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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 provisions relating to the
6 terms of condominium board of administration members;
7 revising condominium unit owner meeting notice
8 requirements; providing for nonapplicability to
9 associations governing timeshare condominiums of
10 certain provisions relating to elections of board
11 members; revising recordkeeping requirements of a
12 condominium association board; requiring commencement
13 of challenges to an election within a specified
14 period; providing requirements for challenging the
15 failure of a board to duly notice and hold the
16 required board meeting or to file the required
17 petition for a recall; providing requirements for
18 recalled board members to challenge the recall;
19 prohibiting the Division of Florida Condominiums,
20 Timeshares, and Mobile Homes of the Department of
21 Business and Professional Regulation from accepting
22 recall petitions for filing under certain
23 circumstances; amending s. 718.113, F.S.; providing
24 requirements for a condominium association board
25 relating to the installation of hurricane shutters,
26 impact glass, code-compliant windows or doors, and
27 other types of code-compliant hurricane protection
28 under certain circumstances; amending s. 718.115,

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29 F.S.; conforming provisions to changes made by the
30 act; amending s. 718.303, F.S.; revising provisions
31 relating to imposing remedies against a noncompliant
32 or delinquent condominium unit owner or member;
33 revising voting requirements under certain conditions;
34 amending s. 718.403, F.S.; providing requirements for
35 the completion of phase condominiums; creating s.
36 718.406, F.S.; providing definitions; providing
37 requirements for condominiums created within
38 condominium parcels; providing for the establishment
39 of primary condominium and secondary condominium
40 units; providing requirements for association
41 declarations; authorizing a primary condominium
42 association to provide insurance and adopt hurricane
43 shutter or hurricane protection specifications under
44 certain conditions; providing requirements relating to
45 assessments; providing for resolution of conflicts
46 between primary condominium declarations and secondary
47 condominium declarations; providing requirements
48 relating to common expenses due the primary
49 condominium association; amending s. 718.5011, F.S.;
50 revising the restriction on officers and full-time
51 employees of the ombudsman from engaging in other
52 businesses or professions; amending s. 719.104, F.S.;
53 specifying additional records that are not accessible
54 to unit owners; amending s. 719.1055, F.S.; revising
55 provisions relating to the amendment of cooperative
56 documents; providing legislative findings and a

57 | finding of compelling state interest; providing
58 | criteria for consent or joinder to an amendment;
59 | requiring notice regarding proposed amendments to
60 | mortgagees; providing criteria for notification;
61 | providing for voiding certain amendments; amending s.
62 | 719.106, F.S.; revising applicability of certain board
63 | of administration meeting requirements; requiring
64 | commencement of challenges to an election within a
65 | specified period; providing requirements for
66 | challenging the failure of a board to duly notice and
67 | hold the required board meeting or to file the
68 | required petition for a recall; providing requirements
69 | for recalled board members to challenge the recall;
70 | prohibiting the division from accepting recall
71 | petitions for filing under certain circumstances;
72 | amending s. 719.303, F.S.; revising provisions
73 | relating to imposing remedies against a noncompliant
74 | or delinquent cooperative unit owner or member;
75 | revising voting requirements under certain conditions;
76 | amending s. 720.303, F.S.; revising the types of
77 | records that are not accessible to homeowners'
78 | association members and parcel owners; providing
79 | requirements for challenging the failure of a board to
80 | duly notice and hold the required board meeting or to
81 | file the required petition for a recall; providing
82 | requirements for recalled board members to challenge
83 | the recall; prohibiting the division from accepting
84 | recall petitions for filing under certain

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85 | circumstances; amending s. 720.305, F.S.; revising
86 | provisions relating to imposing remedies against a
87 | noncompliant or delinquent homeowners' association
88 | member and parcel owner; revising voting requirements
89 | under certain conditions; amending s. 720.306, F.S.;
90 | revising provisions relating to the amendment of
91 | homeowners' association declarations; providing
92 | legislative findings and a finding of compelling state
93 | interest; providing criteria for consent or joinder to
94 | an amendment; requiring notice to mortgagees regarding
95 | proposed amendments; providing criteria for
96 | notification; providing for voiding certain
97 | amendments; revising provisions relating to right to
98 | speak at a homeowners' association meeting; requiring
99 | commencement of challenges to an election within a
100 | specified period; providing an effective date.

101 |
102 | Be It Enacted by the Legislature of the State of Florida:

103 |
104 | Section 1. Subsection (9) of section 399.02, Florida
105 | Statutes, is amended to read:

106 | 399.02 General requirements.—

107 | (9) Updates to the Safety Code for Existing Elevators and
108 | Escalators, ASME A17.1 and A17.3, which require Phase II
109 | Firefighters' Service on elevators may not be enforced ~~until~~
110 | ~~July 1, 2015, or~~ until the elevator is replaced or requires
111 | major modification, ~~whichever occurs first,~~ on elevators in
112 | condominiums or multifamily residential buildings, including

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113 those that are part of a continuing care facility licensed under
114 chapter 651, or similar retirement community with apartments,
115 having a certificate of occupancy by the local building
116 authority that was issued before July 1, 2008. This exception
117 does not prevent an elevator owner from requesting a variance
118 from the applicable codes ~~before or after July 1, 2015~~. This
119 subsection does not prohibit the division from granting
120 variances pursuant to s. 120.542 and subsection (8). The
121 division shall adopt rules to administer this subsection.

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

124 718.112 Bylaws.—

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

128 (d) Unit owner meetings.—

129 1. An annual meeting of the unit owners shall be held at
130 the location provided in the association bylaws and, if the
131 bylaws are silent as to the location, the meeting shall be held
132 within 45 miles of the condominium property. However, such
133 distance requirement does not apply to an association governing
134 a timeshare condominium.

135 2. Unless the bylaws provide otherwise, a vacancy on the
136 board caused by the expiration of a director's term shall be
137 filled by electing a new board member, and the election must be
138 by secret ballot. An election is not required if the number of
139 vacancies equals or exceeds the number of candidates. For
140 purposes of this paragraph, the term "candidate" means an

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141 eligible person who has timely submitted the written notice, as
142 described in sub-subparagraph 4.a., of his or her intention to
143 become a candidate. Except in a timeshare condominium, or if the
144 staggered term of a board member does not expire until a later
145 annual meeting, or if all members' terms would otherwise expire
146 but there are no candidates, the terms of all board members
147 expire at the annual meeting, and such members may stand for
148 reelection unless prohibited by the bylaws. If the bylaws or
149 articles of incorporation permit ~~staggered~~ terms of no more than
150 2 years ~~and upon approval of a majority of the total voting~~
151 ~~interests~~, the association board members may serve 2-year
152 ~~staggered~~ terms. If the number of board members whose terms
153 expire at the annual meeting equals or exceeds the number of
154 candidates, the candidates become members of the board effective
155 upon the adjournment of the annual meeting. Unless the bylaws
156 provide otherwise, any remaining vacancies shall be filled by
157 the affirmative vote of the majority of the directors making up
158 the newly constituted board even if the directors constitute
159 less than a quorum or there is only one director. In a
160 condominium association of more than 10 units or in a
161 condominium association that does not include timeshare units or
162 timeshare interests, coowners of a unit may not serve as members
163 of the board of directors at the same time unless they own more
164 than one unit or unless there are not enough eligible candidates
165 to fill the vacancies on the board at the time of the vacancy.
166 Any unit owner desiring to be a candidate for board membership
167 must comply with sub-subparagraph 4.a. and must be eligible to
168 serve on the board of directors at the time of the deadline for

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169 submitting a notice of intent to run in order to have his or her
170 name listed as a proper candidate on the ballot or to serve on
171 the board. A person who has been suspended or removed by the
172 division under this chapter, or who is delinquent in the payment
173 of any fee, fine, or special or regular assessment as provided
174 in paragraph (n), is not eligible for board membership. A person
175 who has been convicted of any felony in this state or in a
176 United States District or Territorial Court, or who has been
177 convicted of any offense in another jurisdiction which would be
178 considered a felony if committed in this state, is not eligible
179 for board membership unless such felon's civil rights have been
180 restored for at least 5 years as of the date such person seeks
181 election to the board. The validity of an action by the board is
182 not affected if it is later determined that a board member is
183 ineligible for board membership due to having been convicted of
184 a felony.

185 3. The bylaws must provide the method of calling meetings
186 of unit owners, including annual meetings. Written notice must
187 include an agenda, must be mailed, hand delivered, or
188 electronically transmitted to each unit owner at least 14 days
189 before the annual meeting, and must be posted in a conspicuous
190 place on the condominium property at least 14 continuous days
191 before the annual meeting. Upon notice to the unit owners, the
192 board shall, by duly adopted rule, designate a specific location
193 on the condominium property or association property where all
194 notices of unit owner meetings shall be posted. This requirement
195 does not apply if there is no condominium property or
196 association property for posting notices. In lieu of, or in

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197 addition to, the physical posting of meeting notices, the
198 association may, by reasonable rule, adopt a procedure for
199 conspicuously posting and repeatedly broadcasting the notice and
200 the agenda on a closed-circuit cable television system serving
201 the condominium association. However, if broadcast notice is
202 used in lieu of a notice posted physically on the condominium
203 property, the notice and agenda must be broadcast at least four
204 times every broadcast hour of each day that a posted notice is
205 otherwise required under this section. If broadcast notice is
206 provided, the notice and agenda must be broadcast in a manner
207 and for a sufficient continuous length of time so as to allow an
208 average reader to observe the notice and read and comprehend the
209 entire content of the notice and the agenda. Unless a unit owner
210 waives in writing the right to receive notice of the annual
211 meeting, such notice must be hand delivered, mailed, or
212 electronically transmitted to each unit owner. Notice for
213 meetings and notice for all other purposes must be mailed to
214 each unit owner at the address last furnished to the association
215 by the unit owner, or hand delivered to each unit owner.
216 However, if a unit is owned by more than one person, the
217 association must provide notice to the address that the
218 developer identifies for that purpose and thereafter as one or
219 more of the owners of the unit advise the association in
220 writing, or if no address is given or the owners of the unit do
221 not agree, to the address provided on the deed of record. An
222 officer of the association, or the manager or other person
223 providing notice of the association meeting, must provide an
224 affidavit or United States Postal Service certificate of

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225 mailing, to be included in the official records of the
226 association affirming that the notice was mailed or hand
227 delivered in accordance with this provision.

