

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 20.165, F.S.; providing powers for employees of the
4 Division of Florida Condominiums, Timeshares, and Mobile
5 Homes; requiring each employee serving as a law
6 enforcement officer for the division to meet the
7 qualifications of a law enforcement officer set forth in
8 ch. 943, F.S., for employment or appointment; requiring
9 each such employee to be certified as a law enforcement
10 officer by the Department of Law Enforcement; providing
11 the law enforcement officer with certain powers,
12 authority, jurisdiction, and responsibilities; amending s.
13 468.436, F.S.; revising a ground for disciplinary action
14 relating to misconduct or negligence; requiring the
15 Department of Business and Professional Regulation to
16 enter an order permanently revoking certain community
17 association manager or firm licenses; creating s. 627.714,
18 F.S.; requiring coverage under a condominium unit owner's
19 policy or a cooperative shareholder's policy to include a
20 minimum amount of loss assessment coverage; providing
21 coverage requirements; amending s. 689.28, F.S.; revising
22 the definition of the term "transfer fee"; amending s.
23 718.111, F.S.; requiring coverage for certain personal
24 property to be the responsibility of the condominium unit
25 owner; revising board meeting notice requirements;
26 requiring insurance policies issued or renewed on or after
27 a specified date to conform to specified loss assessment
28 coverage requirements; revising and deleting provisions

29 relating to hazard or casualty insurance coverage
30 requirements, to conform; deleting a provision requiring
31 the condominium association to be an additional named
32 insured and loss payee on all casualty insurance policies
33 issued to unit owners in the condominium operated by the
34 association; amending s. 718.112, F.S.; revising notice
35 requirements for board of administration meetings;
36 revising terms of board members; revising requirements for
37 the reappointment of certain board members; revising
38 election notice requirements; providing requirements for
39 the amendment of association bylaws; providing for the
40 removal of certain directors and officers; providing
41 qualifications for service on the board of directors;
42 amending s. 718.113, F.S.; authorizing the association to
43 install code-compliant impact glass as hurricane
44 protection in certain areas; amending s. 718.116, F.S.;
45 revising provisions limiting the liability of a first
46 mortgagee and its successors and assignees acquiring title
47 to a unit by foreclosure or by deed in lieu of foreclosure
48 for certain unpaid assessments; deleting an exemption from
49 liability for certain persons acquiring title to a
50 condominium as a result of the foreclosure of the mortgage
51 or by deed in lieu of the foreclosure of the mortgage;
52 providing procedures for a mortgagee filing a foreclosure
53 case on a mortgage secured by a condominium unit;
54 requiring mortgagees filing for foreclosure to make
55 certain payments to the association; authorizing an
56 association to demand future regular assessments related

57 | to the condominium unit under specified conditions;
58 | amending s. 718.1265, F.S.; providing conditions under
59 | which the association may use certain emergency powers;
60 | amending s. 718.3025, F.S.; requiring certain associations
61 | to enter into a management agreement with a licensed
62 | person or firm; amending s. 718.501, F.S.; revising
63 | condominium matters under which the division has
64 | jurisdiction; revising and providing powers of the
65 | division; requiring the division to create a specified
66 | booklet for association directors; amending s. 718.5012,
67 | F.S.; authorizing the Office of the Condominium Ombudsman
68 | to assist in the resolution of certain disputes; amending
69 | s. 718.50151, F.S.; redesignating the Community
70 | Association Living Study Council as the Community
71 | Association Study Council; revising council membership;
72 | amending s. 719.103, F.S.; revising definitions; changing
73 | references from unit owner to shareholder in statutes
74 | relating to cooperatives; amending s. 719.104, F.S.;
75 | providing civil penalties for violations of accounting
76 | records requirements; exempting certain personal
77 | information from unit owner records requests; providing
78 | immunity from liability for certain information provided
79 | by associations to prospective purchasers or lienholders
80 | under certain circumstances; providing legislative intent;
81 | requiring that property insurance be based upon the
82 | replacement cost of the property to be insured as
83 | determined by an independent insurance appraisal or update
84 | of a prior appraisal; requiring that the full insurable

85 value be determined at specified intervals; providing
86 means by which an association may provide adequate
87 property insurance coverage; authorizing an association to
88 consider certain information when determining coverage
89 amounts; providing for coverage by developer-controlled
90 associations; providing that policies may include
91 deductibles as determined by the association's board of
92 directors; providing requirements and guidelines for the
93 establishment of such deductibles; requiring that the
94 amounts of deductibles be set at a meeting of the board;
95 providing requirements for such meeting; requiring that an
96 association controlled by shareholders operating as a
97 residential cooperative use its best efforts to obtain and
98 maintain adequate insurance to protect the association and
99 property under its supervision or control; authorizing an
100 association to obtain and maintain liability insurance for
101 directors and officers, insurance for the benefit of
102 association employees, and flood insurance for common
103 elements, association property, and units; requiring that
104 every property insurance policy issued or renewed on or
105 after a specified date for the purpose of protecting the
106 cooperative provide certain coverage; requiring that such
107 policies contain certain provisions; providing
108 responsibilities of the shareholder and association with
109 regard to reconstruction work and associated costs after a
110 casualty loss; requiring the association to maintain
111 certain insurance or fidelity bonding for persons who
112 control or disburse funds of the association; providing

113 requirements with respect to financial statements and
114 reports; providing that the operation of the cooperative
115 shall be by the association; providing that shareholders
116 shall be members of the association; providing legislative
117 intent; providing that a director of the association who
118 abstains from voting on any action taken on any corporate
119 matter shall be presumed to have taken no position with
120 regard to the action; providing duties of officers,
121 directors, and agents of a cooperative association and
122 liability for monetary damages under certain
123 circumstances; providing that the association may
124 contract, sue, or be sued with respect to the exercise or
125 nonexercise of its powers; providing powers of the
126 association with respect to title to property and purchase
127 of units; amending s. 719.106, F.S.; requiring certain
128 items to be placed on the agenda of board meetings;
129 providing requirements for shareholder meetings; providing
130 terms of office and election requirements for the board of
131 directors; providing criteria for the amendment of the
132 bylaws; providing eligibility to vote on certain questions
133 involving reserve funds; requiring proxy questions
134 relating to reserves to contain a specified statement;
135 requiring the bylaws to contain certain provisions;
136 requiring that directors and officers who are delinquent
137 in certain payments owed in excess of certain periods of
138 time be deemed to have abandoned their offices; requiring
139 that directors and officers charged with certain offenses
140 involving an association's funds or property be suspended

141 from office pending resolution of the charge; providing
142 for the reinstatement of such directors and officers under
143 certain circumstances; providing qualifications for
144 directors; repealing s. 719.1064, F.S., relating to the
145 failure to fill vacancies on board of administration and
146 the appointment of a receiver upon petition of a
147 shareholder; amending s. 719.107, F.S.; providing the
148 expense of installation, replacement, operation, repair,
149 and maintenance of hurricane shutters or other hurricane
150 protection shall constitute either a common expense or
151 shall be charged individually to the shareholders under
152 certain conditions; amending s. 719.108, F.S.; limiting
153 the liability of a first mortgagee and its successor and
154 assignees acquiring title to a unit by foreclosure or by
155 deed in lieu of foreclosure for certain unpaid
156 assessments; requiring mortgagees filing for foreclosure
157 to make certain payments to the association; providing a
158 statement of clarification and applicability; providing a
159 definition; providing grounds for disapproval of the
160 proposed lease of a unit by an association; providing lien
161 requirements; providing for the extension of certain
162 liens; providing lien notice and filing requirements;
163 providing foreclosure requirements; providing the
164 association with the power to purchase a cooperative unit
165 at a foreclosure sale; requiring the association to
166 provide a certificate of assessment under certain
167 conditions; providing for the establishment of fees for
168 the preparation of such certificates; providing for the

HB 1397

2009

169 refund of certain fees; authorizing the association to
170 demand payment of future assessments under certain
171 circumstances; creating s. 719.113, F.S.; providing that
172 maintenance of common areas is the responsibility of the
173 association; providing that the cooperative documents may
174 include reference that the association provide certain
175 maintenance for the condominium; providing that there
176 shall be no material alteration or substantial additions
177 to the common areas or to real property which is
178 association property; providing for protection of the
179 common areas; allowing shareholders to display a United
180 States flag as well as other specified flags on designated
181 days and patriotic holidays; requiring the board to adopt
182 hurricane shutter specifications; authorizing the board to
183 install certain hurricane protection; prohibiting the
184 board from installing certain hurricane shutters or other
185 hurricane protection under certain circumstances;
186 providing for the maintenance, repair, and replacement of
187 hurricane shutters or other hurricane protection;
188 authorizing the board to operate hurricane shutters
189 without shareholder permission under certain
190 circumstances; prohibiting the board from refusing to
191 approve the installation or replacement of hurricane
192 shutters under certain conditions; requiring that the
193 board inspect certain buildings and issue a report under
194 certain conditions; providing an exception; prohibiting
195 the board from refusing a request for reasonable
196 accommodation for the attachment to a unit of religious

197 | objects meeting certain size specifications; authorizing
198 | the board to install solar collectors, clotheslines, or
199 | other energy-efficient devices upon or within common areas
200 | or association property; creating s. 719.117, F.S.;
201 | providing legislative findings; providing provisions
202 | relating to the termination of the cooperative form of
203 | ownership of a property due to economic waste or
204 | impossibility or optional termination; providing grounds
205 | for termination; providing an exemption; providing that
206 | the approval of a plan of termination by certain mortgage
207 | lienholders is not required under certain conditions;
208 | providing powers and duties of the board relating to the
209 | plan of termination; providing requirements following
210 | natural disasters; providing reporting requirements;
211 | providing requirements for a plan of termination;
212 | providing for the allocation of proceeds from the sale of
213 | cooperative property; providing powers and duties of a
214 | termination trustee; providing notice requirements;
215 | providing a procedure for contesting a plan of
216 | termination; providing for recovery of attorney's fees and
217 | costs; providing rules for the distribution of property
218 | and sale proceeds; providing for the association's status
219 | following termination; allowing the creation of another
220 | cooperative by the trustee; creating s. 719.1224, F.S.;
221 | prohibiting strategic lawsuits against public
222 | participation; providing legislative findings and intent;
223 | prohibiting a governmental entity, business organization,
224 | or individual from filing certain lawsuits made upon

225 specified bases against a shareholder; providing rights of
226 a shareholder who has been served with such a lawsuit;
227 providing procedures for the resolution of certain claims;
228 providing for the award of damages and attorney's fees;
229 prohibiting associations from expending association funds
230 in prosecuting such a suit against a shareholder; amending
231 s. 719.1255, F.S.; requiring the division to provide
232 alternative dispute resolution for certain matters;
233 creating s. 719.1265, F.S.; authorizing an association to
234 exercise certain powers in instances involving damage
235 caused by an event for which a state of emergency has been
236 declared; limiting the applicability of such powers;
237 amending s. 719.301, F.S.; providing circumstances under
238 which shareholders other than a developer may elect not
239 less than a majority of the members of the board;
240 requiring a turnover inspection report; requiring that the
241 report contain certain information; creating s. 719.3025,
242 F.S.; requiring written contracts for the operation,
243 maintenance, or management of a cooperative association or
244 cooperative property; providing contract requirements;
245 authorizing the association to procure outside services
246 under certain circumstances; providing that services or
247 obligations not stated on the face of the contract shall
248 be unenforceable; providing applicability; amending s.
249 719.3026, F.S.; revising a provision authorizing certain
250 associations to opt out of provisions relating to
251 contracts for products and services; removing provisions
252 exempting contracts executed before a specified date from

253 certain competitive bid requirements; providing
254 requirements for any contract or transaction between an
255 association and one or more of its directors or a
256 specified other entity in which one or more of its
257 directors are directors or officers or have a financial
258 interest; amending s. 719.303, F.S.; providing that
259 hearings regarding noncompliance with a declaration be
260 held before certain persons; amending s. 719.501, F.S.;
261 providing authority and responsibilities of the division;
262 providing for enforcement actions brought by the division
263 in its own name; providing for the imposition of penalties
264 by the division; requiring that the division issue a
265 subpoena requiring production of certain requested records
266 under certain circumstances; providing for the issuance of
267 notice of a declaratory statement with respect to
268 documents governing a cooperative; deleting requirement
269 that the division adopt certain accounting principles;
270 requiring that the division provide training and
271 educational programs for association board members and
272 shareholders; authorizing the division to include certain
273 training components, review or approve training and
274 educational programs offered by providers, and maintain a
275 list of approved programs and providers; requiring the
276 division to develop a program to certify both volunteer
277 and paid mediators; providing responsibilities of the
278 division with regard to such mediators; requiring that
279 certain individuals cooperate with the division in any
280 investigation conducted by the division; requiring the

HB 1397

2009

281 division to cooperate with similar agencies in other
282 jurisdictions to establish certain procedures, standards,
283 and forms; specifying what constitutes completeness of
284 notice to developer; authorizing the division to issue a
285 notice to show cause; requiring an association to pay any
286 penalty due to the division before having standing to
287 maintain or defend any action in the courts of this state;
288 creating s. 719.5011, F.S.; requiring the Office of the
289 Condominium Ombudsman to assist cooperative associations
290 and cooperative shareholders; amending s. 719.503, F.S.;
291 providing shareholder disclosure requirements for the sale
292 of interest in a cooperative association; amending s.
293 720.3085, F.S.; revising provisions relating to the
294 effectiveness and priority of homeowners' association
295 liens; revising provisions limiting the liability of a
296 first mortgagee and its successors and assignees acquiring
297 title to a unit by foreclosure or by deed in lieu of
298 foreclosure for certain unpaid assessments; requiring
299 mortgagees filing for foreclosure to make certain payments
300 to the association; amending s. 721.16, F.S.; conforming a
301 cross-reference; requiring a study by the Office of
302 Program Policy Analysis and Government Accountability for
303 specified purposes; requiring a report to the Legislature
304 by a specified date; providing an effective date.

