declaration is recorded.

1790 6. Any amendment adopted without the required consent of a
1791 mortgagee is voidable only by a mortgagee who was entitled to
1792 notice and an opportunity to consent. An action to void an
1793 amendment is subject to the statute of limitations beginning 5
1794 years after the date of discovery as to the amendments described
1795 in subparagraph 1. and 5 years after the date of recordation of
1796 the certificate of amendment for all other amendments. This
1797 subparagraph applies to all mortgages, regardless of the date of
1798 recordation of the mortgage.

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1799 (9)~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1800 (a) Elections of directors must be conducted in accordance
1801 with the procedures set forth in the governing documents of the
1802 association. All members of the association are eligible to
1803 serve on the board of directors, and a member may nominate
1804 himself or herself as a candidate for the board at a meeting
1805 where the election is to be held or, if the election process
1806 allows voting by absentee ballot, in advance of the balloting.
1807 Except as otherwise provided in the governing documents, boards
1808 of directors must be elected by a plurality of the votes cast by
1809 eligible voters. Any challenge to the election process must be
1810 commenced within 60 days after the election results are
1811 announced.

1812 (b) A person who is delinquent in the payment of any fee,
1813 fine, or other monetary obligation to the association for more
1814 than 90 days is not eligible for board membership. A person who
1815 has been convicted of any felony in this state or in a United
1816 States District or Territorial Court, or has been convicted of
1817 any offense in another jurisdiction which would be considered a
1818 felony if committed in this state, is not eligible for board
1819 membership unless such felon's civil rights have been restored
1820 for at least 5 years as of the date on which such person seeks
1821 election to the board. The validity of any action by the board
1822 is not affected if it is later determined that a member of the
1823 board is ineligible for board membership.

1824 (c) Any election dispute between a member and an
1825 association must be submitted to mandatory binding arbitration
1826 with the division. Such proceedings must be conducted in the
1827 manner provided by s. 718.1255 and the procedural rules adopted

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1828 by the division. Unless otherwise provided in the bylaws, any
1829 vacancy occurring on the board before the expiration of a term
1830 may be filled by an affirmative vote of the majority of the
1831 remaining directors, even if the remaining directors constitute
1832 less than a quorum, or by the sole remaining director. In the
1833 alternative, a board may hold an election to fill the vacancy,
1834 in which case the election procedures must conform to the
1835 requirements of the governing documents. Unless otherwise
1836 provided in the bylaws, a board member appointed or elected
1837 under this section is appointed for the unexpired term of the
1838 seat being filled. Filling vacancies created by recall is
1839 governed by s. 720.303(10) and rules adopted by the division.

1840 Section 19. Paragraphs (b) and (d) of subsection (2) of
1841 section 720.3085, Florida Statutes, are amended to read:

1842 720.3085 Payment for assessments; lien claims.-

1843 (2)

1844 (b) A parcel owner, regardless of how the parcel owner has
1845 acquired title, including, but not limited to, by purchase at a
1846 foreclosure sale, is jointly and severally liable with the
1847 previous parcel owner for all unpaid assessments, late fees,
1848 interest, costs, and reasonable attorney fees incurred by the
1849 association in an attempt to collect all such amounts that came
1850 due up to the time of transfer of title. This liability is
1851 without prejudice to any right the present parcel owner may have
1852 to recover any amounts paid by the present owner from the
1853 previous owner.

1854 (d) An association, or its successor or assignee, that
1855 acquires title to a parcel through the foreclosure of its lien
1856 for assessments is not liable for any unpaid assessments, late

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1857 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
1858 that came due before the association's acquisition of title in
1859 favor of any other association, as defined in s. 718.103(2) or
1860 s. 720.301(9), which holds a ~~superior~~ lien interest on the
1861 parcel. This paragraph is intended to clarify existing law.

1862 Section 20. This act shall take effect July 1, 2012.