228 4. The members of the board shall be elected by written
229 ballot or voting machine. Proxies may not be used in electing
230 the board in general elections or elections to fill vacancies
231 caused by recall, resignation, or otherwise, unless otherwise
232 provided in this chapter. This subparagraph does not apply to an
233 association governing a timeshare condominium.

234 a. At least 60 days before a scheduled election, the
235 association shall mail, deliver, or electronically transmit, by
236 separate association mailing or included in another association
237 mailing, delivery, or transmission, including regularly
238 published newsletters, to each unit owner entitled to a vote, a
239 first notice of the date of the election. Any unit owner or
240 other eligible person desiring to be a candidate for the board
241 must give written notice of his or her intent to be a candidate
242 to the association at least 40 days before a scheduled election.
243 Together with the written notice and agenda as set forth in
244 subparagraph 3., the association shall mail, deliver, or
245 electronically transmit a second notice of the election to all
246 unit owners entitled to vote, together with a ballot that lists
247 all candidates. Upon request of a candidate, an information
248 sheet, no larger than 8 1/2 inches by 11 inches, which must be
249 furnished by the candidate at least 35 days before the election,
250 must be included with the mailing, delivery, or transmission of
251 the ballot, with the costs of mailing, delivery, or electronic
252 transmission and copying to be borne by the association. The

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253 association is not liable for the contents of the information
254 sheets prepared by the candidates. In order to reduce costs, the
255 association may print or duplicate the information sheets on
256 both sides of the paper. The division shall by rule establish
257 voting procedures consistent with this sub-subparagraph,
258 including rules establishing procedures for giving notice by
259 electronic transmission and rules providing for the secrecy of
260 ballots. Elections shall be decided by a plurality of ballots
261 cast. There is no quorum requirement; however, at least 20
262 percent of the eligible voters must cast a ballot in order to
263 have a valid election. A unit owner may not permit any other
264 person to vote his or her ballot, and any ballots improperly
265 cast are invalid. A unit owner who violates this provision may
266 be fined by the association in accordance with s. 718.303. A
267 unit owner who needs assistance in casting the ballot for the
268 reasons stated in s. 101.051 may obtain such assistance. The
269 regular election must occur on the date of the annual meeting.
270 Notwithstanding this sub-subparagraph, an election is not
271 required unless more candidates file notices of intent to run or
272 are nominated than board vacancies exist.

273 b. Within 90 days after being elected or appointed to the
274 board, each newly elected or appointed director shall certify in
275 writing to the secretary of the association that he or she has
276 read the association's declaration of condominium, articles of
277 incorporation, bylaws, and current written policies; that he or
278 she will work to uphold such documents and policies to the best
279 of his or her ability; and that he or she will faithfully
280 discharge his or her fiduciary responsibility to the

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281 association's members. In lieu of this written certification,
282 within 90 days after being elected or appointed to the board,
283 the newly elected or appointed director may submit a certificate
284 of having satisfactorily completed the educational curriculum
285 administered by a division-approved condominium education
286 provider within 1 year before or 90 days after the date of
287 election or appointment. The written certification or
288 educational certificate is valid and does not have to be
289 resubmitted as long as the director serves on the board without
290 interruption. A director who fails to timely file the written
291 certification or educational certificate is suspended from
292 service on the board until he or she complies with this sub-
293 subparagraph. The board may temporarily fill the vacancy during
294 the period of suspension. The secretary shall cause the
295 association to retain a director's written certification or
296 educational certificate for inspection by the members for 5
297 years after a director's election or the duration of the
298 director's uninterrupted tenure, whichever is longer. Failure to
299 have such written certification or educational certificate on
300 file does not affect the validity of any board action.

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

303 5. Any approval by unit owners called for by this chapter
304 or the applicable declaration or bylaws, including, but not
305 limited to, the approval requirement in s. 718.111(8), must be
306 made at a duly noticed meeting of unit owners and is subject to
307 all requirements of this chapter or the applicable condominium
308 documents relating to unit owner decisionmaking, except that

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309 unit owners may take action by written agreement, without
310 meetings, on matters for which action by written agreement
311 without meetings is expressly allowed by the applicable bylaws
312 or declaration or any law that provides for such action.

313 6. Unit owners may waive notice of specific meetings if
314 allowed by the applicable bylaws or declaration or any law. If
315 authorized by the bylaws, notice of meetings of the board of
316 administration, unit owner meetings, except unit owner meetings
317 called to recall board members under paragraph (j), and
318 committee meetings may be given by electronic transmission to
319 unit owners who consent to receive notice by electronic
320 transmission.

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

325 8. A unit owner may tape record or videotape a meeting of
326 the unit owners subject to reasonable rules adopted by the
327 division.

328 9. Unless otherwise provided in the bylaws, any vacancy
329 occurring on the board before the expiration of a term may be
330 filled by the affirmative vote of the majority of the remaining
331 directors, even if the remaining directors constitute less than
332 a quorum, or by the sole remaining director. In the alternative,
333 a board may hold an election to fill the vacancy, in which case
334 the election procedures must conform to sub-subparagraph 4.a.
335 unless the association governs 10 units or fewer and has opted
336 out of the statutory election process, in which case the bylaws

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337 of the association control. Unless otherwise provided in the
338 bylaws, a board member appointed or elected under this section
339 shall fill the vacancy for the unexpired term of the seat being
340 filled. Filling vacancies created by recall is governed by
341 paragraph (j) and rules adopted by the division.

342 10. This chapter does not limit the use of general or
343 limited proxies, require the use of general or limited proxies,
344 or require the use of a written ballot or voting machine for any
345 agenda item or election at any meeting of a timeshare
346 condominium association.

347 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an
348 association of 10 or fewer units may, by affirmative vote of a
349 majority of the total voting interests, provide for different
350 voting and election procedures in its bylaws, which may be by a
351 proxy specifically delineating the different voting and election
352 procedures. The different voting and election procedures may
353 provide for elections to be conducted by limited or general
354 proxy.

355 (j) Recall of board members.—Subject to ~~the provisions of~~
356 s. 718.301, any member of the board of administration may be
357 recalled and removed from office with or without cause by the
358 vote or agreement in writing by a majority of all the voting
359 interests. A special meeting of the unit owners to recall a
360 member or members of the board of administration may be called
361 by 10 percent of the voting interests giving notice of the
362 meeting as required for a meeting of unit owners, and the notice
363 shall state the purpose of the meeting. Electronic transmission
364 may not be used as a method of giving notice of a meeting called

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365 | in whole or in part for this purpose.

366 | 1. If the recall is approved by a majority of all voting
367 | interests by a vote at a meeting, the recall will be effective
368 | as provided in this paragraph ~~herein~~. The board shall duly
369 | notice and hold a board meeting within 5 full business days
370 | after ~~of~~ the adjournment of the unit owner meeting to recall one
371 | or more board members. At the meeting, the board shall either
372 | certify the recall, in which case such member or members shall
373 | be recalled effective immediately and shall turn over to the
374 | board within 5 full business days any and all records and
375 | property of the association in their possession, or shall
376 | proceed as set forth in subparagraph 3.

377 | 2. If the proposed recall is by an agreement in writing by
378 | a majority of all voting interests, the agreement in writing or
379 | a copy thereof shall be served on the association by certified
380 | mail or by personal service in the manner authorized by chapter
381 | 48 and the Florida Rules of Civil Procedure. The board of
382 | administration shall duly notice and hold a meeting of the board
383 | within 5 full business days after receipt of the agreement in
384 | writing. At the meeting, the board shall either certify the
385 | written agreement to recall a member or members of the board, in
386 | which case such member or members shall be recalled effective
387 | immediately and shall turn over to the board within 5 full
388 | business days any and all records and property of the
389 | association in their possession, or proceed as described in
390 | subparagraph 3.

391 | 3. If the board determines not to certify the written
392 | agreement to recall a member or members of the board, or does

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393 | not certify the recall by a vote at a meeting, the board shall,
394 | within 5 full business days after the meeting, file with the
395 | division a petition for arbitration pursuant to the procedures
396 | in s. 718.1255. For the purposes of this section, the unit
397 | owners who voted at the meeting or who executed the agreement in
398 | writing shall constitute one party under the petition for
399 | arbitration. If the arbitrator certifies the recall as to any
400 | member or members of the board, the recall will be effective
401 | upon mailing of the final order of arbitration to the
402 | association. If the association fails to comply with the order
403 | of the arbitrator, the division may take action pursuant to s.
404 | 718.501. Any member or members so recalled shall deliver to the
405 | board any and all records of the association in their possession
406 | within 5 full business days after ~~of~~ the effective date of the
407 | recall.

408 | 4. If the board fails to duly notice and hold a board
409 | meeting within 5 full business days after ~~of~~ service of an
410 | agreement in writing or within 5 full business days after ~~of~~ the
411 | adjournment of the unit owner recall meeting, the recall shall
412 | be deemed effective and the board members so recalled shall
413 | immediately turn over to the board any and all records and
414 | property of the association.

415 | 5. If the board fails to duly notice and hold the required
416 | meeting or fails to file the required petition, the unit owner
417 | representative may file a petition pursuant to s. 718.1255
418 | challenging the board's failure to act. The petition must be
419 | filed within 60 days after the expiration of the applicable 5-
420 | full-business-day period. The review of a petition under this

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421 subparagraph is limited to the sufficiency of service on the
422 board and the facial validity of the written agreement or
423 ballots filed.

424 ~~6.5.~~ If a vacancy occurs on the board as a result of a
425 recall or removal and less than a majority of the board members
426 are removed, the vacancy may be filled by the affirmative vote
427 of a majority of the remaining directors, notwithstanding any
428 provision to the contrary contained in this subsection. If
429 vacancies occur on the board as a result of a recall and a
430 majority or more of the board members are removed, the vacancies
431 shall be filled in accordance with procedural rules to be
432 adopted by the division, which rules need not be consistent with
433 this subsection. The rules must provide procedures governing the
434 conduct of the recall election as well as the operation of the
435 association during the period after a recall but before ~~prior to~~
436 the recall election.