305
306 Be It Enacted by the Legislature of the State of Florida:
307

308 Section 1. Subsection (10) is added to section 20.165,
 309 Florida Statutes, to read:

310 20.165 Department of Business and Professional
 311 Regulation.--There is created a Department of Business and
 312 Professional Regulation.

313 (10) (a) All employees authorized by the Division of
 314 Florida Condominiums, Timeshares, and Mobile Homes shall have
 315 access to and shall have the right to examine and inspect the
 316 premises, books, and records of any condominium, cooperative,
 317 timeshare, or mobile home park regulated by the division. Such
 318 employees shall also have access to and shall have the right to
 319 examine and inspect the books and records of any community
 320 association manager or firm employed by any condominium,
 321 cooperative, timeshare, or mobile home park regulated by the
 322 division. The authorized employees shall require of each
 323 licensee strict compliance with the laws of this state relating
 324 to the transaction of such business or operation.

325 (b) Each employee serving as a law enforcement officer for
 326 the division must meet the qualifications for employment or
 327 appointment as a law enforcement officer set forth under s.
 328 943.13 and must be certified as a law enforcement officer by the
 329 Department of Law Enforcement under chapter 943. Upon
 330 certification, each law enforcement officer is subject to and
 331 has the same authority as provided for law enforcement officers
 332 generally in chapter 901 and has statewide jurisdiction. Each
 333 officer also has arrest authority as provided for state law
 334 enforcement officers in s. 901.15. Each officer possesses the
 335 full law enforcement powers granted to other peace officers of

HB 1397

2009

336 this state, including the authority to make arrests, carry
337 firearms, serve court process, and seize contraband and the
338 proceeds of illegal activities.

339 (c) The primary responsibility of each officer appointed
340 under this subsection is to investigate, enforce, and prosecute,
341 throughout the state, violations and violators of part VIII of
342 chapter 468, chapters 718, 719, 721, and 723, and the rules
343 adopted thereunder, as well as other state laws that the
344 division or all state law enforcement officers are specifically
345 authorized to enforce. The secondary responsibility of each
346 officer appointed under this subsection is to enforce all other
347 state laws, provided that the enforcement is incidental to
348 exercising the officer's primary responsibility, and the officer
349 exercises the powers of a deputy sheriff, only after
350 consultation or coordination with the appropriate local
351 sheriff's office or municipal police department or when the
352 division participates in the Florida Mutual Aid Plan during a
353 declared state emergency.

354 Section 2. Paragraph (b) of subsection (2) of section
355 468.436, Florida Statutes, is amended, and subsection (6) is
356 added to that section, to read:

357 468.436 Disciplinary proceedings.--

358 (2) The following acts constitute grounds for which the
359 disciplinary actions in subsection (4) may be taken:

360 (b)1. Violation of any provision of this part.

361 2. Violation of any lawful order or rule rendered or
362 adopted by the department or the council.

363 3. Being convicted of or pleading nolo contendere to a
 364 felony in any court in the United States.

365 4. Obtaining a license or certification or any other
 366 order, ruling, or authorization by means of fraud,
 367 misrepresentation, or concealment of material facts.

368 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence
 369 in connection with the profession.

370 6. Contracting, on behalf of an association, with any
 371 entity in which the licensee has a financial interest that is
 372 not disclosed.

373 (6) Upon the fifth or later finding that a community
 374 association manager or firm is guilty of any of the grounds set
 375 forth in subsection (2), the department's discretion under
 376 subsection (4) shall not apply and the division shall enter an
 377 order permanently revoking the license.

378 Section 3. Section 627.714, Florida Statutes, is created
 379 to read:

380 627.714 Condominium unit owners' and cooperative
 381 shareholders' coverage; loss assessment coverage required.--For
 382 policies issued or renewed on or after July 1, 2009, coverage
 383 under a condominium unit owner's policy or a cooperative
 384 shareholder's policy shall include loss assessment coverage of
 385 at least \$2,000. Such loss assessment coverage shall cover the
 386 unit owner's or shareholder's share of an assessment against all
 387 condominium unit owners or cooperative shareholders by the
 388 association, up to the limit of liability in effect at the time
 389 of the loss which results in the assessment. At a minimum, the

390 loss assessment coverage must cover assessments for a loss to
 391 property for a peril insured by the association.

392 Section 4. Paragraph (c) of subsection (2) of section
 393 689.28, Florida Statutes, is amended to read:

394 689.28 Prohibition against transfer fee covenants.--

395 (2) DEFINITIONS.--As used in this section, the term:

396 (c) "Transfer fee" means a fee or charge required by a
 397 transfer fee covenant and payable upon the transfer of an
 398 interest in real property, or payable for the right to make or
 399 accept such transfer, regardless of whether the fee or charge is
 400 a fixed amount or is determined as a percentage of the value of
 401 the property, the purchase price, or other consideration given
 402 for the transfer. The following are not transfer fees for
 403 purposes of this section:

404 1. Any consideration payable by the grantee to the grantor
 405 for the interest in real property being transferred, including
 406 any subsequent additional consideration for the property payable
 407 by the grantee based upon any subsequent appreciation,
 408 development, or sale of the property. For the purposes of this
 409 subparagraph, an interest in real property may include a
 410 separate mineral estate and its appurtenant surface access
 411 rights.

412 2. Any commission payable to a licensed real estate broker
 413 for the transfer of real property pursuant to an agreement
 414 between the broker and the grantor or the grantee, including any
 415 subsequent additional commission for that transfer payable by
 416 the grantor or the grantee based upon any subsequent
 417 appreciation, development, or sale of the property.

418 3. Any interest, charges, fees, or other amounts payable
 419 by a borrower to a lender pursuant to a loan secured by a
 420 mortgage against real property, including, but not limited to,
 421 any fee payable to the lender for consenting to an assumption of
 422 the loan or a transfer of the real property subject to the
 423 mortgage, any fees or charges payable to the lender for estoppel
 424 letters or certificates, and any shared appreciation interest or
 425 profit participation or other consideration described in s.
 426 687.03(4) and payable to the lender in connection with the loan.

427 4. Any rent, reimbursement, charge, fee, or other amount
 428 payable by a lessee to a lessor under a lease, including, but
 429 not limited to, any fee payable to the lessor for consenting to
 430 an assignment, subletting, encumbrance, or transfer of the
 431 lease.

432 5. Any consideration payable to the holder of an option to
 433 purchase an interest in real property or the holder of a right
 434 of first refusal or first offer to purchase an interest in real
 435 property for waiving, releasing, or not exercising the option or
 436 right upon the transfer of the property to another person.

437 6. Any tax, fee, charge, assessment, fine, or other amount
 438 payable to or imposed by a governmental authority.

439 ~~7. Any fee, charge, assessment, fine, or other amount~~
 440 ~~payable to a homeowners', condominium, cooperative, mobile home,~~
 441 ~~or property owners' association pursuant to a declaration or~~
 442 ~~covenant or law applicable to such association, including, but~~
 443 ~~not limited to, fees or charges payable for estoppel letters or~~
 444 ~~certificates issued by the association or its authorized agent.~~

445 ~~8. Any fee, charge, assessment, dues, contribution, or~~
 446 ~~other amount imposed by a declaration or covenant encumbering~~
 447 ~~four or more parcels in a community, as defined in s. 720.301,~~
 448 ~~and payable to a nonprofit or charitable organization for the~~
 449 ~~purpose of supporting cultural, educational, charitable,~~
 450 ~~recreational, environmental, conservation, or other similar~~
 451 ~~activities benefiting the community that is subject to the~~
 452 ~~declaration or covenant.~~

453 7.9. Any fee, charge, assessment, dues, contribution, or
 454 other amount pertaining to the purchase or transfer of a club
 455 membership relating to real property owned by the member,
 456 including, but not limited to, any amount determined by
 457 reference to the value, purchase price, or other consideration
 458 given for the transfer of the real property.

459 ~~8.10.~~ Any payment required pursuant to an environmental
 460 covenant.

461 Section 5. Subsection (11) and paragraph (b) of subsection
 462 (12) of section 718.111, Florida Statutes, are amended to read:

463 718.111 The association.--

464 (11) INSURANCE.--In order to protect the safety, health,
 465 and welfare of the people of the State of Florida and to ensure
 466 consistency in the provision of insurance coverage to
 467 condominiums and their unit owners, this subsection applies to
 468 every residential condominium in the state, regardless of the
 469 date of its declaration of condominium. It is the intent of the
 470 Legislature to encourage lower or stable insurance premiums for
 471 associations described in this subsection.

472 (a) Adequate property ~~hazard~~ insurance, regardless of any
 473 requirement in the declaration of condominium for coverage by
 474 the association for full insurable value, replacement cost, or
 475 similar coverage, shall be based upon the replacement cost of
 476 the property to be insured as determined by an independent
 477 insurance appraisal or update of a prior appraisal. The full
 478 insurable value shall be determined at least once every 36
 479 months.

480 1. An association or group of associations may provide
 481 adequate property ~~hazard~~ insurance through a self-insurance fund
 482 that complies with the requirements of ss. 624.460-624.488.

483 2. The association may also provide adequate property
 484 ~~hazard~~ insurance coverage for a group of no fewer than three
 485 communities created and operating under this chapter, chapter
 486 719, chapter 720, or chapter 721 by obtaining and maintaining
 487 for such communities property insurance coverage sufficient to
 488 cover an amount equal to the probable maximum loss for the
 489 communities for a 250-year windstorm event. Such probable
 490 maximum loss must be determined through the use of a competent
 491 model that has been accepted by the Florida Commission on
 492 Hurricane Loss Projection Methodology. No policy or program
 493 providing such coverage shall be issued or renewed after July 1,
 494 2008, unless it has been reviewed and approved by the Office of
 495 Insurance Regulation. The review and approval shall include
 496 approval of the policy and related forms pursuant to ss. 627.410
 497 and 627.411, approval of the rates pursuant to s. 627.062, a
 498 determination that the loss model approved by the commission was
 499 accurately and appropriately applied to the insured structures

HB 1397

2009

500 to determine the 250-year probable maximum loss, and a
501 determination that complete and accurate disclosure of all
502 material provisions is provided to condominium unit owners prior
503 to execution of the agreement by a condominium association.

504 3. When determining the adequate amount of property hazard
505 insurance coverage, the association may consider deductibles as
506 determined by this subsection.

507 (b) If an association is a developer-controlled
508 association, the association shall exercise its best efforts to
509 obtain and maintain property insurance as described in paragraph
510 (a). Failure to obtain and maintain adequate property hazard
511 insurance during any period of developer control constitutes a
512 breach of fiduciary responsibility by the developer-appointed
513 members of the board of directors of the association, unless the
514 members can show that despite such failure, they have made their
515 best efforts to maintain the required coverage.

516 (c) Policies may include deductibles as determined by the
517 board.

518 1. The deductibles shall be consistent with industry
519 standards and prevailing practice for communities of similar
520 size and age, and having similar construction and facilities in
521 the locale where the condominium property is situated.

522 2. The deductibles may be based upon available funds,
523 including reserve accounts, or predetermined assessment
524 authority at the time the property insurance is obtained.

525 3. The board shall establish the amount of deductibles
526 based upon the level of available funds and predetermined
527 assessment authority at a meeting of the board. Such meeting

HB 1397

2009

528 shall be open to all unit owners in the manner set forth in s.
529 718.112(2)(e). The notice of such meeting must state the
530 proposed deductible and the available funds and the assessment
531 authority relied upon by the board and estimate any potential
532 assessment amount against each unit, if any. The meeting
533 described in this paragraph may be held in conjunction with a
534 meeting to consider the proposed budget or an amendment thereto.

535 (d) An association controlled by unit owners operating as
536 a residential condominium shall use its best efforts to obtain
537 and maintain adequate property insurance to protect the
538 association, the association property, the common elements, and
539 the condominium property that is required to be insured by the
540 association pursuant to this subsection.

541 (e) The declaration of condominium as originally recorded,
542 or as amended pursuant to procedures provided therein, may
543 provide that condominium property consisting of freestanding
544 buildings comprised of no more than one building in or on such
545 unit need not be insured by the association if the declaration
546 requires the unit owner to obtain adequate property insurance
547 for the condominium property. An association may also obtain and
548 maintain liability insurance for directors and officers,
549 insurance for the benefit of association employees, and flood
550 insurance for common elements, association property, and units.

551 (f) Every property ~~hazard~~ insurance policy issued or
552 renewed on or after July ~~January~~ 1, 2009, for the purpose of
553 protecting the condominium shall provide primary coverage for:

HB 1397

2009

554 1. All portions of the condominium property as originally
 555 installed or replacement of like kind and quality, in accordance
 556 with the original plans and specifications.

557 2. All alterations or additions made to the condominium
 558 property or association property pursuant to s. 718.113(2).

559 3. The coverage shall exclude all personal property within
 560 the unit or limited common elements, and floor, wall, and
 561 ceiling coverings, electrical fixtures, appliances, water
 562 heaters, water filters, built-in cabinets and countertops, air-
 563 conditioning and heating equipment that serves a single unit,
 564 and window treatments, including curtains, drapes, blinds,
 565 hardware, and similar window treatment components, or
 566 replacements of any of the foregoing. Such property and any
 567 insurance therefor shall be the responsibility of the unit
 568 owner.

569 (g) A condominium unit owner's policy issued after July 1,
 570 2009, shall conform to the requirements of s. 627.714. Every
 571 ~~hazard insurance policy issued or renewed on or after January 1,~~
 572 ~~2009, to an individual unit owner must contain a provision~~
 573 ~~stating that the coverage afforded by such policy is excess~~
 574 ~~coverage over the amount recoverable under any other policy~~
 575 ~~covering the same property. Such policies must include special~~
 576 ~~assessment coverage of no less than \$2,000 per occurrence. An~~
 577 ~~insurance policy issued to an individual unit owner providing~~
 578 ~~such coverage does not provide rights of subrogation against the~~
 579 ~~condominium association operating the condominium in which such~~
 580 ~~individual's unit is located.~~

HB 1397

2009

581 ~~1. All improvements or additions to the condominium~~
582 ~~property that benefit fewer than all unit owners shall be~~
583 ~~insured by the unit owner or owners having the use thereof, or~~
584 ~~may be insured by the association at the cost and expense of the~~
585 ~~unit owners having the use thereof.~~

586 ~~2. The association shall require each owner to provide~~
587 ~~evidence of a currently effective policy of hazard and liability~~
588 ~~insurance upon request, but not more than once per year. Upon~~
589 ~~the failure of an owner to provide a certificate of insurance~~
590 ~~issued by an insurer approved to write such insurance in this~~
591 ~~state within 30 days after the date on which a written request~~
592 ~~is delivered, the association may purchase a policy of insurance~~
593 ~~on behalf of an owner. The cost of such a policy, together with~~
594 ~~reconstruction costs undertaken by the association but which are~~
595 ~~the responsibility of the unit owner, may be collected in the~~
596 ~~manner provided for the collection of assessments in s. 718.116.~~

597 ~~1.3.~~ All reconstruction work after a casualty loss shall
598 be undertaken by the association except as otherwise authorized
599 in this section. A unit owner may undertake reconstruction work
600 on portions of the unit with the prior written consent of the
601 board of administration. However, such work may be conditioned
602 upon the approval of the repair methods, the qualifications of
603 the proposed contractor, or the contract that is used for that
604 purpose. A unit owner shall obtain all required governmental
605 permits and approvals prior to commencing reconstruction.

606 ~~2.4.~~ Unit owners are responsible for the cost of
607 reconstruction of any portions of the condominium property for
608 which the association does not ~~unit owner is required to~~ carry

HB 1397

2009

609 property ~~casualty~~ insurance, and any such reconstruction work
610 undertaken by the association shall be chargeable to the unit
611 owner and enforceable as an assessment pursuant to s. 718.116.
612 ~~The association must be an additional named insured and loss~~
613 ~~payee on all casualty insurance policies issued to unit owners~~
614 ~~in the condominium operated by the association.~~

615 3.5. A multicondominium association may elect, by a
616 majority vote of the collective members of the condominiums
617 operated by the association, to operate such condominiums as a
618 single condominium for purposes of insurance matters, including,
619 but not limited to, the purchase of the property hazard
620 insurance required by this section and the apportionment of
621 deductibles and damages in excess of coverage. The election to
622 aggregate the treatment of insurance premiums, deductibles, and
623 excess damages constitutes an amendment to the declaration of
624 all condominiums operated by the association, and the costs of
625 insurance shall be stated in the association budget. The
626 amendments shall be recorded as required by s. 718.110.

627 (h) The association shall maintain insurance or fidelity
628 bonding of all persons who control or disburse funds of the
629 association. The insurance policy or fidelity bond must cover
630 the maximum funds that will be in the custody of the association
631 or its management agent at any one time. As used in this
632 paragraph, the term "persons who control or disburse funds of
633 the association" includes, but is not limited to, those
634 individuals authorized to sign checks on behalf of the
635 association, and the president, secretary, and treasurer of the

HB 1397

2009

636 association. The association shall bear the cost of any such
637 bonding.

638 (i) The association may amend the declaration of
639 condominium without regard to any requirement for approval by
640 mortgagees of amendments affecting insurance requirements for
641 the purpose of conforming the declaration of condominium to the
642 coverage requirements of this subsection.

643 (j) Any portion of the condominium property required to be
644 insured by the association against property ~~casualty~~ loss
645 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be
646 reconstructed, repaired, or replaced as necessary by the
647 association as a common expense. All property ~~hazard~~ insurance
648 deductibles, uninsured losses, and other damages in excess of
649 property ~~hazard~~ insurance coverage under the property ~~hazard~~
650 insurance policies maintained by the association are a common
651 expense of the condominium, except that:

652 1. A unit owner is responsible for the costs of repair or
653 replacement of any portion of the condominium property not paid
654 by insurance proceeds, if such damage is caused by intentional
655 conduct, negligence, or failure to comply with the terms of the
656 declaration or the rules of the association by a unit owner, the
657 members of his or her family, unit occupants, tenants, guests,
658 or invitees, ~~without compromise of the subrogation rights of any~~
659 ~~insurer as set forth in paragraph (g).~~

660 2. The provisions of subparagraph 1. regarding the
661 financial responsibility of a unit owner for the costs of
662 repairing or replacing other portions of the condominium
663 property also apply to the costs of repair or replacement of

HB 1397

2009

664 personal property of other unit owners or the association, as
665 well as other property, ~~whether real or personal, which the unit~~
666 ~~owners are required to insure under paragraph (g).~~

667 3. To the extent the cost of repair or reconstruction for
668 which the unit owner is responsible under this paragraph is
669 reimbursed to the association by insurance proceeds, and, to the
670 extent the association has collected the cost of such repair or
671 reconstruction from the unit owner, the association shall
672 reimburse the unit owner ~~without the waiver of any rights of~~
673 ~~subrogation.~~

674 4. The association is not obligated to pay for repair or
675 reconstruction or repairs of property casualty losses as a
676 common expense if the property casualty losses were known or
677 should have been known to a unit owner and were not reported to
678 the association until after the insurance claim of the
679 association for that property casualty was settled or resolved
680 with finality, or denied on the basis that it was untimely
681 filed.

682 (k) An association may, upon the approval of a majority of
683 the total voting interests in the association, opt out of the
684 provisions of paragraph (j) for the allocation of repair or
685 reconstruction expenses and allocate repair or reconstruction
686 expenses in the manner provided in the declaration as originally
687 recorded or as amended. Such vote may be approved by the voting
688 interests of the association without regard to any mortgagee
689 consent requirements.

690 (l) In a multicondominium association that has not
691 consolidated its financial operations under subsection (6), any

HB 1397

2009

692 condominium operated by the association may opt out of the
693 provisions of paragraph (j) with the approval of a majority of
694 the total voting interests in that condominium. Such vote may be
695 approved by the voting interests without regard to any mortgagee
696 consent requirements.

697 (m) Any association or condominium voting to opt out of
698 the guidelines for repair or reconstruction expenses as
699 described in paragraph (j) must record a notice setting forth
700 the date of the opt-out vote and the page of the official
701 records book on which the declaration is recorded. The decision
702 to opt out is effective upon the date of recording of the notice
703 in the public records by the association. An association that
704 has voted to opt out of paragraph (j) may reverse that decision
705 by the same vote required in paragraphs (k) and (l), and notice
706 thereof shall be recorded in the official records.

707 (n) The association is not obligated to pay for any
708 reconstruction or repair expenses due to property ~~casualty~~ loss
709 to any improvements installed by a current or former owner of
710 the unit or by the developer if the improvement benefits only
711 the unit for which it was installed and is not part of the
712 standard improvements installed by the developer on all units as
713 part of original construction, whether or not such improvement
714 is located within the unit. This paragraph does not relieve any
715 party of its obligations regarding recovery due under any
716 insurance implemented specifically for any such improvements.

717 (o) The provisions of this subsection shall not apply to
718 timeshare condominium associations. Insurance for timeshare

HB 1397

2009

719 condominium associations shall be maintained pursuant to s.
720 721.165.

721 (12) OFFICIAL RECORDS.--

722 (b) The official records of the association shall be
723 maintained within the state for at least 7 years. The records of
724 the association shall be made available to a unit owner within
725 45 miles of the condominium property or within the county in
726 which the condominium property is located within 5 working days
727 after receipt of written request by the board or its designee.
728 However, such distance requirement does not apply to an
729 association governing a timeshare condominium. This paragraph
730 may be complied with by having a copy of the official records of
731 the association available for inspection or copying on the
732 condominium property or association property.~~732~~ ~~or~~ The
733 association may offer the option of making the records of the
734 association available to a unit owner either electronically via
735 the Internet or by allowing the records to be viewed in
736 electronic format on a computer screen and printed upon request.

737 Section 6. Paragraphs (c), (d), (h), and (o) of subsection
738 (2) of section 718.112, Florida Statutes, are amended, and
739 paragraph (p) is added to that subsection, to read:

740 718.112 Bylaws.--

741 (2) REQUIRED PROVISIONS.--The bylaws shall provide for the
742 following and, if they do not do so, shall be deemed to include
743 the following:

744 (c) Board of administration meetings.--Meetings of the
745 board of administration at which a quorum of the members is
746 present shall be open to all unit owners. Any unit owner may

HB 1397

2009

747 | tape record or videotape meetings of the board of
748 | administration. The right to attend such meetings includes the
749 | right to speak at such meetings with reference to all designated
750 | agenda items. The division shall adopt reasonable rules
751 | governing the tape recording and videotaping of the meeting. The
752 | association may adopt written reasonable rules governing the
753 | frequency, duration, and manner of unit owner statements.
754 | Adequate notice of all meetings, which notice shall specifically
755 | incorporate an identification of agenda items, shall be posted
756 | conspicuously on the condominium property at least 48 continuous
757 | hours preceding the meeting except in an emergency. If 20
758 | percent of the voting interests petition the board to address an
759 | item of business, the board shall at its next regular board
760 | meeting or at a special meeting of the board, but not later than
761 | 60 days after the receipt of the petition, place the item on the
762 | agenda. Any item not included on the notice may be taken up on
763 | an emergency basis by at least a majority plus one of the
764 | members of the board. Such emergency action shall be noticed and
765 | ratified at the next regular meeting of the board. However,
766 | written notice of any meeting at which nonemergency special
767 | assessments, or at which amendment to rules regarding unit use,
768 | will be considered shall be mailed, delivered, or electronically
769 | transmitted to the unit owners and posted conspicuously on the
770 | condominium property not less than 14 days prior to the meeting.
771 | Evidence of compliance with this 14-day notice shall be made by
772 | an affidavit executed by the person providing the notice and
773 | filed among the official records of the association. Upon notice
774 | to the unit owners, the board shall by duly adopted rule

HB 1397

2009

775 designate a specific location on the condominium property or
776 association property upon which all notices of board meetings
777 shall be posted. If there is no condominium property or
778 association property upon which notices can be posted, notices
779 of board meetings shall be mailed, delivered, or electronically
780 transmitted at least 14 days before the meeting to the owner of
781 each unit. In lieu of or in addition to the physical posting of
782 notice of any meeting of the board of administration on the
783 condominium property, the association may, by reasonable rule,
784 adopt a procedure for conspicuously posting and repeatedly
785 broadcasting the notice and the agenda on a closed-circuit cable
786 television system serving the condominium association. However,
787 if broadcast notice is used in lieu of a notice posted
788 physically on the condominium property, the notice and agenda
789 must be broadcast at least four times every broadcast hour of
790 each day that a posted notice is otherwise required under this
791 section. When broadcast notice is provided, the notice and
792 agenda must be broadcast in a manner and for a sufficient
793 continuous length of time so as to allow an average reader to
794 observe the notice and read and comprehend the entire content of
795 the notice and the agenda. Notice of any meeting in which
796 regular or special assessments against unit owners are to be
797 considered for any reason shall specifically state that
798 assessments will be considered and the nature, actual ~~estimated~~
799 cost, and description of the purposes for such assessments.
800 Meetings of a committee to take final action on behalf of the
801 board or make recommendations to the board regarding the
802 association budget are subject to the provisions of this

HB 1397

2009

803 paragraph. Meetings of a committee that does not take final
804 action on behalf of the board or make recommendations to the
805 board regarding the association budget are subject to the
806 provisions of this section, unless those meetings are exempted
807 from this section by the bylaws of the association.

808 Notwithstanding any other law, the requirement that board
809 meetings and committee meetings be open to the unit owners is
810 inapplicable to meetings between the board or a committee and
811 the association's attorney, with respect to proposed or pending
812 litigation, when the meeting is held for the purpose of seeking
813 or rendering legal advice.