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

442 8. The division may not accept for filing a recall
443 petition, whether filed pursuant to subparagraph 1.,
444 subparagraph 2., subparagraph 5., or subparagraph 7. and
445 regardless of whether the recall was certified, when there are
446 60 or fewer days until the scheduled reelection of the board
447 member sought to be recalled or when 60 or fewer days have
448 elapsed since the election of the board member sought to be

449 recalled.

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

452 718.113 Maintenance; limitation upon improvement; display
 453 of flag; hurricane shutters and protection; display of religious
 454 decorations.—

455 (5) Each board of administration shall adopt hurricane
 456 shutter specifications for each building within each condominium
 457 operated by the association which shall include color, style,
 458 and other factors deemed relevant by the board. All
 459 specifications adopted by the board must comply with the
 460 applicable building code.

461 (a) The board may, subject to ~~the provisions of s.~~
 462 718.3026~~7~~, and the approval of a majority of voting interests of
 463 the condominium, install hurricane shutters, impact glass, ~~or~~
 464 ~~other~~ code-compliant windows or doors, or other types of code-
 465 compliant hurricane protection that comply ~~complies~~ with or
 466 exceed ~~exceeds~~ the applicable building code. However, a vote of
 467 the owners is not required if the maintenance, repair, and
 468 replacement of hurricane shutters, impact glass, ~~or other~~ code-
 469 compliant windows or doors, or other types of code-compliant
 470 hurricane protection are the responsibility of the association
 471 pursuant to the declaration of condominium. If hurricane
 472 protection or laminated glass or window film architecturally
 473 designed to function as hurricane protection that ~~which~~ complies
 474 with or exceeds the current applicable building code has been
 475 previously installed, the board may not install hurricane
 476 shutters, ~~hurricane protection~~, ~~or~~ impact glass, ~~or other~~ code-

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477 | compliant windows or doors, or other types of code-compliant
478 | hurricane protection except upon approval by a majority vote of
479 | the voting interests.

480 | (b) The association is responsible for the maintenance,
481 | repair, and replacement of the hurricane shutters, impact glass,
482 | code-compliant windows or doors, or other types of code-
483 | compliant hurricane protection authorized by this subsection if
484 | such property hurricane shutters or other hurricane protection
485 | is the responsibility of the association pursuant to the
486 | declaration of condominium. If the hurricane shutters, impact
487 | glass, code-compliant windows or doors, or other types of code-
488 | compliant hurricane protection ~~authorized by this subsection~~ are
489 | the responsibility of the unit owners pursuant to the
490 | declaration of condominium, the maintenance, repair, and
491 | replacement of such items are the responsibility of the unit
492 | owner.

493 | (c) The board may operate shutters, impact glass, code-
494 | compliant windows or doors, or other types of code-compliant
495 | hurricane protection installed pursuant to this subsection
496 | without permission of the unit owners only if such operation is
497 | necessary to preserve and protect the condominium property and
498 | association property. The installation, replacement, operation,
499 | repair, and maintenance of such shutters, impact glass, code-
500 | compliant windows or doors, or other types of code-compliant
501 | hurricane protection in accordance with the procedures set forth
502 | in this paragraph are not a material alteration to the common
503 | elements or association property within the meaning of this
504 | section.

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505 (d) Notwithstanding any other provision in the condominium
 506 documents, if approval is required by the documents, a board may
 507 not refuse to approve the installation or replacement of
 508 hurricane shutters, impact glass, code-compliant windows or
 509 doors, or other types of code-compliant hurricane protection by
 510 a unit owner conforming to the specifications adopted by the
 511 board.

512 Section 4. Paragraph (e) of subsection (1) of section
 513 718.115, Florida Statutes, is amended to read:

514 718.115 Common expenses and common surplus.—

515 (1)

516 (e) The expense of installation, replacement, operation,
 517 repair, and maintenance of hurricane shutters, impact glass,
 518 code-compliant windows or doors, or other types of code-
 519 compliant hurricane protection by the board pursuant to s.
 520 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~
 521 ~~defined herein~~ and shall be collected as provided in this
 522 section if the association is responsible for the maintenance,
 523 repair, and replacement of the hurricane shutters, impact glass,
 524 code-compliant windows or doors, or other types of code-
 525 compliant hurricane protection pursuant to the declaration of
 526 condominium. However, if the maintenance, repair, and
 527 replacement of the hurricane shutters, impact glass, code-
 528 compliant windows or doors, or other types of code-compliant
 529 hurricane protection are ~~is~~ the responsibility of the unit
 530 owners pursuant to the declaration of condominium, the cost of
 531 the installation of the hurricane shutters, impact glass, code-
 532 compliant windows or doors, or other types of code-compliant

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533 hurricane protection ~~is shall~~ not be a common expense ~~and, but~~
534 shall be charged individually to the unit owners based on the
535 cost of installation of the hurricane shutters, impact glass,
536 code-compliant windows or doors, or other types of code-
537 compliant hurricane protection appurtenant to the unit.
538 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless
539 of whether or not the declaration requires the association or
540 unit owners to maintain, repair, or replace hurricane shutters,
541 impact glass, code-compliant windows or doors, or other types of
542 code-compliant hurricane protection, a unit owner who has
543 previously installed hurricane shutters in accordance with s.
544 718.113(5) that comply with the current applicable building code
545 shall receive a credit when the shutters are installed; a unit
546 owner who has previously installed impact glass or code-
547 compliant windows or doors that comply with the current
548 applicable building code shall receive a credit when the impact
549 glass or code-compliant windows or doors are installed; and a
550 unit owner who has installed, other types of code-compliant
551 hurricane protection that comply with the current applicable
552 building code shall receive a credit when the same type of other
553 code-compliant hurricane protection is installed, and the ~~or~~
554 ~~laminated glass architecturally designed to function as~~
555 ~~hurricane protection, which hurricane shutters or other~~
556 ~~hurricane protection or laminated glass comply with the current~~
557 ~~applicable building code, shall receive a credit shall be~~ equal
558 to the pro rata portion of the assessed installation cost
559 assigned to each unit. However, such unit owner remains ~~shall~~
560 ~~remain~~ responsible for the pro rata share of expenses for

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561 hurricane shutters, impact glass, code-compliant windows or
562 doors, or other types of code-compliant hurricane protection
563 installed on common elements and association property by the
564 board pursuant to s. 718.113(5),~~7~~ and remains ~~shall remain~~
565 responsible for a pro rata share of the expense of the
566 replacement, operation, repair, and maintenance of such
567 shutters, impact glass, code-compliant windows or doors, or
568 other types of code-compliant hurricane protection.

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

571 718.303 Obligations of owners and occupants; remedies.—

572 (3) The association may levy reasonable fines for the
573 failure of the owner of the unit or its occupant, licensee, or
574 invitee to comply with any provision of the declaration, the
575 association bylaws, or reasonable rules of the association. A
576 fine may not become a lien against a unit. A fine may be levied
577 on the basis of each day of a continuing violation, with a
578 single notice and opportunity for hearing. However, the fine may
579 not exceed \$100 per violation, or \$1,000 in the aggregate.

580 (a) An association may suspend, for a reasonable period of
581 time, the right of a unit owner, or a unit owner's tenant,
582 guest, or invitee, to use the common elements, common
583 facilities, or any other association property for failure to
584 comply with any provision of the declaration, the association
585 bylaws, or reasonable rules of the association. This paragraph
586 does not apply to limited common elements intended to be used
587 only by that unit, common elements needed to access the unit,
588 utility services provided to the unit, parking spaces, or

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589 elevators.

590 (5) An association may suspend the voting rights of a unit
591 or member due to nonpayment of any monetary obligation due ~~to~~
592 the association which is more than 90 days delinquent. ~~A voting~~
593 ~~interest or consent right allocated to a unit or member which~~
594 ~~has been suspended by the association may not be counted towards~~
595 ~~the total number of voting interests necessary to constitute a~~
596 ~~quorum, the number of voting interests required to conduct an~~
597 ~~election, or the number of voting interests required to approve~~
598 ~~an action under this chapter or pursuant to the declaration,~~
599 ~~articles of incorporation, or bylaws.~~ The suspension ends upon
600 full payment of all obligations currently due or overdue the
601 association. The notice and hearing requirements under
602 subsection (3) do not apply to a suspension imposed under this
603 subsection.

604 Section 6. Subsection (1) of section 718.403, Florida
605 Statutes, is amended to read:

606 718.403 Phase condominiums.—

607 (1) Notwithstanding ~~the provisions of s. 718.110,~~ a
608 developer may develop a condominium in phases, if the original
609 declaration of condominium submitting the initial phase to
610 condominium ownership or an amendment to the declaration which
611 has been approved by all of the unit owners and unit mortgagees
612 provides for and describes in detail all anticipated phases; the
613 impact, if any, which the completion of subsequent phases would
614 have upon the initial phase; and the time period (which may not
615 exceed 7 years from the date of recording the declaration of
616 condominium, unless extended as provided in this subsection)

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617 within which all phases must be added to the condominium and
618 comply with the requirements of this section and at the end of
619 which the right to add additional phases expires.

620 (a) All phases must be added to the condominium within 7
621 years after the date of recording the original declaration of
622 condominium submitting the initial phase to condominium
623 ownership unless an amendment extending the 7-year period is
624 approved by the unit owners.

625 (b) An amendment to extend the 7-year period requires the
626 approval of the owners necessary to amend the declaration of
627 condominium consistent with s. 718.110(1)(a). An extension of
628 the 7-year period may be submitted for approval only during the
629 last 3 years of the 7-year period.

630 (c) An amendment must describe the period within which all
631 phases must be added to the condominium and such period may not
632 exceed 10 years after the date of recording the original
633 declaration of condominium submitting the initial phase to
634 condominium ownership.

635 (d) Notwithstanding s. 718.110, an amendment extending the
636 7-year period is not an amendment subject to s. 718.110(4).

637 Section 7. Section 718.406, Florida Statutes, is created
638 to read:

639 718.406 Condominiums created within condominium parcels.-

640 (1) Unless otherwise expressed in the declaration of
641 condominium, if a condominium is created within a condominium
642 parcel, the term:

643 (a) "Primary condominium" means any condominium that is
644 not a secondary condominium and contains one or more subdivided

645 parcels.