814 (d) Unit owner meetings.--

815 1. There shall be an annual meeting of the unit owners
816 held at the location provided in the association bylaws and, if
817 the bylaws are silent as to the location, the meeting shall be
818 held within 45 miles of the condominium property. However, such
819 distance requirement does not apply to an association governing
820 a timeshare condominium. Unless the bylaws provide otherwise, a
821 vacancy on the board caused by the expiration of a director's
822 term shall be filled by electing a new board member, and the
823 election shall be by secret ballot; however, if the number of
824 vacancies equals or exceeds the number of candidates, no
825 election is required. The terms of all members of the board
826 shall expire at the first annual meeting after July 1, 2009, and
827 at each the annual meeting thereafter and such board members may
828 stand for reelection unless otherwise permitted by the bylaws.
829 In the event that the bylaws permit staggered terms of no more
830 than 2 years and upon approval of a majority of the total voting

HB 1397

2009

831 interests, the association board members may serve 2-year
832 staggered terms starting with the first annual meeting after
833 July 1, 2009, at which time the newly elected directors shall,
834 by random lot, determine which directors shall serve a full 2-
835 year term and which directors shall only serve a 1-year term in
836 order to maintain staggered terms. If no person is interested in
837 or demonstrates an intention to run for the position of a board
838 member whose term has expired according to the provisions of
839 this subparagraph, such board member whose term has expired
840 shall be automatically reappointed to the board of
841 administration and need not stand for reelection. ~~In a~~
842 ~~condominium association of more than 10 units, coowners of a~~
843 ~~unit may not serve as members of the board of directors at the~~
844 ~~same time. Any unit owner desiring to be a candidate for board~~
845 ~~membership shall comply with subparagraph 3. A person who has~~
846 ~~been suspended or removed by the division under this chapter, or~~
847 ~~who is delinquent in the payment of any fee or assessment as~~
848 ~~provided in paragraph (n), is not eligible for board membership.~~
849 ~~A person who has been convicted of any felony in this state or~~
850 ~~in a United States District or Territorial Court, or who has~~
851 ~~been convicted of any offense in another jurisdiction that would~~
852 ~~be considered a felony if committed in this state, is not~~
853 ~~eligible for board membership unless such felon's civil rights~~
854 ~~have been restored for a period of no less than 5 years as of~~
855 ~~the date on which such person seeks election to the board. The~~
856 ~~validity of an action by the board is not affected if it is~~
857 ~~later determined that a member of the board is ineligible for~~
858 ~~board membership due to having been convicted of a felony.~~

HB 1397

2009

859 2. The bylaws shall provide the method of calling meetings
860 of unit owners, including annual meetings. Written notice, which
861 notice must include an agenda, shall be mailed, hand delivered,
862 or electronically transmitted to each unit owner at least 14
863 days prior to the annual meeting and shall be posted in a
864 conspicuous place on the condominium property at least 14
865 continuous days preceding the annual meeting. Upon notice to the
866 unit owners, the board shall by duly adopted rule designate a
867 specific location on the condominium property or association
868 property upon which all notices of unit owner meetings shall be
869 posted; however, if there is no condominium property or
870 association property upon which notices can be posted, this
871 requirement does not apply. In lieu of or in addition to the
872 physical posting of notice of any meeting of the unit owners on
873 the condominium property, the association may, by reasonable
874 rule, adopt a procedure for conspicuously posting and repeatedly
875 broadcasting the notice and the agenda on a closed-circuit cable
876 television system serving the condominium association. However,
877 if broadcast notice is used in lieu of a notice posted
878 physically on the condominium property, the notice and agenda
879 must be broadcast at least four times every broadcast hour of
880 each day that a posted notice is otherwise required under this
881 section. When broadcast notice is provided, the notice and
882 agenda must be broadcast in a manner and for a sufficient
883 continuous length of time so as to allow an average reader to
884 observe the notice and read and comprehend the entire content of
885 the notice and the agenda. Unless a unit owner waives in writing
886 the right to receive notice of the annual meeting, such notice

Page 32 of 184

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1397-00

HB 1397

2009

887 shall be hand delivered, mailed, or electronically transmitted
888 to each unit owner. Notice for meetings and notice for all other
889 purposes shall be mailed to each unit owner at the address last
890 furnished to the association by the unit owner, or hand
891 delivered to each unit owner. However, if a unit is owned by
892 more than one person, the association shall provide notice, for
893 meetings and all other purposes, to that one address which the
894 developer initially identifies for that purpose and thereafter
895 as one or more of the owners of the unit shall so advise the
896 association in writing, or if no address is given or the owners
897 of the unit do not agree, to the address provided on the deed of
898 record. An officer of the association, or the manager or other
899 person providing notice of the association meeting, shall
900 provide an affidavit or United States Postal Service certificate
901 of mailing, to be included in the official records of the
902 association affirming that the notice was mailed or hand
903 delivered, in accordance with this provision.

904 3. The members of the board shall be elected by written
905 ballot or voting machine. Proxies shall in no event be used in
906 electing the board, either in general elections or elections to
907 fill vacancies caused by recall, resignation, or otherwise,
908 unless otherwise provided in this chapter. Not less than 60 days
909 before a scheduled election, the association shall mail,
910 deliver, or electronically transmit, whether by separate
911 association mailing or included in another association mailing,
912 delivery, or transmission, including regularly published
913 newsletters, to each unit owner entitled to a vote, a first
914 notice of the date of the election ~~along with a certification~~

HB 1397

2009

915 ~~form provided by the division attesting that he or she has read~~
916 ~~and understands, to the best of his or her ability, the~~
917 ~~governing documents of the association and the provisions of~~
918 ~~this chapter and any applicable rules.~~ Any unit owner or other
919 eligible person desiring to be a candidate for the board must
920 give written notice to the association not less than 40 days
921 before a scheduled election. Together with the written notice
922 and agenda as set forth in subparagraph 2., the association
923 shall mail, deliver, or electronically transmit a second notice
924 of the election to all unit owners entitled to vote therein,
925 together with a ballot which shall list all candidates. Upon
926 request of a candidate, the association shall include an
927 information sheet, no larger than 8 1/2 inches by 11 inches,
928 which must be furnished by the candidate not less than 35 days
929 before the election, ~~along with the signed certification form~~
930 ~~provided for in this subparagraph,~~ to be included with the
931 mailing, delivery, or transmission of the ballot, with the costs
932 of mailing, delivery, or electronic transmission and copying to
933 be borne by the association. The association is not liable for
934 the contents of the information sheets prepared by the
935 candidates. In order to reduce costs, the association may print
936 or duplicate the information sheets on both sides of the paper.
937 The division shall by rule establish voting procedures
938 consistent with the provisions contained herein, including rules
939 establishing procedures for giving notice by electronic
940 transmission and rules providing for the secrecy of ballots.
941 Elections shall be decided by a plurality of those ballots cast.
942 There shall be no quorum requirement; however, at least 20

HB 1397

2009

943 percent of the eligible voters must cast a ballot in order to
944 have a valid election of members of the board. No unit owner
945 shall permit any other person to vote his or her ballot, and any
946 such ballots improperly cast shall be deemed invalid, provided
947 any unit owner who violates this provision may be fined by the
948 association in accordance with s. 718.303. A unit owner who
949 needs assistance in casting the ballot for the reasons stated in
950 s. 101.051 may obtain assistance in casting the ballot. The
951 regular election shall occur on the date of the annual meeting.
952 The provisions of this subparagraph shall not apply to timeshare
953 condominium associations. Notwithstanding the provisions of this
954 subparagraph, an election is not required unless more candidates
955 file notices of intent to run or are nominated than board
956 vacancies exist.

957 4. Any approval by unit owners called for by this chapter
958 or the applicable declaration or bylaws, including, but not
959 limited to, the approval requirement in s. 718.111(8), shall be
960 made at a duly noticed meeting of unit owners and shall be
961 subject to all requirements of this chapter or the applicable
962 condominium documents relating to unit owner decisionmaking,
963 except that unit owners may take action by written agreement,
964 without meetings, on matters for which action by written
965 agreement without meetings is expressly allowed by the
966 applicable bylaws or declaration or any statute that provides
967 for such action.

968 5. Unit owners may waive notice of specific meetings if
969 allowed by the applicable bylaws or declaration or any statute.
970 If authorized by the bylaws, notice of meetings of the board of

971 administration, unit owner meetings, except unit owner meetings
972 called to recall board members under paragraph (j), and
973 committee meetings may be given by electronic transmission to
974 unit owners who consent to receive notice by electronic
975 transmission.

976 6. Unit owners shall have the right to participate in
977 meetings of unit owners with reference to all designated agenda
978 items. However, the association may adopt reasonable rules
979 governing the frequency, duration, and manner of unit owner
980 participation.

981 7. Any unit owner may tape record or videotape a meeting
982 of the unit owners subject to reasonable rules adopted by the
983 division.

984 8. Unless otherwise provided in the bylaws, any vacancy
985 occurring on the board before the expiration of a term may be
986 filled by the affirmative vote of the majority of the remaining
987 directors, even if the remaining directors constitute less than
988 a quorum, or by the sole remaining director. In the alternative,
989 a board may hold an election to fill the vacancy, in which case
990 the election procedures must conform to the requirements of
991 subparagraph 3. unless the association governs 10 units or less
992 and has opted out of the statutory election process, in which
993 case the bylaws of the association control. Unless otherwise
994 provided in the bylaws, a board member appointed or elected
995 under this section shall fill the vacancy for the unexpired term
996 of the seat being filled. Filling vacancies created by recall is
997 governed by paragraph (j) and rules adopted by the division.

998 9. Notwithstanding subparagraphs (b)2. and (d)3., an
 999 association of 10 or fewer units may, by the affirmative vote of
 1000 a majority of the total voting interests, provide for different
 1001 voting and election procedures in its bylaws, which vote may be
 1002 by a proxy specifically delineating the different voting and
 1003 election procedures. The different voting and election
 1004 procedures may provide for elections to be conducted by limited
 1005 or general proxy.

1006 (h) Amendment of bylaws.--

1007 1. The method by which the bylaws may be amended
 1008 consistent with the provisions of this chapter shall be stated.
 1009 If the bylaws fail to provide a method of amendment, the bylaws
 1010 may be amended if the amendment is approved by the owners of not
 1011 less than two-thirds of the voting interests.

1012 2. No bylaw shall be revised or amended by reference to
 1013 its title or number only. Proposals to amend existing bylaws
 1014 shall contain the full text of the bylaws to be amended; new
 1015 words shall be inserted in the text underlined, and words to be
 1016 deleted shall be lined through with hyphens. However, if the
 1017 proposed change is so extensive that this procedure would
 1018 hinder, rather than assist, the understanding of the proposed
 1019 amendment, it is not necessary to use underlining and hyphens as
 1020 indicators of words added or deleted, but, instead, a notation
 1021 must be inserted immediately preceding the proposed amendment in
 1022 substantially the following language: "Substantial rewording of
 1023 bylaw. See bylaw _____ for present text."

1024 3. Nonmaterial errors or omissions in the bylaw process
 1025 will not invalidate an otherwise properly promulgated amendment.

1026 4. If the bylaws provide for amendment by the board of
 1027 administration, no bylaw may be amended unless it is heard and
 1028 noticed at two consecutive meetings of the board of
 1029 administration that are at least 1 week apart. If the bylaws
 1030 provide for amendment of the bylaws by a vote of the unit
 1031 owners, the meeting at which the vote is to be taken must be
 1032 conducted between the hours of 6 p.m. and 10 p.m. local time.

1033 (o) Director or officer offenses.--A director or officer
 1034 charged by information or indictment with a felony theft or
 1035 embezzlement offense involving the association's funds or
 1036 property shall be removed from office, creating a vacancy in the
 1037 office to be filled according to law. While such director or
 1038 officer has such criminal charge pending in the state or federal
 1039 court system, he or she may not be appointed or elected to a
 1040 position as a director or officer. However, should the charges
 1041 be resolved without a finding of guilt, the director or officer
 1042 shall be reinstated for the remainder of his or her term of
 1043 office, if any.

1044 (p) Qualification of directors.--In addition to any other
 1045 requirement for office in statute or in the governing documents
 1046 of the association, a person running for or seeking appointment
 1047 to the board must meet the following qualifications:

1048 1. In a condominium association of 10 or more units, only
 1049 one individual coowner of a unit may serve on the board of
 1050 administration.

1051 2. No person may serve as a director of any condominium
 1052 association in the state if restricted from serving by action of
 1053 the division pursuant to s. 718.501(1) (d) 6.

HB 1397

2009

1054 3. A person who has been convicted of any felony in this
1055 state or in a United States District or Territorial Court, or
1056 who has been convicted of any offense in another jurisdiction
1057 that would be considered a felony if committed in this state, is
1058 not eligible for board membership unless such felon's civil
1059 rights have been restored for a period of no less than 5 years
1060 as of the date on which such person seeks election to the board.

1061 4. Within 30 days after being elected or appointed to the
1062 board of administration, a director shall certify in writing to
1063 the secretary of the association that he or she has read parts I
1064 and III of chapter 718; ss. 718.501, 617.0202, 617.0206,
1065 617.0302-617.0304, 617.0501, 617.0505, 617.0801-617.0833,
1066 617.0840-617.0843, 617.1622, and 617.2102; and the association's
1067 declaration of condominium, articles of incorporation, bylaws,
1068 and current written policies. The director shall further certify
1069 that he or she will work to uphold such documents and policies
1070 to the best of his or her ability, and that he or she will
1071 faithfully discharge his or her fiduciary responsibility to the
1072 association's members. If the division finds that a director has
1073 falsely certified that he or she has read the required statutes
1074 and documents, the division shall order the director removed
1075 from the board and shall order the director to reimburse the
1076 division for the cost of prosecution and hearing.

1077 5. After turnover of the association pursuant to s.
1078 718.301(2), a director must:

1079 a. If the unit is owned by an individual or individuals,
1080 be one of those individuals.

1081 b. If the unit is owned by a trust, be an individual
 1082 qualified pursuant to s. 617.0802.

1083 c. If the unit is owned by an entity other than a trust,
 1084 be an individual designated by the entity that owns the unit.

1085
 1086 These qualifications shall operate on a continuing basis, and
 1087 upon a failure of a director at any time to fail to meet a
 1088 qualification, the secretary shall certify that the director is
 1089 removed from office and that a vacancy in office exists.

1090 Section 7. Paragraph (a) of subsection (5) of section
 1091 718.113, Florida Statutes, is amended to read:

1092 718.113 Maintenance; limitation upon improvement; display
 1093 of flag; hurricane shutters; display of religious decorations.--

1094 (5) Each board of administration shall adopt hurricane
 1095 shutter specifications for each building within each condominium
 1096 operated by the association which shall include color, style,
 1097 and other factors deemed relevant by the board. All
 1098 specifications adopted by the board shall comply with the
 1099 applicable building code.

1100 (a) The board may, subject to the provisions of s.
 1101 718.3026, and the approval of a majority of voting interests of
 1102 the condominium, install hurricane shutters or hurricane
 1103 protection that complies with or exceeds the applicable building
 1104 code, or both, except that a vote of the owners is not required
 1105 if the maintenance, repair, and replacement of hurricane
 1106 shutters or other forms of hurricane protection are the
 1107 responsibility of the association pursuant to the declaration of
 1108 condominium. However, where hurricane protection or laminated

HB 1397

2009

1109 glass or window film architecturally designed to function as
1110 hurricane protection which complies with or exceeds the current
1111 applicable building code has been previously installed, the
1112 board may not install hurricane shutters or other hurricane
1113 protection. Code-compliant impact glass may be installed by the
1114 association as hurricane protection if the area in which the
1115 glass is to be installed is an area that is the responsibility
1116 of the association. If a unit owner installed code-compliant
1117 impact glass prior to the association voting to install such
1118 glass, and such glass and the frame thereof complies with the
1119 current applicable building codes and is otherwise in good
1120 repair, the unit owner shall not be required to pay the unit
1121 owner's pro rata share of the cost of installing code-compliant
1122 impact glass to the condominium association, notwithstanding s.
1123 718.116(9).

1124 Section 8. Subsection (1) of section 718.116, Florida
1125 Statutes, is amended, and subsection (11) is added to that
1126 section, to read:

1127 718.116 Assessments; liability; lien and priority;
1128 interest; collection; rent during foreclosure.--

1129 (1) (a) A unit owner, regardless of how his or her title
1130 has been acquired, including by purchase at a foreclosure sale
1131 or by deed in lieu of foreclosure, is liable for all assessments
1132 which come due while he or she is the unit owner. Additionally,
1133 a unit owner is jointly and severally liable with the previous
1134 owner for all unpaid assessments that came due up to the time of
1135 transfer of title. This liability is without prejudice to any

HB 1397

2009

1136 right the owner may have to recover from the previous owner the
1137 amounts paid by the owner.

1138 (b) The liability of a first mortgagee or its successor or
1139 assignees who acquire title to a unit by foreclosure or by deed
1140 in lieu of foreclosure for the unpaid assessments that became
1141 due prior to the mortgagee's acquisition of title is limited to
1142 the lesser of:

1143 1. The unit's unpaid common expenses and regular periodic
1144 assessments which accrued or came due during the 24 ~~6~~ months
1145 immediately preceding the acquisition of title and for which
1146 payment in full has not been received by the association; or

1147 2. One-half of the unit's unpaid common expenses and
1148 regular periodic assessments which accrued or came due from the
1149 filing of the foreclosure action through the sale of the unit,
1150 provided that the mortgagee timely paid in full the payment
1151 required by paragraph (e) and, at the same time, remitted to the
1152 association advanced common expenses and regular periodic
1153 assessments equal to one-half of the total unpaid common
1154 expenses and regular periodic assessments that came due in that
1155 time period. Any such advance shall be taxed as a cost in the
1156 foreclosure action, and the mortgagor shall be personally liable
1157 to the mortgagee for the value of the payment made to the
1158 association plus interest at the interest rate provided for in
1159 the promissory note for advances. ~~One percent of the original~~
1160 ~~mortgage debt. The provisions of this paragraph apply only if~~
1161 ~~the first mortgagee joined the association as a defendant in the~~
1162 ~~foreclosure action. Joinder of the association is not required~~
1163 ~~if, on the date the complaint is filed, the association was~~

HB 1397

2009

1164 ~~dissolved or did not maintain an office or agent for service of~~
1165 ~~process at a location which was known to or reasonably~~
1166 ~~discoverable by the mortgagee.~~

1167 (c) The person acquiring title shall pay the amount owed
1168 to the association within 30 days after transfer of title.
1169 Failure to pay the full amount when due shall entitle the
1170 association to record a claim of lien against the parcel and
1171 proceed in the same manner as provided in this section for the
1172 collection of unpaid assessments.

1173 (d) With respect to each timeshare unit, each owner of a
1174 timeshare estate therein is jointly and severally liable for the
1175 payment of all assessments and other charges levied against or
1176 with respect to that unit pursuant to the declaration or bylaws,
1177 except to the extent that the declaration or bylaws may provide
1178 to the contrary.

1179 (e) A mortgagee who files a foreclosure case on a mortgage
1180 secured by a condominium unit shall pay to the association
1181 within 15 days after the filing of the action all of the
1182 condominium unit's then unpaid common expenses and regular
1183 periodic assessments which accrued or came due up to the date of
1184 the filing of the foreclosure action. The payment shall be taxed
1185 as a cost in the foreclosure action, and the mortgagor shall be
1186 personally liable to the mortgagee for the value of the payment
1187 made to the association plus interest at the interest rate
1188 provided for in the promissory note for advances. The court
1189 shall dismiss a foreclosure action on the association's motion
1190 to dismiss for failure to make such payment and shall award the
1191 association the costs and reasonable attorney's fees related to

1192 ~~the motion. Notwithstanding the provisions of paragraph (b), a~~
 1193 ~~first mortgagee or its successor or assignees who acquire title~~
 1194 ~~to a condominium unit as a result of the foreclosure of the~~
 1195 ~~mortgage or by deed in lieu of foreclosure of the mortgage shall~~
 1196 ~~be exempt from liability for all unpaid assessments attributable~~
 1197 ~~to the parcel or chargeable to the previous owner which came due~~
 1198 ~~prior to acquisition of title if the first mortgage was recorded~~
 1199 ~~prior to April 1, 1992. If, however, the first mortgage was~~
 1200 ~~recorded on or after April 1, 1992, or on the date the mortgage~~
 1201 ~~was recorded, the declaration included language incorporating by~~
 1202 ~~reference future amendments to this chapter, the provisions of~~
 1203 ~~paragraph (b) shall apply.~~

1204 (f) The provisions of this subsection are intended to
 1205 clarify existing law, and shall not be available in any case
 1206 where the unpaid assessments sought to be recovered by the
 1207 association are secured by a lien recorded prior to the
 1208 recording of the mortgage. Notwithstanding the provisions of
 1209 chapter 48, the association shall be a proper party to intervene
 1210 in any foreclosure proceeding to seek equitable relief.

1211 (g) For purposes of this subsection, the term "successor
 1212 or assignee" as used with respect to a first mortgagee includes
 1213 only a subsequent holder of the first mortgage.

1214 (11) During the pendency of any foreclosure action of a
 1215 condominium unit, if the unit is occupied by a tenant and the
 1216 unit owner is delinquent in the payment of regular assessments,
 1217 the association may demand that the tenant pay to the
 1218 association the future regular assessments related to the
 1219 condominium unit. The demand shall be continuing in nature, and

1220 upon demand the tenant shall continue to pay the regular
 1221 assessments to the association until the association releases
 1222 the tenant or the tenant discontinues tenancy in the unit. The
 1223 association shall mail written notice to the unit owner of the
 1224 association's demand that the tenant pay regular assessments to
 1225 the association. The tenant shall not be liable for increases in
 1226 the amount of the regular assessment due unless the tenant was
 1227 reasonably notified of the increase prior to the day that the
 1228 rent is due. The tenant shall be given a credit against rents
 1229 due to the unit owner in the amount of assessments paid to the
 1230 association. The association shall, upon request, provide the
 1231 tenant with written receipts for payments made. The association
 1232 may issue notices under s. 83.56 and may sue for eviction under
 1233 ss. 83.59-83.625 as if the association were a landlord under
 1234 part II of chapter 83 should the tenant fail to pay an
 1235 assessment. However, the association shall not otherwise be
 1236 considered a landlord under chapter 83 and shall specifically
 1237 not have any duty under s. 83.51. The tenant shall not, by
 1238 virtue of payment of assessments, have any of the rights of a
 1239 unit owner to vote in any election or to examine the books and
 1240 records of the association. A court may supersede the effect of
 1241 this subsection by appointing a receiver.

1242 Section 9. Subsection (2) of section 718.1265, Florida
 1243 Statutes, is amended to read:

1244 718.1265 Association emergency powers.--

1245 (2) The special powers authorized under subsection (1)
 1246 shall be limited to that time reasonably necessary to protect
 1247 the health, safety, and welfare of the association and the unit

1248 owners and the unit owners' family members, tenants, guests,
 1249 agents, or invitees and shall be reasonably necessary to
 1250 mitigate further damage and make emergency repairs.

1251 Additionally, unless 20 percent or more of the units are made
 1252 uninhabitable by the emergency, the special powers authorized
 1253 under subsection (1) shall only be exercised during the term of
 1254 the Governor's executive order or proclamation declaring the
 1255 state of emergency in the locale in which the condominium is
 1256 located.

1257 Section 10. Subsection (5) is added to section 718.3025,
 1258 Florida Statutes, to read:

1259 718.3025 Agreements for operation, maintenance, or
 1260 management of condominiums; specific requirements.--

1261 (5) A condominium association with total annual revenues
 1262 of \$250,000 or more shall enter into a management agreement with
 1263 a person or firm licensed under part VIII of chapter 468.

1264 Section 11. Subsection (1) of section 718.501, Florida
 1265 Statutes, is amended, and subsection (3) is added to that
 1266 section, to read:

1267 718.501 Authority, responsibility, and duties of Division
 1268 of Florida Condominiums, Timeshares, and Mobile Homes.--

1269 (1) The Division of Florida Condominiums, Timeshares, and
 1270 Mobile Homes of the Department of Business and Professional
 1271 Regulation, referred to as the "division" in this part, has the
 1272 power to enforce and ensure compliance with the provisions of
 1273 this chapter and rules relating to the development,
 1274 construction, sale, lease, ownership, operation, and management
 1275 of residential condominium units. In performing its duties, the

HB 1397

2009

1276 division has complete jurisdiction to investigate complaints and
1277 enforce compliance with the provisions of this chapter ~~with~~
1278 ~~respect to associations that are still under developer control~~
1279 ~~and complaints against developers involving improper turnover or~~
1280 ~~failure to turnover, pursuant to s. 718.301. However, after~~
1281 ~~turnover has occurred, the division shall only have jurisdiction~~
1282 ~~to investigate complaints related to financial issues,~~
1283 ~~elections, and unit owner access to association records pursuant~~
1284 ~~to s. 718.111(12).~~

1285 (a)1. The division may make necessary public or private
1286 investigations within or outside this state to determine whether
1287 any person has violated this chapter or any rule or order
1288 hereunder, to aid in the enforcement of this chapter, or to aid
1289 in the adoption of rules or forms hereunder.

1290 2. The division may submit any official written report,
1291 worksheet, or other related paper, or a duly certified copy
1292 thereof, compiled, prepared, drafted, or otherwise made by and
1293 duly authenticated by a financial examiner or analyst to be
1294 admitted as competent evidence in any hearing in which the
1295 financial examiner or analyst is available for cross-examination
1296 and attests under oath that such documents were prepared as a
1297 result of an examination or inspection conducted pursuant to
1298 this chapter.

1299 (b) The division may require or permit any person to file
1300 a statement in writing, under oath or otherwise, as the division
1301 determines, as to the facts and circumstances concerning a
1302 matter to be investigated.

HB 1397

2009

1303 (c) For the purpose of any investigation under this
1304 chapter, the division director or any officer or employee
1305 designated by the division director may administer oaths or
1306 affirmations, subpoena witnesses and compel their attendance,
1307 take evidence, and require the production of any matter which is
1308 relevant to the investigation, including the existence,
1309 description, nature, custody, condition, and location of any
1310 books, documents, or other tangible things and the identity and
1311 location of persons having knowledge of relevant facts or any
1312 other matter reasonably calculated to lead to the discovery of
1313 material evidence. Upon the failure by a person to obey a
1314 subpoena or to answer questions propounded by the investigating
1315 officer and upon reasonable notice to all persons affected
1316 thereby, the division may apply to the circuit court for an
1317 order compelling compliance.

1318 (d) Notwithstanding any remedies available to unit owners
1319 and associations, if the division has reasonable cause to
1320 believe that a violation of any provision of this chapter or
1321 related rule has occurred, the division may institute
1322 enforcement proceedings in its own name against any developer,
1323 association, officer, or member of the board of administration,
1324 or its assignees or agents, as follows:

1325 1. The division may permit a person whose conduct or
1326 actions may be under investigation to waive formal proceedings
1327 and enter into a consent proceeding whereby orders, rules, or
1328 letters of censure or warning, whether formal or informal, may
1329 be entered against the person.