646 (b) "Primary condominium association" means any entity
 647 that operates a primary condominium.

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

651 (d) "Secondary condominium" means one or more condominium
 652 parcels that have been submitted to condominium ownership
 653 pursuant to a secondary condominium declaration.

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

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

659 (g) "Secondary unit" means a unit that is part of a
 660 secondary condominium.

661 (h) "Subdivided parcel" means a condominium parcel in a
 662 primary condominium that has been submitted to condominium
 663 ownership pursuant to a secondary condominium declaration.

664 (2) Unless otherwise provided in the primary condominium
 665 declaration, if a condominium parcel is a subdivided parcel, the
 666 secondary condominium association responsible for operating the
 667 secondary condominium upon the subdivided parcel shall act on
 668 behalf of all of the unit owners of secondary units in the
 669 secondary condominium and shall exercise all rights of the
 670 secondary unit owners in the primary condominium association,
 671 other than the right of possession of the secondary unit. The
 672 secondary condominium association shall designate a

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673 representative who shall cast the vote of the subdivided parcel
674 in the primary condominium association and, if no person is
675 designated by the secondary condominium association to cast such
676 vote, the vote shall be cast by the president of the secondary
677 condominium association or the designee of the president.

678 (3) Unless otherwise provided in the primary condominium
679 declaration as originally recorded, no secondary condominium may
680 be created upon any condominium parcel in the primary
681 condominium, and no amendment to the primary condominium
682 declaration may permit secondary condominiums to be created upon
683 parcels in the primary condominium, unless the record owners of
684 a majority of the condominium parcels join in the execution of
685 the amendment.

686 (4) If the primary condominium declaration permits the
687 creation of a secondary condominium and a condominium parcel in
688 the primary condominium is being submitted for condominium
689 ownership to create a secondary condominium upon the primary
690 condominium parcel, the approval of the board of administration
691 of the primary condominium association is required in order to
692 create the secondary condominium on the primary condominium
693 parcel. Unless otherwise provided in the primary condominium
694 declaration, the owners of condominium parcels in the primary
695 condominium that will not be part of the proposed secondary
696 condominium and the holders of liens upon such primary
697 condominium parcels shall not have approval rights regarding the
698 creation of the secondary condominium or the contents of the
699 secondary condominium declaration being submitted. Only the
700 board of administration of the primary condominium association,

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701 the owner of the subdivided parcel, and the holders of liens
702 upon the subdivided parcel shall have approval rights regarding
703 the creation of the secondary condominium and the contents of
704 the secondary condominium declaration. In order for the
705 recording of the secondary condominium declaration to be
706 effective to create the secondary condominium, the board of
707 administration of the primary condominium association, the owner
708 of the subdivided parcel, and all holders of liens on the
709 subdivided parcel must execute the secondary condominium
710 declaration for the purpose of evidencing their approval.

711 (5) An owner of a secondary unit is subject to both the
712 primary condominium declaration and the secondary condominium
713 declaration.

714 (6) The primary condominium association may provide
715 insurance required by s. 718.111(11) for common elements and
716 other improvements within the secondary condominium if the
717 primary condominium declaration permits the primary condominium
718 association to provide such insurance for the benefit of the
719 condominium property included in the subdivided parcel, in lieu
720 of such insurance being provided by the secondary condominium
721 association.

722 (7) Unless otherwise provided in the primary condominium
723 declaration, the board of administration of the primary
724 condominium association may adopt hurricane shutter or hurricane
725 protection specifications for each building within which
726 subdivided parcels are located and govern any subdivided parcels
727 in the primary condominium.

728 (8) Any unit owner of, or holder of a first mortgage on, a

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729 secondary unit may register such unit owner's or mortgagee's
730 interest in the secondary unit with the primary condominium
731 association by delivering written notice to the primary
732 condominium association. Once registered, the primary
733 condominium association must provide written notice to such
734 secondary unit owner and his, her, or its first mortgagee at
735 least 30 days before instituting any foreclosure action against
736 the subdivided parcel in which the secondary unit owner and his,
737 her, or its first mortgagee hold an interest for failure of the
738 subdivided parcel owner to pay any assessments or other amounts
739 due to the primary condominium association. A foreclosure action
740 against a subdivided parcel is not effective without an
741 affidavit indicating that written notice of the foreclosure was
742 timely sent to the names and addresses of secondary unit owners
743 and first mortgagees registered with the primary condominium
744 association pursuant to this subsection. The registered
745 secondary unit owner or mortgagee has a right to pay the
746 proportionate amount of the delinquent assessment attributable
747 to the secondary unit in which the registered unit owner or
748 mortgagee holds an interest. Upon such payment, the primary
749 condominium association is obligated to promptly modify or
750 partially release the record of lien on the primary condominium
751 association so that the lien no longer encumbers such secondary
752 unit. Alternatively, a registered secondary unit owner or
753 mortgagee may pay the amount of all delinquent assessments
754 attributed to the subdivided parcel and seek reimbursement for
755 all such amounts paid and all costs incurred from the secondary
756 condominium association, including, without limitation, the

757 | costs of collection other than the share allocable to the
 758 | secondary unit on behalf of which such payment was made.

759 | (9) In the event of a conflict between the primary
 760 | condominium declaration and the secondary condominium
 761 | declaration, the primary condominium declaration controls.

762 | (10) All common expenses due to the primary condominium
 763 | association with respect to a subdivided parcel are a common
 764 | expense of the secondary condominium association and shall be
 765 | collected by the secondary condominium association from its
 766 | members and paid to the primary condominium association.

767 | Section 8. Subsection (2) of section 718.5011, Florida
 768 | Statutes, is amended to read:

769 | 718.5011 Ombudsman; appointment; administration.—

770 | (2) The Governor shall appoint the ombudsman. The
 771 | ombudsman must be an attorney admitted to practice before the
 772 | Florida Supreme Court and shall serve at the pleasure of the
 773 | Governor. A vacancy in the office shall be filled in the same
 774 | manner as the original appointment. An officer or full-time
 775 | employee of the ombudsman's office may not actively engage in
 776 | any other business or profession that directly or indirectly
 777 | relates to or conflicts with his or her work in the ombudsman's
 778 | office; serve as the representative of any political party,
 779 | executive committee, or other governing body of a political
 780 | party; serve as an executive, officer, or employee of a
 781 | political party; receive remuneration for activities on behalf
 782 | of any candidate for public office; or engage in soliciting
 783 | votes or other activities on behalf of a candidate for public
 784 | office. The ombudsman or any employee of his or her office may

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785 | not become a candidate for election to public office unless he
 786 | or she first resigns from his or her office or employment.

787 | Section 9. Paragraph (c) of subsection (2) of section
 788 | 719.104, Florida Statutes, is amended to read:

789 | 719.104 Cooperatives; access to units; records; financial
 790 | reports; assessments; purchase of leases.—

791 | (2) OFFICIAL RECORDS.—

792 | (c) The official records of the association shall be open
 793 | to inspection by any association member or the authorized
 794 | representative of such member at all reasonable times. Failure
 795 | to permit inspection of the association records as provided in
 796 | this subsection ~~herein~~ entitles any person prevailing in an
 797 | enforcement action to recover reasonable attorney ~~attorney's~~
 798 | fees from the person in control of the records who, directly or
 799 | indirectly, knowingly denies access to the records for
 800 | inspection. The right to inspect the records includes the right
 801 | to make or obtain copies, at the reasonable expense, if any, of
 802 | the association member. The association may adopt reasonable
 803 | rules regarding the frequency, time, location, notice, and
 804 | manner of record inspections and copying. The failure of an
 805 | association to provide the records within 10 working days after
 806 | receipt of a written request creates a rebuttable presumption
 807 | that the association willfully failed to comply with this
 808 | paragraph. A unit owner who is denied access to official records
 809 | is entitled to the actual damages or minimum damages for the
 810 | association's willful failure to comply with this paragraph. The
 811 | minimum damages shall be \$50 per calendar day up to 10 days, the
 812 | calculation to begin on the 11th day after receipt of the

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813 written request. The association shall maintain an adequate
814 number of copies of the declaration, articles of incorporation,
815 bylaws, and rules, and all amendments to each of the foregoing,
816 as well as the question and answer sheet provided for in s.
817 719.504, on the cooperative property to ensure their
818 availability to unit owners and prospective purchasers, and may
819 charge its actual costs for preparing and furnishing these
820 documents to those requesting the same. Notwithstanding ~~the~~
821 ~~provisions of~~ this paragraph, the following records shall not be
822 accessible to unit owners:

823 1. Any record protected by the lawyer-client privilege as
824 provided in s. 90.502; protected by the work-product privilege,
825 including any record ~~A record that was~~ prepared by an
826 association attorney or prepared at the attorney's express
827 direction; reflecting ~~that reflects~~ a mental impression,
828 conclusion, litigation strategy, or legal theory of the attorney
829 or the association; or ~~that was~~ prepared exclusively for civil
830 or criminal litigation or for adversarial administrative
831 proceedings or in anticipation of imminent civil or criminal
832 litigation or imminent adversarial administrative proceedings,
833 until the conclusion of the litigation or adversarial
834 administrative proceedings.

835 2. Information obtained by an association in connection
836 with the approval of the lease, sale, or other transfer of a
837 unit.

838 3. Medical records of unit owners.

839 4. Personnel records of association employees, including,
840 but not limited to, disciplinary, payroll, health, and insurance

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841 records. For purposes of this subparagraph, the term "personnel
842 records" does not include written employment agreements with an
843 association employee or budgetary or financial records that
844 indicate the compensation paid to an association employee.

845 5. Social security numbers, driver license numbers, credit
846 card numbers, e-mail addresses, telephone numbers, emergency
847 contact information, any addresses of a unit owner other than
848 addresses provided to fulfill the association's notice
849 requirements, and other personal identifying information of any
850 person, excluding the person's name, unit designation, mailing
851 address, and property address.

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

854 7. The software and operating system used by the
855 association which allows manipulation of data, even if the owner
856 owns a copy of the same software used by the association. The
857 data is part of the official records of the association.

858 Section 10. Subsection (7) is added to section 719.1055,
859 Florida Statutes, to read:

860 719.1055 Amendment of cooperative documents; alteration
861 and acquisition of property.—

862 (7) The Legislature finds that the procurement of
863 mortgagee consent to amendments that do not affect the rights or
864 interests of mortgagees is an unreasonable and substantial
865 logistical and financial burden on the unit owners and that
866 there is a compelling state interest in enabling the members of
867 an association to approve amendments to the association's
868 cooperative documents through legal means. Accordingly, and

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869 notwithstanding any provision of this subsection to the
870 contrary:

871 (a) As to any mortgage recorded on or after July 1, 2013,
872 any provision in the association's cooperative documents that
873 requires the consent or joinder of some or all mortgagees of
874 units or any other portion of the association's common areas to
875 amend the association's cooperative documents or for any other
876 matter is enforceable only as to amendments to the association's
877 cooperative documents that adversely affect the priority of the
878 mortgagee's lien or the mortgagee's rights to foreclose its lien
879 or that otherwise materially affect the rights and interests of
880 the mortgagees.

881 (b) As to mortgages recorded before July 1, 2013, any
882 existing provisions in the association's cooperative documents
883 requiring mortgagee consent are enforceable.

884 (c) In securing consent or joinder, the association is
885 entitled to rely upon the public records to identify the holders
886 of outstanding mortgages. The association may use the address
887 provided in the original recorded mortgage document, unless
888 there is a different address for the holder of the mortgage in a
889 recorded assignment or modification of the mortgage, which
890 recorded assignment or modification must reference the official
891 records book and page on which the original mortgage was
892 recorded. Once the association has identified the recorded
893 mortgages of record, the association shall, in writing, request
894 of each unit owner whose unit is encumbered by a mortgage of
895 record any information that the owner has in his or her
896 possession regarding the name and address of the person to whom

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897 mortgage payments are currently being made. Notice shall be sent
898 to such person if the address provided in the original recorded
899 mortgage document is different from the name and address of the
900 mortgagee or assignee of the mortgage as shown by the public
901 record. The association is deemed to have complied with this
902 requirement by making the written request of the unit owners
903 required under this paragraph. Any notices required to be sent
904 to the mortgagees under this paragraph shall be sent to all
905 available addresses provided to the association.

906 (d) Any notice to the mortgagees required under paragraph
907 (c) may be sent by a method that establishes proof of delivery,
908 and any mortgagee who fails to respond within 60 days after the
909 date of mailing is deemed to have consented to the amendment.

910 (e) For those amendments requiring mortgagee consent on or
911 after July 1, 2013, in the event mortgagee consent is provided
912 other than by properly recorded joinder, such consent shall be
913 evidenced by affidavit of the association recorded in the public
914 records of the county in which the declaration is recorded.

915 (f) Any amendment adopted without the required consent of
916 a mortgagee is voidable only by a mortgagee who was entitled to
917 notice and an opportunity to consent. An action to void an
918 amendment is subject to the statute of limitations beginning 5
919 years after the date of discovery as to the amendments described
920 in paragraph (a) and 5 years after the date of recordation of
921 the certificate of amendment for all other amendments. This
922 paragraph applies to all mortgages, regardless of the date of
923 recordation of the mortgage.

924 Section 11. Paragraphs (c), (d), and (f) of subsection (1)

925 of section 719.106, Florida Statutes, are amended to read:
 926 719.106 Bylaws; cooperative ownership.—
 927 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 928 documents shall provide for the following, and if they do not,
 929 they shall be deemed to include the following:
 930 (c) Board of administration meetings.—Meetings of the
 931 board of administration at which a quorum of the members is
 932 present shall be open to all unit owners. Any unit owner may
 933 tape record or videotape meetings of the board of
 934 administration. The right to attend such meetings includes the
 935 right to speak at such meetings with reference to all designated
 936 agenda items. The division shall adopt reasonable rules
 937 governing the tape recording and videotaping of the meeting. The
 938 association may adopt reasonable written rules governing the
 939 frequency, duration, and manner of unit owner statements.
 940 Adequate notice of all meetings shall be posted in a conspicuous
 941 place upon the cooperative property at least 48 continuous hours
 942 preceding the meeting, except in an emergency. Any item not
 943 included on the notice may be taken up on an emergency basis by
 944 at least a majority plus one of the members of the board. Such
 945 emergency action shall be noticed and ratified at the next
 946 regular meeting of the board. However, written notice of any
 947 meeting at which nonemergency special assessments, or at which
 948 amendment to rules regarding unit use, will be considered shall
 949 be mailed, delivered, or electronically transmitted to the unit
 950 owners and posted conspicuously on the cooperative property not
 951 less than 14 days before ~~prior to~~ the meeting. Evidence of
 952 compliance with this 14-day notice shall be made by an affidavit

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953 | executed by the person providing the notice and filed among the
954 | official records of the association. Upon notice to the unit
955 | owners, the board shall by duly adopted rule designate a
956 | specific location on the cooperative property upon which all
957 | notices of board meetings shall be posted. In lieu of or in
958 | addition to the physical posting of notice of any meeting of the
959 | board of administration on the cooperative property, the
960 | association may, by reasonable rule, adopt a procedure for
961 | conspicuously posting and repeatedly broadcasting the notice and
962 | the agenda on a closed-circuit cable television system serving
963 | the cooperative association. However, if broadcast notice is
964 | used in lieu of a notice posted physically on the cooperative
965 | property, the notice and agenda must be broadcast at least four
966 | times every broadcast hour of each day that a posted notice is
967 | otherwise required under this section. When broadcast notice is
968 | provided, the notice and agenda must be broadcast in a manner
969 | and for a sufficient continuous length of time so as to allow an
970 | average reader to observe the notice and read and comprehend the
971 | entire content of the notice and the agenda. Notice of any
972 | meeting in which regular assessments against unit owners are to
973 | be considered for any reason shall specifically contain a
974 | statement that assessments will be considered and the nature of
975 | any such assessments. Meetings of a committee to take final
976 | action on behalf of the board or to make recommendations to the
977 | board regarding the association budget are subject to the
978 | provisions of this paragraph. Meetings of a committee that does
979 | not take final action on behalf of the board or make
980 | recommendations to the board regarding the association budget

981 are subject to the provisions of this section, unless those
 982 meetings are exempted from this section by the bylaws of the
 983 association. Notwithstanding any other law to the contrary, the
 984 requirement that board meetings and committee meetings be open
 985 to the unit owners does not apply ~~is inapplicable~~ to board or
 986 committee meetings held for the purpose of discussing personnel
 987 matters or meetings between the board or a committee and the
 988 association's attorney, with respect to proposed or pending
 989 litigation, if ~~when~~ the meeting is held for the purpose of
 990 seeking or rendering legal advice.

991 (d) Shareholder meetings.—There shall be an annual meeting
 992 of the shareholders. All members of the board of administration
 993 shall be elected at the annual meeting unless the bylaws provide
 994 for staggered election terms or for their election at another
 995 meeting. Any unit owner desiring to be a candidate for board
 996 membership must comply with subparagraph 1. The bylaws must
 997 provide the method for calling meetings, including annual
 998 meetings. Written notice, which must incorporate an
 999 identification of agenda items, shall be given to each unit
 1000 owner at least 14 days before the annual meeting and posted in a
 1001 conspicuous place on the cooperative property at least 14
 1002 continuous days preceding the annual meeting. Upon notice to the
 1003 unit owners, the board must by duly adopted rule designate a
 1004 specific location on the cooperative property upon which all
 1005 notice of unit owner meetings are posted. In lieu of or in
 1006 addition to the physical posting of the meeting notice, the
 1007 association may, by reasonable rule, adopt a procedure for
 1008 conspicuously posting and repeatedly broadcasting the notice and

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1009 the agenda on a closed-circuit cable television system serving
1010 the cooperative association. However, if broadcast notice is
1011 used in lieu of a posted notice, the notice and agenda must be
1012 broadcast at least four times every broadcast hour of each day
1013 that a posted notice is otherwise required under this section.
1014 If broadcast notice is provided, the notice and agenda must be
1015 broadcast in a manner and for a sufficient continuous length of
1016 time to allow an average reader to observe the notice and read
1017 and comprehend the entire content of the notice and the agenda.
1018 Unless a unit owner waives in writing the right to receive
1019 notice of the annual meeting, the notice of the annual meeting
1020 must be sent by mail, hand delivered, or electronically
1021 transmitted to each unit owner. An officer of the association
1022 must provide an affidavit or United States Postal Service
1023 certificate of mailing, to be included in the official records
1024 of the association, affirming that notices of the association
1025 meeting were mailed, hand delivered, or electronically
1026 transmitted, in accordance with this provision, to each unit
1027 owner at the address last furnished to the association.

1028 1. The board of administration shall be elected by written
1029 ballot or voting machine. A proxy may not be used in electing
1030 the board of administration in general elections or elections to
1031 fill vacancies caused by recall, resignation, or otherwise
1032 unless otherwise provided in this chapter. At least 60 days
1033 before a scheduled election, the association shall mail,
1034 deliver, or transmit, whether by separate association mailing,
1035 delivery, or electronic transmission or included in another
1036 association mailing, delivery, or electronic transmission,

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1037 including regularly published newsletters, to each unit owner
1038 entitled to vote, a first notice of the date of the election.
1039 Any unit owner or other eligible person desiring to be a
1040 candidate for the board of administration must give written
1041 notice to the association at least 40 days before a scheduled
1042 election. Together with the written notice and agenda as set
1043 forth in this section, the association shall mail, deliver, or
1044 electronically transmit a second notice of election to all unit
1045 owners entitled to vote, together with a ballot that ~~which~~ lists
1046 all candidates. Upon request of a candidate, the association
1047 shall include an information sheet, no larger than 8 1/2 inches
1048 by 11 inches, which must be furnished by the candidate at least
1049 35 days before the election, to be included with the mailing,
1050 delivery, or electronic transmission of the ballot, with the
1051 costs of mailing, delivery, or transmission and copying to be
1052 borne by the association. The association is not liable for the
1053 contents of the information sheets provided by the candidates.
1054 In order to reduce costs, the association may print or duplicate
1055 the information sheets on both sides of the paper. The division
1056 shall by rule establish voting procedures consistent with this
1057 subparagraph, including rules establishing procedures for giving
1058 notice by electronic transmission and rules providing for the
1059 secrecy of ballots. Elections shall be decided by a plurality of
1060 those ballots cast. There is no quorum requirement. However, at
1061 least 20 percent of the eligible voters must cast a ballot in
1062 order to have a valid election. A unit owner may not permit any
1063 other person to vote his or her ballot, and any such ballots
1064 improperly cast are invalid. A unit owner who needs assistance

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1065 | in casting the ballot for the reasons stated in s. 101.051 may
1066 | obtain assistance in casting the ballot. Any unit owner
1067 | violating this provision may be fined by the association in
1068 | accordance with s. 719.303. The regular election must occur on
1069 | the date of the annual meeting. This subparagraph does not apply
1070 | to timeshare cooperatives. Notwithstanding this subparagraph, an
1071 | election and balloting are not required unless more candidates
1072 | file a notice of intent to run or are nominated than vacancies
1073 | exist on the board. Any challenge to the election process must
1074 | be commenced within 60 days after the election results are
1075 | announced.