HB 1397

2009

1330 2. The division may issue an order requiring the
1331 developer, association, ~~developer-designated~~ officer, or
1332 ~~developer-designated~~ member of the board of administration,
1333 ~~developer-designated~~ assignees or agents, community association
1334 manager, or community association management firm to cease and
1335 desist from the unlawful practice and take such affirmative
1336 action as in the judgment of the division will carry out the
1337 purposes of this chapter. If the division finds that a
1338 developer, association, officer, or member of the board of
1339 administration, or its assignees or agents, is violating or is
1340 about to violate any provision of this chapter, any rule adopted
1341 or order issued by the division, or any written agreement
1342 entered into with the division, and presents an immediate danger
1343 to the public requiring an immediate final order, it may issue
1344 an emergency cease and desist order reciting with particularity
1345 the facts underlying such findings. The emergency cease and
1346 desist order is effective for 90 days. If the division begins
1347 nonemergency cease and desist proceedings, the emergency cease
1348 and desist order remains effective until the conclusion of the
1349 proceedings under ss. 120.569 and 120.57.

1350 3. If a developer fails to pay any restitution determined
1351 by the division to be owed, plus any accrued interest at the
1352 highest rate permitted by law, within 30 days after expiration
1353 of any appellate time period of a final order requiring payment
1354 of restitution or the conclusion of any appeal thereof,
1355 whichever is later, the division shall bring an action in
1356 circuit or county court on behalf of any association, class of
1357 unit owners, lessees, or purchasers for restitution, declaratory

HB 1397

2009

1358 relief, injunctive relief, or any other available remedy. The
1359 division may also temporarily revoke its acceptance of the
1360 filing for the developer to which the restitution relates until
1361 payment of restitution is made.

1362 4. The division may petition the court for the appointment
1363 of a receiver or conservator. If appointed, the receiver or
1364 conservator may take action to implement the court order to
1365 ensure the performance of the order and to remedy any breach
1366 thereof. In addition to all other means provided by law for the
1367 enforcement of an injunction or temporary restraining order, the
1368 circuit court may impound or sequester the property of a party
1369 defendant, including books, papers, documents, and related
1370 records, and allow the examination and use of the property by
1371 the division and a court-appointed receiver or conservator.

1372 5. The division may apply to the circuit court for an
1373 order of restitution whereby the defendant in an action brought
1374 pursuant to subparagraph 4. shall be ordered to make restitution
1375 of those sums shown by the division to have been obtained by the
1376 defendant in violation of this chapter. Such restitution shall,
1377 at the option of the court, be payable to the conservator or
1378 receiver appointed pursuant to subparagraph 4. or directly to
1379 the persons whose funds or assets were obtained in violation of
1380 this chapter.

1381 6. The division may impose a civil penalty against a
1382 developer or association, or its assignee or agent, for any
1383 violation of this chapter or a rule adopted under this chapter.
1384 The division may impose a civil penalty individually against any
1385 officer or board member who willfully and knowingly violates a

1386 provision of this chapter, adopted rule, or a final order of the
 1387 division; may order the removal of such individual as an officer
 1388 or from the board of administration or as an officer of the
 1389 association; and may prohibit such individual from serving as an
 1390 officer or on the board of a community association for a period
 1391 of time. The term "willfully and knowingly" means that the
 1392 division informed the officer or board member that his or her
 1393 action or intended action violates this chapter, a rule adopted
 1394 under this chapter, or a final order of the division and that
 1395 the officer or board member refused to comply with the
 1396 requirements of this chapter, a rule adopted under this chapter,
 1397 or a final order of the division. The division, prior to
 1398 initiating formal agency action under chapter 120, shall afford
 1399 the officer or board member an opportunity to voluntarily comply
 1400 with this chapter, a rule adopted under this chapter, or a final
 1401 order of the division. An officer or board member who complies
 1402 within 10 days is not subject to a civil penalty. A penalty may
 1403 be imposed on the basis of each day of continuing violation, but
 1404 in no event shall the penalty for any offense exceed \$5,000. By
 1405 January 1, 1998, the division shall adopt, by rule, penalty
 1406 guidelines applicable to possible violations or to categories of
 1407 violations of this chapter or rules adopted by the division. The
 1408 guidelines must specify a meaningful range of civil penalties
 1409 for each such violation of the statute and rules and must be
 1410 based upon the harm caused by the violation, the repetition of
 1411 the violation, and upon such other factors deemed relevant by
 1412 the division. For example, the division may consider whether the
 1413 violations were committed by a developer or owner-controlled

HB 1397

2009

1414 association, the size of the association, and other factors. The
1415 guidelines must designate the possible mitigating or aggravating
1416 circumstances that justify a departure from the range of
1417 penalties provided by the rules. It is the legislative intent
1418 that minor violations be distinguished from those which endanger
1419 the health, safety, or welfare of the condominium residents or
1420 other persons and that such guidelines provide reasonable and
1421 meaningful notice to the public of likely penalties that may be
1422 imposed for proscribed conduct. This subsection does not limit
1423 the ability of the division to informally dispose of
1424 administrative actions or complaints by stipulation, agreed
1425 settlement, or consent order. All amounts collected shall be
1426 deposited with the Chief Financial Officer to the credit of the
1427 Division of Florida Condominiums, Timeshares, and Mobile Homes
1428 Trust Fund. If a developer fails to pay the civil penalty and
1429 the amount deemed to be owed to the association, the division
1430 shall issue an order directing that such developer cease and
1431 desist from further operation until such time as the civil
1432 penalty is paid or may pursue enforcement of the penalty in a
1433 court of competent jurisdiction. If an association fails to pay
1434 the civil penalty, the division shall pursue enforcement in a
1435 court of competent jurisdiction, and the order imposing the
1436 civil penalty or the cease and desist order will not become
1437 effective until 20 days after the date of such order. Any action
1438 commenced by the division shall be brought in the county in
1439 which the division has its executive offices or in the county
1440 where the violation occurred.

HB 1397

2009

1441 7. If a unit owner presents the division with proof that
1442 the unit owner has requested access to official records in
1443 writing by certified mail, and that after 10 days the unit owner
1444 again made the same request for access to official records in
1445 writing by certified mail, and that more than 10 days has
1446 elapsed since the second request and the association has still
1447 failed or refused to provide access to official records as
1448 required by this chapter, the division shall issue a subpoena
1449 requiring production of the requested records where the records
1450 are kept pursuant to s. 718.112.

1451 8. In addition to subparagraph 6., the division may seek
1452 the imposition of a civil penalty through the circuit court for
1453 any violation for which the division may issue a notice to show
1454 cause under paragraph (r). The civil penalty shall be at least
1455 \$500 but no more than \$5,000 for each violation. The court may
1456 also award to the prevailing party court costs and reasonable
1457 attorney's fees and, if the division prevails, may also award
1458 reasonable costs of investigation.

1459 9. Notwithstanding subparagraph 6., when the division
1460 finds that an officer or director has intentionally falsified
1461 association records with the intent to conceal material facts
1462 from the division, the board, or unit owners, the division shall
1463 prohibit the officer or director from acting as an officer or
1464 director of any condominium, cooperative, or homeowners'
1465 association for at least 1 year.

1466 10. When the division finds that any person has derived an
1467 improper personal benefit from a condominium association, the
1468 division shall order the person to pay restitution to the

1469 association and shall order the person to pay to the division
1470 the costs of investigation and prosecution.

1471 (e) The division may prepare and disseminate a prospectus
1472 and other information to assist prospective owners, purchasers,
1473 lessees, and developers of residential condominiums in assessing
1474 the rights, privileges, and duties pertaining thereto.

1475 (f) The division has authority to adopt rules pursuant to
1476 ss. 120.536(1) and 120.54 to implement and enforce the
1477 provisions of this chapter.

1478 (g) The division shall establish procedures for providing
1479 notice to an association and the developer during the period
1480 where the developer controls the association when the division
1481 is considering the issuance of a declaratory statement with
1482 respect to the declaration of condominium or any related
1483 document governing in such condominium community.

1484 (h) The division shall furnish each association which pays
1485 the fees required by paragraph (2) (a) a copy of this act,
1486 subsequent changes to this act on an annual basis, an amended
1487 version of this act as it becomes available from the Secretary
1488 of State's office on a biennial basis, and the rules adopted
1489 thereto on an annual basis.

1490 (i) The division shall annually provide each association
1491 with a summary of declaratory statements and formal legal
1492 opinions relating to the operations of condominiums which were
1493 rendered by the division during the previous year.

1494 (j) The division shall provide training and educational
1495 programs for condominium association board members and unit
1496 owners. The training may, in the division's discretion, include

HB 1397

2009

1497 web-based electronic media, and live training and seminars in
1498 various locations throughout the state. The division shall have
1499 the authority to review and approve education and training
1500 programs for board members and unit owners offered by providers
1501 and shall maintain a current list of approved programs and
1502 providers and shall make such list available to board members
1503 and unit owners in a reasonable and cost-effective manner.

1504 (k) The division shall maintain a toll-free telephone
1505 number accessible to condominium unit owners.

1506 (l) The division shall develop a program to certify both
1507 volunteer and paid mediators to provide mediation of condominium
1508 disputes. The division shall provide, upon request, a list of
1509 such mediators to any association, unit owner, or other
1510 participant in arbitration proceedings under s. 718.1255
1511 requesting a copy of the list. The division shall include on the
1512 list of volunteer mediators only the names of persons who have
1513 received at least 20 hours of training in mediation techniques
1514 or who have mediated at least 20 disputes. In order to become
1515 initially certified by the division, paid mediators must be
1516 certified by the Supreme Court to mediate court cases in county
1517 or circuit courts. However, the division may adopt, by rule,
1518 additional factors for the certification of paid mediators,
1519 which factors must be related to experience, education, or
1520 background. Any person initially certified as a paid mediator by
1521 the division must, in order to continue to be certified, comply
1522 with the factors or requirements imposed by rules adopted by the
1523 division.

HB 1397

2009

1524 (m) When a complaint is made, the division shall conduct
1525 its inquiry with due regard to the interests of the affected
1526 parties. Within 30 days after receipt of a complaint, the
1527 division shall acknowledge the complaint in writing and notify
1528 the complainant whether the complaint is within the jurisdiction
1529 of the division and whether additional information is needed by
1530 the division from the complainant. The division shall conduct
1531 its investigation and shall, within 90 days after receipt of the
1532 original complaint or of timely requested additional
1533 information, take action upon the complaint. However, the
1534 failure to complete the investigation within 90 days does not
1535 prevent the division from continuing the investigation,
1536 accepting or considering evidence obtained or received after 90
1537 days, or taking administrative action if reasonable cause exists
1538 to believe that a violation of this chapter or a rule of the
1539 division has occurred. If an investigation is not completed
1540 within the time limits established in this paragraph, the
1541 division shall, on a monthly basis, notify the complainant in
1542 writing of the status of the investigation. When reporting its
1543 action to the complainant, the division shall inform the
1544 complainant of any right to a hearing pursuant to ss. 120.569
1545 and 120.57.

1546 (n) Condominium association directors, officers, and
1547 employees; condominium developers; community association
1548 managers; and community association management firms have an
1549 ongoing duty to reasonably cooperate with the division in any
1550 investigation pursuant to this section. The division shall refer
1551 to local law enforcement authorities any person whom the

HB 1397

2009

1552 | division believes has altered, destroyed, concealed, or removed
1553 | any record, document, or thing required to be kept or maintained
1554 | by this chapter with the purpose to impair its verity or
1555 | availability in the department's investigation.

1556 | (o) The division may:

1557 | 1. Contract with agencies in this state or other
1558 | jurisdictions to perform investigative functions; or

1559 | 2. Accept grants-in-aid from any source.

1560 | (p) The division shall cooperate with similar agencies in
1561 | other jurisdictions to establish uniform filing procedures and
1562 | forms, public offering statements, advertising standards, and
1563 | rules and common administrative practices.

1564 | (q) The division shall consider notice to a developer to
1565 | be complete when it is delivered to the developer's address
1566 | currently on file with the division.

1567 | (r) In addition to its enforcement authority, the division
1568 | may issue a notice to show cause, which shall provide for a
1569 | hearing, upon written request, in accordance with chapter 120.

1570 | (s) The division shall submit to the Governor, the
1571 | President of the Senate, the Speaker of the House of
1572 | Representatives, and the chairs of the legislative
1573 | appropriations committees an annual report that includes, but
1574 | need not be limited to, the number of training programs provided
1575 | for condominium association board members and unit owners, the
1576 | number of complaints received by type, the number and percent of
1577 | complaints acknowledged in writing within 30 days and the number
1578 | and percent of investigations acted upon within 90 days in
1579 | accordance with paragraph (m), and the number of investigations

HB 1397

2009

1580 exceeding the 90-day requirement. The annual report shall also
1581 include an evaluation of the division's core business processes
1582 and make recommendations for improvements, including statutory
1583 changes. The report shall be submitted by September 30 following
1584 the end of the fiscal year.

1585 (3) The division shall create a booklet of the laws that a
1586 director must read as required by s. 718.112(2)(p)4. The booklet
1587 shall be available for free download from the division's
1588 website. The division may provide a printed version to directors
1589 for free or for a cost not to exceed the division's actual cost
1590 of production and mailing.

1591 Section 12. Subsection (9) of section 718.5012, Florida
1592 Statutes, is amended to read:

1593 718.5012 Ombudsman; powers and duties.--The ombudsman
1594 shall have the powers that are necessary to carry out the duties
1595 of his or her office, including the following specific powers:

1596 (9) To assist with the resolution of disputes between unit
1597 owners and the association or between unit owners when the
1598 dispute is not within the jurisdiction of the division to
1599 resolve or the division has declined to resolve a dispute.