1076 | 2. Any approval by unit owners called for by this chapter,
1077 | or the applicable cooperative documents, must be made at a duly
1078 | noticed meeting of unit owners and is subject to this chapter or
1079 | the applicable cooperative documents relating to unit owner
1080 | decisionmaking, except that unit owners may take action by
1081 | written agreement, without meetings, on matters for which action
1082 | by written agreement without meetings is expressly allowed by
1083 | the applicable cooperative documents or law which provides for
1084 | the unit owner action.

1085 | 3. Unit owners may waive notice of specific meetings if
1086 | allowed by the applicable cooperative documents or law. If
1087 | authorized by the bylaws, notice of meetings of the board of
1088 | administration, shareholder meetings, except shareholder
1089 | meetings called to recall board members under paragraph (f), and
1090 | committee meetings may be given by electronic transmission to
1091 | unit owners who consent to receive notice by electronic
1092 | transmission.

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1093 4. Unit owners have the right to participate in meetings
1094 of unit owners with reference to all designated agenda items.
1095 However, the association may adopt reasonable rules governing
1096 the frequency, duration, and manner of unit owner participation.

1097 5. Any unit owner may tape record or videotape meetings of
1098 the unit owners subject to reasonable rules adopted by the
1099 division.

1100 6. Unless otherwise provided in the bylaws, a vacancy
1101 occurring on the board before the expiration of a term may be
1102 filled by the affirmative vote of the majority of the remaining
1103 directors, even if the remaining directors constitute less than
1104 a quorum, or by the sole remaining director. In the alternative,
1105 a board may hold an election to fill the vacancy, in which case
1106 the election procedures must conform to the requirements of
1107 subparagraph 1. unless the association has opted out of the
1108 statutory election process, in which case the bylaws of the
1109 association control. Unless otherwise provided in the bylaws, a
1110 board member appointed or elected under this subparagraph shall
1111 fill the vacancy for the unexpired term of the seat being
1112 filled. Filling vacancies created by recall is governed by
1113 paragraph (f) and rules adopted by the division.

1114 Notwithstanding subparagraphs (b)2. and (d)1., an association
1115 may, by the affirmative vote of a majority of the total voting
1116 interests, provide for a different voting and election procedure
1117 in its bylaws, which vote may be by a proxy specifically
1118 delineating the different voting and election procedures. The
1119 different voting and election procedures may provide for
1120 elections to be conducted by limited or general proxy.

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1121 (f) Recall of board members.—Subject to ~~the provisions of~~
1122 s. 719.301, any member of the board of administration may be
1123 recalled and removed from office with or without cause by the
1124 vote or agreement in writing by a majority of all the voting
1125 interests. A special meeting of the voting interests to recall
1126 any member of the board of administration may be called by 10
1127 percent of the unit owners giving notice of the meeting as
1128 required for a meeting of unit owners, and the notice shall
1129 state the purpose of the meeting. Electronic transmission may
1130 not be used as a method of giving notice of a meeting called in
1131 whole or in part for this purpose.

1132 1. If the recall is approved by a majority of all voting
1133 interests by a vote at a meeting, the recall shall be effective
1134 as provided in this paragraph herein. The board shall duly
1135 notice and hold a board meeting within 5 full business days
1136 after ~~of~~ the adjournment of the unit owner meeting to recall one
1137 or more board members. At the meeting, the board shall either
1138 certify the recall, in which case such member or members shall
1139 be recalled effective immediately and shall turn over to the
1140 board within 5 full business days any and all records and
1141 property of the association in their possession, or shall
1142 proceed as set forth in subparagraph 3.

1143 2. If the proposed recall is by an agreement in writing by
1144 a majority of all voting interests, the agreement in writing or
1145 a copy thereof shall be served on the association by certified
1146 mail or by personal service in the manner authorized by chapter
1147 48 and the Florida Rules of Civil Procedure. The board of
1148 administration shall duly notice and hold a meeting of the board

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1149 within 5 full business days after receipt of the agreement in
1150 writing. At the meeting, the board shall either certify the
1151 written agreement to recall members of the board, in which case
1152 such members shall be recalled effective immediately and shall
1153 turn over to the board, within 5 full business days, any and all
1154 records and property of the association in their possession, or
1155 proceed as described in subparagraph 3.

1156 3. If the board determines not to certify the written
1157 agreement to recall members of the board, or does not certify
1158 the recall by a vote at a meeting, the board shall, within 5
1159 full business days after the board meeting, file with the
1160 division a petition for binding arbitration pursuant to the
1161 procedures of s. 719.1255. For purposes of this paragraph, the
1162 unit owners who voted at the meeting or who executed the
1163 agreement in writing shall constitute one party under the
1164 petition for arbitration. If the arbitrator certifies the recall
1165 as to any member of the board, the recall shall be effective
1166 upon mailing of the final order of arbitration to the
1167 association. If the association fails to comply with the order
1168 of the arbitrator, the division may take action pursuant to s.
1169 719.501. Any member so recalled shall deliver to the board any
1170 and all records and property of the association in the member's
1171 possession within 5 full business days after ~~of~~ the effective
1172 date of the recall.

1173 4. If the board fails to duly notice and hold a board
1174 meeting within 5 full business days after ~~of~~ service of an
1175 agreement in writing or within 5 full business days after ~~of~~ the
1176 adjournment of the unit owner recall meeting, the recall shall

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1177 be deemed effective and the board members so recalled shall
 1178 immediately turn over to the board any and all records and
 1179 property of the association.

1180 5. If the board fails to duly notice and hold the required
 1181 meeting or fails to file the required petition, the unit owner
 1182 representative may file a petition pursuant to s. 719.1255
 1183 challenging the board's failure to act. The petition must be
 1184 filed within 60 days after the expiration of the applicable 5-
 1185 full-business-day period. The review of a petition under this
 1186 subparagraph is limited to the sufficiency of service on the
 1187 board and the facial validity of the written agreement or
 1188 ballots filed.

1189 ~~6.5.~~ If a vacancy occurs on the board as a result of a
 1190 recall and less than a majority of the board members are
 1191 removed, the vacancy may be filled by the affirmative vote of a
 1192 majority of the remaining directors, notwithstanding any
 1193 provision to the contrary contained in this chapter. If
 1194 vacancies occur on the board as a result of a recall and a
 1195 majority or more of the board members are removed, the vacancies
 1196 shall be filled in accordance with procedural rules to be
 1197 adopted by the division, which rules need not be consistent with
 1198 this chapter. The rules must provide procedures governing the
 1199 conduct of the recall election as well as the operation of the
 1200 association during the period after a recall but before ~~prior to~~
 1201 the recall election.

1202 7. A board member who has been recalled may file a
 1203 petition pursuant to s. 719.1255 challenging the validity of the
 1204 recall. The petition must be filed within 60 days after the

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1205 recall is deemed certified. The association and the unit owner
 1206 representative shall be named as the respondents.

1207 8. The division may not accept for filing a recall
 1208 petition, whether filed pursuant to subparagraph 1.,
 1209 subparagraph 2., subparagraph 5., or subparagraph 7. and
 1210 regardless of whether the recall was certified, when there are
 1211 60 or fewer days until the scheduled reelection of the board
 1212 member sought to be recalled or when 60 or fewer days have not
 1213 elapsed since the election of the board member sought to be
 1214 recalled.

1215 Section 12. Paragraph (a) of subsection (3) and subsection
 1216 (5) of section 719.303, Florida Statutes, are amended to read:

1217 719.303 Obligations of owners.—

1218 (3) The association may levy reasonable fines for failure
 1219 of the unit owner or the unit's occupant, licensee, or invitee
 1220 to comply with any provision of the cooperative documents or
 1221 reasonable rules of the association. A fine may not become a
 1222 lien against a unit. A fine may be levied on the basis of each
 1223 day of a continuing violation, with a single notice and
 1224 opportunity for hearing. However, the fine may not exceed \$100
 1225 per violation, or \$1,000 in the aggregate.

1226 (a) An association may suspend, for a reasonable period of
 1227 time, the right of a unit owner, or a unit owner's tenant,
 1228 guest, or invitee, to use the common elements, common
 1229 facilities, or any other association property for failure to
 1230 comply with any provision of the cooperative documents or
 1231 reasonable rules of the association. This paragraph does not
 1232 apply to limited common elements intended to be used only by

1233 that unit, common elements needed to access the unit, utility
 1234 services provided to the unit, parking spaces, or elevators.

1235 (5) An association may suspend the voting rights of a unit
 1236 or member due to nonpayment of any monetary obligation due to
 1237 the association which is more than 90 days delinquent. ~~A voting~~
 1238 ~~interest or consent right allocated to a unit or member which~~
 1239 ~~has been suspended by the association may not be counted towards~~
 1240 ~~the total number of voting interests for any purpose, including,~~
 1241 ~~but not limited to, the number of voting interests necessary to~~
 1242 ~~constitute a quorum, the number of voting interests required to~~
 1243 ~~conduct an election, or the number of voting interests required~~
 1244 ~~to approve an action under this chapter or pursuant to the~~
 1245 ~~cooperative documents, articles of incorporation, or bylaws.~~ The
 1246 suspension ends upon full payment of all obligations currently
 1247 due or overdue the association. The notice and hearing
 1248 requirements under subsection (3) do not apply to a suspension
 1249 imposed under this subsection.

1250 Section 13. Paragraph (c) of subsection (5) and subsection
 1251 (10) of section 720.303, Florida Statutes, are amended to read:

1252 720.303 Association powers and duties; meetings of board;
 1253 official records; budgets; financial reporting; association
 1254 funds; recalls.—

1255 (5) INSPECTION AND COPYING OF RECORDS.—The official
 1256 records shall be maintained within the state and must be open to
 1257 inspection and available for photocopying by members or their
 1258 authorized agents at reasonable times and places within 10
 1259 business days after receipt of a written request for access.
 1260 This subsection may be complied with by having a copy of the

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1261 official records available for inspection or copying in the
1262 community. If the association has a photocopy machine available
1263 where the records are maintained, it must provide parcel owners
1264 with copies on request during the inspection if the entire
1265 request is limited to no more than 25 pages.

1266 (c) The association may adopt reasonable written rules
1267 governing the frequency, time, location, notice, records to be
1268 inspected, and manner of inspections, but may not require a
1269 parcel owner to demonstrate any proper purpose for the
1270 inspection, state any reason for the inspection, or limit a
1271 parcel owner's right to inspect records to less than one 8-hour
1272 business day per month. The association may impose fees to cover
1273 the costs of providing copies of the official records,
1274 including, without limitation, the costs of copying. The
1275 association may charge up to 50 cents per page for copies made
1276 on the association's photocopier. If the association does not
1277 have a photocopy machine available where the records are kept,
1278 or if the records requested to be copied exceed 25 pages in
1279 length, the association may have copies made by an outside
1280 vendor or association management company personnel and may
1281 charge the actual cost of copying, including any reasonable
1282 costs involving personnel fees and charges at an hourly rate for
1283 vendor or employee time to cover administrative costs to the
1284 vendor or association. The association shall maintain an
1285 adequate number of copies of the recorded governing documents,
1286 to ensure their availability to members and prospective members.
1287 Notwithstanding this paragraph, the following records are not
1288 accessible to members or parcel owners:

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1289 1. Any record protected by the lawyer-client privilege as
1290 described in s. 90.502 and any record protected by the work-
1291 product privilege, including, but not limited to, a record
1292 prepared by an association attorney or prepared at the
1293 attorney's express direction which reflects a mental impression,
1294 conclusion, litigation strategy, or legal theory of the attorney
1295 or the association and which was prepared exclusively for civil
1296 or criminal litigation or for adversarial administrative
1297 proceedings or which was prepared in anticipation of such
1298 litigation or proceedings until the conclusion of the litigation
1299 or proceedings.

1300 2. Information obtained by an association in connection
1301 with the approval of the lease, sale, or other transfer of a
1302 parcel.

1303 3. Personnel records of association or management company
1304 ~~the association's~~ employees, including, but not limited to,
1305 disciplinary, payroll, health, and insurance records. For
1306 purposes of this subparagraph, the term "personnel records" does
1307 not include written employment agreements with an association or
1308 management company employee or budgetary or financial records
1309 that indicate the compensation paid to an association or
1310 management company employee.

1311 4. Medical records of parcel owners or community
1312 residents.

1313 5. Social security numbers, driver ~~driver's~~ license
1314 numbers, credit card numbers, electronic mailing addresses,
1315 telephone numbers, facsimile numbers, emergency contact
1316 information, any addresses for a parcel owner other than as

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1317 provided for association notice requirements, and other personal
1318 identifying information of any person, excluding the person's
1319 name, parcel designation, mailing address, and property address.
1320 However, an owner may consent in writing to the disclosure of
1321 protected information described in this subparagraph. The
1322 association is not liable for the disclosure of information that
1323 is protected under this subparagraph if the information is
1324 included in an official record of the association and is
1325 voluntarily provided by an owner and not requested by the
1326 association.

1327 6. Any electronic security measure that is used by the
1328 association to safeguard data, including passwords.

1329 7. The software and operating system used by the
1330 association which allows the manipulation of data, even if the
1331 owner owns a copy of the same software used by the association.
1332 The data is part of the official records of the association.

1333 (10) RECALL OF DIRECTORS.—

1334 (a)1. Regardless of any provision to the contrary
1335 contained in the governing documents, subject to the provisions
1336 of s. 720.307 regarding transition of association control, any
1337 member of the board of directors may be recalled and removed
1338 from office with or without cause by a majority of the total
1339 voting interests.

1340 2. When the governing documents, including the
1341 declaration, articles of incorporation, or bylaws, provide that
1342 only a specific class of members is entitled to elect a board
1343 director or directors, only that class of members may vote to
1344 recall those board directors so elected.

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1345 (b)1. Board directors may be recalled by an agreement in
1346 writing or by written ballot without a membership meeting. The
1347 agreement in writing or the written ballots, or a copy thereof,
1348 shall be served on the association by certified mail or by
1349 personal service in the manner authorized by chapter 48 and the
1350 Florida Rules of Civil Procedure.

1351 2. The board shall duly notice and hold a meeting of the
1352 board within 5 full business days after receipt of the agreement
1353 in writing or written ballots. At the meeting, the board shall
1354 either certify the written ballots or written agreement to
1355 recall a director or directors of the board, in which case such
1356 director or directors shall be recalled effective immediately
1357 and shall turn over to the board within 5 full business days any
1358 and all records and property of the association in their
1359 possession, or proceed as described in paragraph (d).

1360 3. When it is determined by the department pursuant to
1361 binding arbitration proceedings that an initial recall effort
1362 was defective, written recall agreements or written ballots used
1363 in the first recall effort and not found to be defective may be
1364 reused in one subsequent recall effort. However, in no event is
1365 a written agreement or written ballot valid for more than 120
1366 days after it has been signed by the member.

1367 4. Any rescission or revocation of a member's written
1368 recall ballot or agreement must be in writing and, in order to
1369 be effective, must be delivered to the association before the
1370 association is served with the written recall agreements or
1371 ballots.

1372 5. The agreement in writing or ballot shall list at least

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1373 as many possible replacement directors as there are directors
1374 subject to the recall, when at least a majority of the board is
1375 sought to be recalled; the person executing the recall
1376 instrument may vote for as many replacement candidates as there
1377 are directors subject to the recall.

1378 (c)1. If the declaration, articles of incorporation, or
1379 bylaws specifically provide, the members may also recall and
1380 remove a board director or directors by a vote taken at a
1381 meeting. If so provided in the governing documents, a special
1382 meeting of the members to recall a director or directors of the
1383 board of administration may be called by 10 percent of the
1384 voting interests giving notice of the meeting as required for a
1385 meeting of members, and the notice shall state the purpose of
1386 the meeting. Electronic transmission may not be used as a method
1387 of giving notice of a meeting called in whole or in part for
1388 this purpose.

1389 2. The board shall duly notice and hold a board meeting
1390 within 5 full business days after the adjournment of the member
1391 meeting to recall one or more directors. At the meeting, the
1392 board shall certify the recall, in which case such member or
1393 members shall be recalled effective immediately and shall turn
1394 over to the board within 5 full business days any and all
1395 records and property of the association in their possession, or
1396 shall proceed as set forth in subparagraph (d).

1397 (d) If the board determines not to certify the written
1398 agreement or written ballots to recall a director or directors
1399 of the board or does not certify the recall by a vote at a
1400 meeting, the board shall, within 5 full business days after the

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1401 meeting, file with the department a petition for binding
1402 arbitration pursuant to the applicable procedures in ss.
1403 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1404 the purposes of this section, the members who voted at the
1405 meeting or who executed the agreement in writing shall
1406 constitute one party under the petition for arbitration. If the
1407 arbitrator certifies the recall as to any director or directors
1408 of the board, the recall will be effective upon mailing of the
1409 final order of arbitration to the association. The director or
1410 directors so recalled shall deliver to the board any and all
1411 records of the association in their possession within 5 full
1412 business days after the effective date of the recall.

1413 (e) If a vacancy occurs on the board as a result of a
1414 recall and less than a majority of the board directors are
1415 removed, the vacancy may be filled by the affirmative vote of a
1416 majority of the remaining directors, notwithstanding any
1417 provision to the contrary contained in this subsection or in the
1418 association documents. If vacancies occur on the board as a
1419 result of a recall and a majority or more of the board directors
1420 are removed, the vacancies shall be filled by members voting in
1421 favor of the recall; if removal is at a meeting, any vacancies
1422 shall be filled by the members at the meeting. If the recall
1423 occurred by agreement in writing or by written ballot, members
1424 may vote for replacement directors in the same instrument in
1425 accordance with procedural rules adopted by the division, which
1426 rules need not be consistent with this subsection.

1427 (f) If the board fails to duly notice and hold a board
1428 meeting within 5 full business days after service of an

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1429 agreement in writing or within 5 full business days after the
1430 adjournment of the member recall meeting, the recall shall be
1431 deemed effective and the board directors so recalled shall
1432 immediately turn over to the board all records and property of
1433 the association.

1434 (g) If the board fails to duly notice and hold the
1435 required meeting or fails to file the required petition, the
1436 unit owner representative may file a petition pursuant to s.
1437 718.1255 challenging the board's failure to act. The petition
1438 must be filed within 60 days after the expiration of the
1439 applicable 5-full-business-day period. The review of a petition
1440 under this paragraph is limited to the sufficiency of service on
1441 the board and the facial validity of the written agreement or
1442 ballots filed.

1443 (h)~~(g)~~ If a director who is removed fails to relinquish
1444 his or her office or turn over records as required under this
1445 section, the circuit court in the county where the association
1446 maintains its principal office may, upon the petition of the
1447 association, summarily order the director to relinquish his or
1448 her office and turn over all association records upon
1449 application of the association.

1450 (i)~~(h)~~ The minutes of the board meeting at which the board
1451 decides whether to certify the recall are an official
1452 association record. The minutes must record the date and time of
1453 the meeting, the decision of the board, and the vote count taken
1454 on each board member subject to the recall. In addition, when
1455 the board decides not to certify the recall, as to each vote
1456 rejected, the minutes must identify the parcel number and the

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1457 specific reason for each such rejection.

1458 (j)~~(i)~~ When the recall of more than one board director is
1459 sought, the written agreement, ballot, or vote at a meeting
1460 shall provide for a separate vote for each board director sought
1461 to be recalled.