1600 Section 13. Subsection (1) of section 718.50151, Florida
1601 Statutes, is amended to read:

1602 718.50151 Community Association ~~Living~~ Study Council;
1603 membership functions.--

1604 (1) There is created the Community Association ~~Living~~
1605 Study Council. The council shall consist of seven appointed
1606 members. Two members shall be appointed by the President of the
1607 Senate, two members shall be appointed by the Speaker of the

1608 House of Representatives, and three members shall be appointed
 1609 by the Governor. ~~One member that is appointed by the Governor~~
 1610 ~~may represent timeshare condominiums.~~ The council shall be
 1611 created ~~as of October 1 every 5 years,~~ commencing July ~~October~~
 1612 1, 2009 ~~2008,~~ and shall exist for a ~~6-month~~ term. The director
 1613 of the division shall appoint an ex officio nonvoting member.
 1614 The Legislature intends that the persons appointed represent a
 1615 cross-section of persons experienced ~~interested~~ in community
 1616 association issues. No member of the council may be a registered
 1617 lobbyist, partner or shareholder in a firm providing lobbying
 1618 services, or principal or employee of a lobbying firm who is
 1619 provided compensation by community associations. The council
 1620 shall be located within the division for administrative
 1621 purposes. Members of the council shall serve without
 1622 compensation but are entitled to receive per diem and travel
 1623 expenses pursuant to s. 112.061 while on official business. The
 1624 initial members of the council shall be those persons formerly
 1625 appointed to the Community Association Living Study Council who
 1626 are otherwise qualified to serve on the Community Association
 1627 Study Council.

1628 Section 14. Subsections (11) and (26) of section 719.103,
 1629 Florida Statutes, are amended to read:

1630 719.103 Definitions.--As used in this chapter:

1631 (11) "Conspicuous type" means bold type in capital letters
 1632 no smaller than the largest type, exclusive of headings, on the
 1633 page on which it appears and, in all cases, at least 10-point
 1634 type. When conspicuous type is required, it must be separated on
 1635 all sides from other type and print. Conspicuous type may be

1636 used in a contract for purchase and sale of a unit, a lease of a
 1637 unit for more than 5 years, or a prospectus or offering circular
 1638 only when required by law.

1639 (26) "Unit owner," ~~or~~ "owner of a unit," or "shareholder"
 1640 means the person holding a share in the cooperative association
 1641 and a lease or other muniment of title or possession of a unit
 1642 that is granted by the association as the owner of the
 1643 cooperative property.

1644 Section 15. Section 719.104, Florida Statutes, is amended
 1645 to read:

1646 719.104 The association ~~Cooperatives; access to units;~~
 1647 ~~records; financial reports; assessments; purchase of leases.--~~

1648 (1) RIGHT OF ACCESS TO UNITS.--The association has the
 1649 irrevocable right of access to each unit from time to time
 1650 during reasonable hours when necessary for the maintenance,
 1651 repair, or replacement of any structural components of the
 1652 building or of any mechanical, electrical, or plumbing elements
 1653 necessary to prevent damage to the building or to another unit.

1654 (2) OFFICIAL RECORDS.--

1655 (a) From the inception of the association, the association
 1656 shall maintain a copy of each of the following, where
 1657 applicable, which shall constitute the official records of the
 1658 association:

- 1659 1. The plans, permits, warranties, and other items
- 1660 provided by the developer pursuant to s. 719.301(4).
- 1661 2. A photocopy of the cooperative documents.
- 1662 3. A copy of the current rules of the association.

1663 4. A book or books containing the minutes of all meetings
 1664 of the association, of the board of directors, and of the
 1665 shareholders ~~unit-owners~~, which minutes shall be retained for a
 1666 period of not less than 7 years.

1667 5. A current roster of all shareholders ~~unit-owners~~ and
 1668 their mailing addresses, unit identifications, voting
 1669 certifications, and, if known, telephone numbers. The
 1670 association shall also maintain the electronic mailing addresses
 1671 and the numbers designated by shareholders ~~unit-owners~~ for
 1672 receiving notice sent by electronic transmission of those
 1673 shareholders ~~unit-owners~~ consenting to receive notice by
 1674 electronic transmission. The electronic mailing addresses and
 1675 numbers provided by shareholders ~~unit-owners~~ to receive notice
 1676 by electronic transmission shall be removed from association
 1677 records when consent to receive notice by electronic
 1678 transmission is revoked. However, the association is not liable
 1679 for an erroneous disclosure of the electronic mail address or
 1680 the number for receiving electronic transmission of notices.

1681 6. All current insurance policies of the association.

1682 7. A current copy of any management agreement, lease, or
 1683 other contract to which the association is a party or under
 1684 which the association or the shareholders ~~unit-owners~~ have an
 1685 obligation or responsibility.

1686 8. Bills of sale or transfer for all property owned by the
 1687 association.

1688 9. Accounting records for the association and separate
 1689 accounting records for each unit it operates, according to good
 1690 accounting practices. Any person who knowingly or intentionally

1691 defaces or destroys accounting records required to be maintained
 1692 by this chapter, or who knowingly or intentionally fails to
 1693 create or maintain accounting records required to be maintained
 1694 by this chapter, is personally subject to a civil penalty
 1695 pursuant to s. 719.501(1)(d). All accounting records shall be
 1696 maintained for a period of not less than 7 years. The accounting
 1697 records shall include, but not be limited to:

1698 a. Accurate, itemized, and detailed records of all
 1699 receipts and expenditures.

1700 b. A current account and a monthly, bimonthly, or
 1701 quarterly statement of the account for each unit designating the
 1702 name of the shareholder ~~unit owner~~, the due date and amount of
 1703 each assessment, the amount paid upon the account, and the
 1704 balance due.

1705 c. All audits, reviews, accounting statements, and
 1706 financial reports of the association.

1707 d. All contracts for work to be performed. Bids for work
 1708 to be performed shall also be considered official records and
 1709 shall be maintained ~~for a period of 1 year~~.

1710 10. Ballots, sign-in sheets, voting proxies, and all other
 1711 papers relating to voting by shareholders ~~unit owners~~, which
 1712 shall be maintained for a period of 1 year after the date of the
 1713 election, vote, or meeting to which the document relates.

1714 11. All rental records where the association is acting as
 1715 agent for the rental of units.

1716 12. A copy of the current question and answer sheet as
 1717 described in s. 719.504.

HB 1397

2009

1718 13. All other records of the association not specifically
1719 included in the foregoing which are related to the operation of
1720 the association.

1721 (b) The official records of the association shall be
1722 maintained within the state for at least 7 years. The records of
1723 the association shall be made available to a shareholder ~~unit~~
1724 ~~owner~~ within 5 working days after receipt of written request by
1725 the board or its designee. This paragraph may be complied with
1726 by having a copy of the official records available for
1727 inspection or copying on the cooperative property.

1728 (c) The official records of the association shall be open
1729 to inspection by any association member or the authorized
1730 representative of such member at all reasonable times. Failure
1731 to permit inspection of the association records as provided
1732 herein entitles any person prevailing in an enforcement action
1733 to recover reasonable attorney's fees from the person in control
1734 of the records who, directly or indirectly, knowingly denies
1735 access to the records for inspection. The right to inspect the
1736 records includes the right to make or obtain copies, at the
1737 reasonable expense, if any, of the association member. The
1738 association may adopt reasonable rules regarding the frequency,
1739 time, location, notice, and manner of record inspections and
1740 copying. The failure of an association to provide the records
1741 within 10 working days after receipt of a written request
1742 creates a rebuttable presumption that the association willfully
1743 failed to comply with this paragraph. A shareholder ~~unit~~ ~~owner~~
1744 who is denied access to official records is entitled to the
1745 actual damages or minimum damages for the association's willful

1746 failure to comply with this paragraph. The minimum damages shall
 1747 be \$50 per calendar day up to 10 days, the calculation to begin
 1748 on the 11th day after receipt of the written request. Any person
 1749 who knowingly or intentionally defaces or destroys records that
 1750 are required by this chapter, or knowingly or intentionally
 1751 fails to create or maintain records that are required by this
 1752 chapter, is personally subject to a civil penalty pursuant to s.
 1753 718.501(1)(d). The association shall maintain an adequate number
 1754 of copies of the declaration, articles of incorporation, bylaws,
 1755 and rules, and all amendments to each of the foregoing, as well
 1756 as the question and answer sheet provided for in s. 719.504, on
 1757 the cooperative property to ensure their availability to
 1758 shareholders ~~unit-owners~~ and prospective purchasers, and may
 1759 charge its actual costs for preparing and furnishing these
 1760 documents to those requesting the same. Notwithstanding the
 1761 provisions of this paragraph, the following records shall not be
 1762 accessible to shareholders ~~unit-owners~~:

- 1763 1. A record that was prepared by an association attorney
 1764 or prepared at the attorney's express direction; that reflects a
 1765 mental impression, conclusion, litigation strategy, or legal
 1766 theory of the attorney or the association; or that was prepared
 1767 exclusively for civil or criminal litigation or for adversarial
 1768 administrative proceedings or in anticipation of imminent civil
 1769 or criminal litigation or imminent adversarial administrative
 1770 proceedings, until the conclusion of the litigation or
 1771 adversarial administrative proceedings.

1772 2. Information obtained by an association in connection
 1773 with the approval of the lease, sale, or other transfer of a
 1774 unit.

1775 3. Medical records of shareholders ~~unit owners~~.

1776 4. Social security numbers, driver's license numbers,
 1777 credit card numbers, and other personal identifying information
 1778 of any person.

1779 (d) The association or its authorized agent shall not be
 1780 required to provide a prospective purchaser or lienholder with
 1781 information about the cooperative or association other than the
 1782 information or documents required by this chapter to be made
 1783 available or disclosed. The association or its authorized agent
 1784 shall be entitled to charge a reasonable fee to the prospective
 1785 purchaser, lienholder, or the current shareholder ~~unit owner~~ for
 1786 its time in providing good faith responses to requests for
 1787 information by or on behalf of a prospective purchaser or
 1788 lienholder, other than that required by law, provided that such
 1789 fee shall not exceed \$150 plus the reasonable cost of
 1790 photocopying and any attorney's fees incurred by the association
 1791 in connection with the association's response. An association
 1792 and its authorized agent are not liable for providing such
 1793 information in good faith pursuant to a written request if the
 1794 person providing the information includes a written statement in
 1795 substantially the following form: "The responses herein are made
 1796 in good faith and to the best of my ability as to their
 1797 accuracy."

1798 (3) INSURANCE.--In order to protect the safety, health,
 1799 and welfare of the people of the state and to ensure consistency

1800 in the provision of insurance coverage to cooperatives and their
 1801 shareholders, this subsection applies to every residential
 1802 cooperative in the state, regardless of the date of its
 1803 cooperative documents. It is the intent of the Legislature to
 1804 encourage lower or stable insurance premiums for associations
 1805 described in this subsection.

1806 (a) Adequate property insurance, regardless of any
 1807 requirement in the cooperative documents for coverage by the
 1808 association for full insurable value, replacement cost, or
 1809 similar coverage, shall be based upon the replacement cost of
 1810 the property to be insured as determined by an independent
 1811 insurance appraisal or update of a prior appraisal. The full
 1812 insurable value shall be determined at least once every 36
 1813 months.

1814 1. An association or group of associations may provide
 1815 adequate property insurance through a self-insurance fund that
 1816 complies with the requirements of ss. 624.460-624.488.

1817 2. The association may also provide adequate property
 1818 insurance coverage for a group of no fewer than three
 1819 communities created and operating under this chapter, chapter
 1820 718, chapter 720, or chapter 721 by obtaining and maintaining
 1821 for such communities insurance coverage sufficient to cover an
 1822 amount equal to the probable maximum loss for the communities
 1823 for a 250-year windstorm event. Such probable maximum loss must
 1824 be determined through the use of a competent model that has been
 1825 accepted by the Florida Commission on Hurricane Loss Projection
 1826 Methodology. No policy or program providing such coverage shall
 1827 be issued or renewed after July 1, 2009, unless it has been

HB 1397

2009

1828 reviewed and approved by the Office of Insurance Regulation. The
1829 review and approval shall include approval of the policy and
1830 related forms pursuant to ss. 627.410 and 627.411, approval of
1831 the rates pursuant to s. 627.062, a determination that the loss
1832 model approved by the commission was accurately and
1833 appropriately applied to the insured structures to determine the
1834 250-year probable maximum loss, and a determination that
1835 complete and accurate disclosure of all material provisions is
1836 provided to cooperative shareholders prior to execution of the
1837 agreement by a cooperative association.

1838 3. When determining the adequate amount of property
1839 insurance coverage, the association may consider deductibles as
1840 determined by this subsection.

1841 (b) If an association is a developer-controlled
1842 association, the association shall exercise its best efforts to
1843 obtain and maintain insurance as described in paragraph (a).
1844 Failure to obtain and maintain adequate property insurance
1845 during any period of developer control constitutes a breach of
1846 fiduciary responsibility by the developer-appointed members of
1847 the board of directors of the association, unless the members
1848 can show that despite such failure they have made their best
1849 efforts to maintain the required coverage.

1850 (c) Policies may include deductibles as determined by the
1851 board.

1852 1. The deductibles shall be consistent with industry
1853 standards and prevailing practice for communities of similar
1854 size and age, and having similar construction and facilities in
1855 the locale where the cooperative property is situated.

HB 1397

2009

1856 2. The deductibles may be based upon available funds,
1857 including reserve accounts, or predetermined assessment
1858 authority at the time the insurance is obtained.

1859 3. The board shall establish the amount of deductibles
1860 based upon the level of available funds and predetermined
1861 assessment authority at a meeting of the board. Such meeting
1862 shall be open to all shareholders in the manner set forth in s.
1863 719.106(1)(e). The notice of such meeting must state the
1864 proposed deductible and the available funds and the assessment
1865 authority relied upon by the board and estimate any potential
1866 assessment amount against each unit, if any. The meeting
1867 described in this subparagraph may be held in conjunction with a
1868 meeting to consider the proposed budget or an amendment thereto.