1462 (k) A board member who has been recalled may file a
1463 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1464 rules adopted challenging the validity of the recall. The
1465 petition must be filed within 60 days after the recall is deemed
1466 certified. The association and the unit owner representative
1467 shall be named as respondents.

1468 (l) The division may not accept for filing a recall
1469 petition, whether filed pursuant to paragraph (b), paragraph
1470 (c), paragraph (g), or paragraph (k) and regardless of whether
1471 the recall was certified, when there are 60 or fewer days until
1472 the scheduled reelection of the board member sought to be
1473 recalled or when 60 or fewer days have not elapsed since the
1474 election of the board member sought to be recalled.

1475 Section 14. Subsections (2) and (4) of section 720.305,
1476 Florida Statutes, are amended to read:

1477 720.305 Obligations of members; remedies at law or in
1478 equity; levy of fines and suspension of use rights.—

1479 (2) The association may levy reasonable fines of up to
1480 \$100 per violation against any member or any member's tenant,
1481 guest, or invitee for the failure of the owner of the parcel or
1482 its occupant, licensee, or invitee to comply with any provision
1483 of the declaration, the association bylaws, or reasonable rules
1484 of the association. A fine may be levied for each day of a

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1485 continuing violation, with a single notice and opportunity for
1486 hearing, except that the fine may not exceed \$1,000 in the
1487 aggregate unless otherwise provided in the governing documents.
1488 A fine of less than \$1,000 may not become a lien against a
1489 parcel. In any action to recover a fine, the prevailing party is
1490 entitled to reasonable attorney ~~attorney's~~ fees and costs from
1491 the nonprevailing party as determined by the court.

1492 (a) An association may suspend, for a reasonable period of
1493 time, the right of a member, or a member's tenant, guest, or
1494 invitee, to use common areas and facilities for the failure of
1495 the owner of the parcel or its occupant, licensee, or invitee to
1496 comply with any provision of the declaration, the association
1497 bylaws, or reasonable rules of the association. This paragraph
1498 does not apply to that portion of common areas used to provide
1499 access or utility services to the parcel. A suspension may not
1500 impair the right of an owner or tenant of a parcel to have
1501 vehicular and pedestrian ingress to and egress from the parcel,
1502 including, but not limited to, the right to park.

1503 (b) A fine or suspension may not be imposed without at
1504 least 14 days' notice to the person sought to be fined or
1505 suspended and an opportunity for a hearing before a committee of
1506 at least three members appointed by the board who are not
1507 officers, directors, or employees of the association, or the
1508 spouse, parent, child, brother, or sister of an officer,
1509 director, or employee. If the committee, by majority vote, does
1510 not approve a proposed fine or suspension, it may not be
1511 imposed. If the association imposes a fine or suspension, the
1512 association must provide written notice of such fine or

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1513 suspension by mail or hand delivery to the parcel owner and, if
 1514 applicable, to any tenant, licensee, or invitee of the parcel
 1515 owner.

1516 (4) An association may suspend the voting rights of a
 1517 parcel or member for the nonpayment of any monetary obligation
 1518 due ~~to~~ the association that is more than 90 days delinquent. ~~A~~
 1519 ~~voting interest or consent right allocated to a parcel or member~~
 1520 ~~which has been suspended by the association may not be counted~~
 1521 ~~towards the total number of voting interests for any purpose,~~
 1522 ~~including, but not limited to, the number of voting interests~~
 1523 ~~necessary to constitute a quorum, the number of voting interests~~
 1524 ~~required to conduct an election, or the number of voting~~
 1525 ~~interests required to approve an action under this chapter or~~
 1526 ~~pursuant to the governing documents.~~ The notice and hearing
 1527 requirements under subsection (2) do not apply to a suspension
 1528 imposed under this subsection. The suspension ends upon full
 1529 payment of all obligations currently due or overdue to the
 1530 association.

1531 Section 15. Paragraph (d) is added to subsection (1) of
 1532 section 720.306, Florida Statutes, and subsections (6) and (9)
 1533 of that section are amended, to read:

1534 720.306 Meetings of members; voting and election
 1535 procedures; amendments.—

1536 (1) QUORUM; AMENDMENTS.—

1537 (d) The Legislature finds that the procurement of
 1538 mortgagee consent to amendments that do not affect the rights or
 1539 interests of mortgagees is an unreasonable and substantial
 1540 logistical and financial burden on the parcel owners and that

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1541 there is a compelling state interest in enabling the members of
1542 an association to approve amendments to the association's
1543 governing documents through legal means. Accordingly, and
1544 notwithstanding any provision of this paragraph to the contrary:

1545 1. As to any mortgage recorded on or after July 1, 2013,
1546 any provision in the association's governing documents that
1547 requires the consent or joinder of some or all mortgagees of
1548 parcels or any other portion of the association's common areas
1549 to amend the association's governing documents or for any other
1550 matter is enforceable only as to amendments to the association's
1551 governing documents that adversely affect the priority of the
1552 mortgagee's lien or the mortgagee's rights to foreclose its lien
1553 or that otherwise materially affect the rights and interests of
1554 the mortgagees.

1555 2. As to mortgages recorded before July 1, 2013, any
1556 existing provisions in the association's governing documents
1557 requiring mortgagee consent are enforceable.

1558 3. In securing consent or joinder, the association is
1559 entitled to rely upon the public records to identify the holders
1560 of outstanding mortgages. The association may use the address
1561 provided in the original recorded mortgage document, unless
1562 there is a different address for the holder of the mortgage in a
1563 recorded assignment or modification of the mortgage, which
1564 recorded assignment or modification must reference the official
1565 records book and page on which the original mortgage was
1566 recorded. Once the association has identified the recorded
1567 mortgages of record, the association shall, in writing, request
1568 of each parcel owner whose parcel is encumbered by a mortgage of

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1569 record any information that the owner has in his or her
1570 possession regarding the name and address of the person to whom
1571 mortgage payments are currently being made. Notice shall be sent
1572 to such person if the address provided in the original recorded
1573 mortgage document is different from the name and address of the
1574 mortgagee or assignee of the mortgage as shown by the public
1575 record. The association is deemed to have complied with this
1576 requirement by making the written request of the parcel owners
1577 required under this subparagraph. Any notices required to be
1578 sent to the mortgagees under this subparagraph shall be sent to
1579 all available addresses provided to the association.

1580 4. Any notice to the mortgagees required under
1581 subparagraph 3. may be sent by a method that establishes proof
1582 of delivery, and any mortgagee who fails to respond within 60
1583 days after the date of mailing is deemed to have consented to
1584 the amendment.

1585 5. For those amendments requiring mortgagee consent on or
1586 after July 1, 2013, in the event mortgagee consent is provided
1587 other than by properly recorded joinder, such consent shall be
1588 evidenced by affidavit of the association recorded in the public
1589 records of the county in which the declaration is recorded.

1590 6. Any amendment adopted without the required consent of a
1591 mortgagee is voidable only by a mortgagee who was entitled to
1592 notice and an opportunity to consent. An action to void an
1593 amendment is subject to the statute of limitations beginning 5
1594 years after the date of discovery as to the amendments described
1595 in subparagraph 1. and 5 years after the date of recordation of
1596 the certificate of amendment for all other amendments. This

1597 | subparagraph applies to all mortgages, regardless of the date of
 1598 | recordation of the mortgage.

1599 | (6) RIGHT TO SPEAK.—Members and parcel owners have the
 1600 | right to attend all membership meetings and to speak at any
 1601 | meeting with reference to all items opened for discussion or
 1602 | included on the agenda. Notwithstanding any provision to the
 1603 | contrary in the governing documents or any rules adopted by the
 1604 | board or by the membership, a member and a parcel owner have the
 1605 | right to speak for at least 3 minutes on any item, ~~provided that~~
 1606 | ~~the member or parcel owner submits a written request to speak~~
 1607 | ~~prior to the meeting.~~ The association may adopt written
 1608 | reasonable rules governing the frequency, duration, and other
 1609 | manner of member and parcel owner statements, which rules must
 1610 | be consistent with this subsection.

1611 | (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1612 | (a) Elections of directors must be conducted in accordance
 1613 | with the procedures set forth in the governing documents of the
 1614 | association. All members of the association are eligible to
 1615 | serve on the board of directors, and a member may nominate
 1616 | himself or herself as a candidate for the board at a meeting
 1617 | where the election is to be held or, if the election process
 1618 | allows voting by absentee ballot, in advance of the balloting.
 1619 | Except as otherwise provided in the governing documents, boards
 1620 | of directors must be elected by a plurality of the votes cast by
 1621 | eligible voters. Any challenge to the election process must be
 1622 | commenced within 60 days after the election results are
 1623 | announced.

1624 | (b) A person who is delinquent in the payment of any fee,

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1625 fine, or other monetary obligation to the association for more
1626 than 90 days is not eligible for board membership. A person who
1627 has been convicted of any felony in this state or in a United
1628 States District or Territorial Court, or has been convicted of
1629 any offense in another jurisdiction which would be considered a
1630 felony if committed in this state, is not eligible for board
1631 membership unless such felon's civil rights have been restored
1632 for at least 5 years as of the date on which such person seeks
1633 election to the board. The validity of any action by the board
1634 is not affected if it is later determined that a member of the
1635 board is ineligible for board membership.

1636 (c) Any election dispute between a member and an
1637 association must be submitted to mandatory binding arbitration
1638 with the division. Such proceedings must be conducted in the
1639 manner provided by s. 718.1255 and the procedural rules adopted
1640 by the division. Unless otherwise provided in the bylaws, any
1641 vacancy occurring on the board before the expiration of a term
1642 may be filled by an affirmative vote of the majority of the
1643 remaining directors, even if the remaining directors constitute
1644 less than a quorum, or by the sole remaining director. In the
1645 alternative, a board may hold an election to fill the vacancy,
1646 in which case the election procedures must conform to the
1647 requirements of the governing documents. Unless otherwise
1648 provided in the bylaws, a board member appointed or elected
1649 under this section is appointed for the unexpired term of the
1650 seat being filled. Filling vacancies created by recall is
1651 governed by s. 720.303(10) and rules adopted by the division.

1652 Section 16. This act shall take effect July 1, 2013.