1869 (d) An association controlled by shareholders operating as
1870 a residential cooperative shall use its best efforts to obtain
1871 and maintain adequate insurance to protect the association, the
1872 association property, the common elements, and the cooperative
1873 property that is required to be insured by the association
1874 pursuant to this subsection.

1875 (e) An association may also obtain and maintain liability
1876 insurance for directors and officers, insurance for the benefit
1877 of association employees, and flood insurance for common
1878 elements, association property, and units.

1879 (f) Every property insurance policy issued or renewed on
1880 or after July 1, 2009, for the purpose of protecting the
1881 cooperative shall provide primary coverage for:

1882 1. All portions of the condominium property as originally
 1883 installed or replacement of like kind and quality, in accordance
 1884 with the original plans and specifications.

1885 2. All alterations or additions made to the cooperative
 1886 property or association property pursuant to s. 719.113(2).

1887
 1888 The coverage shall exclude all personal property within the
 1889 unit, and floor, wall, and ceiling coverings, electrical
 1890 fixtures, appliances, water heaters, water filters, built-in
 1891 cabinets and countertops, air-conditioning and heating equipment
 1892 that serves a single unit, and window treatments, including
 1893 curtains, drapes, blinds, hardware, and similar window treatment
 1894 components, or replacements of any of the foregoing. Such
 1895 property and insurance therefore shall be the responsibility of
 1896 the shareholder.

1897 (g) A cooperative shareholders policy issued after July 1,
 1898 2009, shall conform to the requirements of s. 627.714.

1899 1. All reconstruction work after a casualty loss shall be
 1900 undertaken by the association except as otherwise authorized in
 1901 this section. A shareholder may undertake reconstruction work on
 1902 portions of the unit with the prior written consent of the board
 1903 of directors. However, such work may be conditioned upon the
 1904 approval of the repair methods, the qualifications of the
 1905 proposed contractor, or the contract that is used for that
 1906 purpose. A shareholder shall obtain all required governmental
 1907 permits and approvals prior to commencing reconstruction.

1908 2. Shareholders are responsible for the cost of
 1909 reconstruction of any portions of the cooperative property for

1910 which the association does not carry property insurance, and any
 1911 such reconstruction work undertaken by the association shall be
 1912 chargeable to the shareholder and enforceable as an assessment
 1913 pursuant to s. 719.108.

1914 (h) The association shall maintain insurance or fidelity
 1915 bonding of all persons who control or disburse funds of the
 1916 association. The insurance policy or fidelity bond must cover
 1917 the maximum funds that will be in the custody of the association
 1918 or its management agent at any one time. As used in this
 1919 paragraph, the term "persons who control or disburse funds of
 1920 the association" includes, but is not limited to, those
 1921 individuals authorized to sign checks on behalf of the
 1922 association, and the president, secretary, and treasurer of the
 1923 association. The association shall bear the cost of any such
 1924 bonding.

1925 (i) The association may amend the cooperative documents
 1926 without regard to any requirement for approval by mortgagees of
 1927 amendments affecting insurance requirements for the purpose of
 1928 conforming the cooperative documents to the coverage
 1929 requirements of this subsection.

1930 (j) Any portion of the cooperative property required to be
 1931 insured by the association against casualty loss pursuant to
 1932 paragraph (f) which is damaged by casualty shall be
 1933 reconstructed, repaired, or replaced as necessary by the
 1934 association as a common expense. All property insurance
 1935 deductibles, uninsured losses, and other damages in excess of
 1936 property insurance coverage under the property insurance

1937 policies maintained by the association are a common expense of
 1938 the cooperative, except that:

1939 1. A shareholder is responsible for the costs of repair or
 1940 replacement of any portion of the cooperative property not paid
 1941 by insurance proceeds, if such damage is caused by intentional
 1942 conduct, negligence, or failure to comply with the terms of the
 1943 declaration or the rules of the association by a shareholder,
 1944 the members of his or her family, unit occupants, tenants,
 1945 guests, or invitees.

1946 2. The provisions of subparagraph 1. regarding the
 1947 financial responsibility of a shareholder for the costs of
 1948 repairing or replacing other portions of the cooperative
 1949 property also apply to the costs of repair or replacement of
 1950 personal property of other shareholders or the association, as
 1951 well as other property, whether real or personal, which the
 1952 shareholders are required to insure under paragraph (g).

1953 3. To the extent the cost of repair or reconstruction for
 1954 which the shareholder is responsible under this paragraph is
 1955 reimbursed to the association by insurance proceeds, and, to the
 1956 extent the association has collected the cost of such repair or
 1957 reconstruction from the shareholder, the association shall
 1958 reimburse the shareholder.

1959 4. The association is not obligated to pay for repair or
 1960 reconstruction or repairs of casualty losses as a common expense
 1961 if the casualty losses were known or should have been known to a
 1962 shareholder and were not reported to the association until after
 1963 the insurance claim of the association for that casualty was

1964 settled or resolved with finality, or denied on the basis that
 1965 it was untimely filed.

1966 (k) An association may, upon the approval of a majority of
 1967 the total voting interests in the association, opt out of the
 1968 provisions of paragraph (j) for the allocation of repair or
 1969 reconstruction expenses and allocate repair or reconstruction
 1970 expenses in the manner provided in the cooperative documents
 1971 originally recorded or as amended. Such vote may be approved by
 1972 the voting interests of the association without regard to any
 1973 mortgagee consent requirements.

1974 (l) Any association or condominium voting to opt out of
 1975 the guidelines for repair or reconstruction expenses as
 1976 described in paragraph (j) must record a notice setting forth
 1977 the date of the opt-out vote and the page of the official
 1978 records book on which the cooperative documents are recorded.
 1979 The decision to opt out is effective upon the date of recording
 1980 of the notice in the public records by the association. An
 1981 association that has voted to opt out of paragraph (j) may
 1982 reverse that decision by the same vote required in paragraph
 1983 (k), and notice thereof shall be recorded in the official
 1984 records.

1985 (m) The association is not obligated to pay for any
 1986 reconstruction or repair expenses due to casualty loss to any
 1987 improvements installed by a current or former owner of the unit
 1988 or by the developer if the improvement benefits only the unit
 1989 for which it was installed and is not part of the standard
 1990 improvements installed by the developer on all units as part of
 1991 original construction, whether or not such improvement is

HB 1397

2009

1992 located within the unit. This paragraph does not relieve any
1993 party of its obligations regarding recovery due under any
1994 insurance implemented specifically for any such improvements.

1995 ~~The association shall use its best efforts to obtain and~~
1996 ~~maintain adequate insurance to protect the association property.~~
1997 ~~The association may also obtain and maintain liability insurance~~
1998 ~~for directors and officers, insurance for the benefit of~~
1999 ~~association employees, and flood insurance. A copy of each~~
2000 ~~policy of insurance in effect shall be made available for~~
2001 ~~inspection by unit owners at reasonable times.~~

2002 ~~(a) Windstorm insurance coverage for a group of no fewer~~
2003 ~~than three communities created and operating under chapter 718,~~
2004 ~~this chapter, chapter 720, or chapter 721 may be obtained and~~
2005 ~~maintained for the communities if the insurance coverage is~~
2006 ~~sufficient to cover an amount equal to the probable maximum loss~~
2007 ~~for the communities for a 250-year windstorm event. Such~~
2008 ~~probable maximum loss must be determined through the use of a~~
2009 ~~competent model that has been accepted by the Florida Commission~~
2010 ~~on Hurricane Loss Projection Methodology. Such insurance~~
2011 ~~coverage is deemed adequate windstorm insurance for the purposes~~
2012 ~~of this section.~~

2013 ~~(b) An association or group of associations may self-~~
2014 ~~insure against claims against the association, the association~~
2015 ~~property, and the cooperative property required to be insured by~~
2016 ~~an association, upon compliance with the applicable provisions~~
2017 ~~of ss. 624.460-624.488, which shall be considered adequate~~
2018 ~~insurance for purposes of this section.~~

2019 (4) FINANCIAL REPORTING REPORT.--Within 90 days after the
 2020 end of the fiscal year, or annually on a date provided in the
 2021 bylaws, the association shall prepare and complete, or contract
 2022 for the preparation and completion of, a financial report for
 2023 the preceding fiscal year. Within 21 days after the final
 2024 financial report is completed by the association or received
 2025 from the third party, but not later than 120 days after the end
 2026 of the fiscal year or other date as provided in the bylaws, the
 2027 association shall mail to each shareholder at the address last
 2028 furnished to the association by the shareholder, or hand deliver
 2029 to each shareholder, a copy of the financial report or a notice
 2030 that a copy of the financial report will be mailed or hand
 2031 delivered to the shareholder, without charge, upon receipt of a
 2032 written request from the shareholder. The division shall adopt
 2033 rules setting forth uniform accounting principles and standards
 2034 to be used by all associations. The rules shall include, but not
 2035 be limited to, uniform accounting principles and standards for
 2036 stating the disclosure of at least a summary of the reserves,
 2037 including information as to whether such reserves are being
 2038 funded at a level sufficient to prevent the need for a special
 2039 assessment and, if not, the amount of assessments necessary to
 2040 bring the reserves up to the level necessary to avoid a special
 2041 assessment. The person preparing the financial reports shall be
 2042 entitled to rely on an inspection report prepared for or
 2043 provided to the association to meet the fiscal and fiduciary
 2044 standards of this chapter. In adopting such rules, the division
 2045 shall consider the number of members and annual revenues of an
 2046 association. Financial reports shall be prepared as follows:

HB 1397

2009

2047 (a) An association that meets the criteria of this
2048 paragraph shall prepare or cause to be prepared a complete set
2049 of financial statements in accordance with generally accepted
2050 accounting principles. The financial statements shall be based
2051 upon the association's total annual revenues, as follows:

2052 1. An association with total annual revenues of \$100,000
2053 or more, but less than \$200,000, shall prepare compiled
2054 financial statements.

2055 2. An association with total annual revenues of at least
2056 \$200,000, but less than \$400,000, shall prepare reviewed
2057 financial statements.

2058 3. An association with total annual revenues of \$400,000
2059 or more shall prepare audited financial statements.

2060 (b)1. An association with total annual revenues of less
2061 than \$100,000 shall prepare a report of cash receipts and
2062 expenditures.

2063 2. An association which operates less than 50 units,
2064 regardless of the association's annual revenues, shall prepare a
2065 report of cash receipts and expenditures in lieu of financial
2066 statements required by paragraph (a).

2067 3. A report of cash receipts and disbursements must
2068 disclose the amount of receipts by accounts and receipt
2069 classifications and the amount of expenses by accounts and
2070 expense classifications, including, but not limited to, the
2071 following, as applicable: costs for security, professional and
2072 management fees and expenses, taxes, costs for recreation
2073 facilities, expenses for refuse collection and utility services,
2074 expenses for lawn care, costs for building maintenance and

2075 repair, insurance costs, administration and salary expenses, and
 2076 reserves accumulated and expended for capital expenditures,
 2077 deferred maintenance, and any other category for which the
 2078 association maintains reserves.

2079 (c) An association may prepare or cause to be prepared,
 2080 without a meeting of or approval by the shareholders:

2081 1. Compiled, reviewed, or audited financial statements, if
 2082 the association is required to prepare a report of cash receipts
 2083 and expenditures;

2084 2. Reviewed or audited financial statements, if the
 2085 association is required to prepare compiled financial
 2086 statements; or

2087 3. Audited financial statements, if the association is
 2088 required to prepare reviewed financial statements.

2089 (d) If approved by a majority of the voting interests
 2090 present at a properly called meeting of the association, an
 2091 association may prepare or cause to be prepared:

2092 1. A report of cash receipts and expenditures in lieu of a
 2093 compiled, reviewed, or audited financial statement;

2094 2. A report of cash receipts and expenditures or a
 2095 compiled financial statement in lieu of a reviewed or audited
 2096 financial statement; or

2097 3. A report of cash receipts and expenditures, a compiled
 2098 financial statement, or a reviewed financial statement in lieu
 2099 of an audited financial statement.

2100
 2101 Such meeting and approval must occur prior to the end of the
 2102 fiscal year and is effective only for the fiscal year in which

2103 the vote is taken, except that the approval also may be
 2104 effective for the following fiscal year. With respect to an
 2105 association to which the developer has not turned over control
 2106 of the association, all shareholders, including the developer,
 2107 may vote on issues related to the preparation of financial
 2108 reports for the first 2 fiscal years of the association's
 2109 operation, beginning with the fiscal year in which the
 2110 declaration is recorded. Thereafter, all shareholders except the
 2111 developer may vote on such issues until control is turned over
 2112 to the association by the developer. Any audit or review
 2113 prepared under this section shall be paid for by the developer
 2114 if done prior to turnover of control of the association. An
 2115 association may not waive the financial reporting requirements
 2116 of this subsection for more than 3 consecutive years.

2117 ~~(a) Within 60 days following the end of the fiscal or~~
 2118 ~~calendar year or annually on such date as is otherwise provided~~
 2119 ~~in the bylaws of the association, the board of administration of~~
 2120 ~~the association shall mail or furnish by personal delivery to~~
 2121 ~~each unit owner a complete financial report of actual receipts~~
 2122 ~~and expenditures for the previous 12 months, or a complete set~~
 2123 ~~of financial statements for the preceding fiscal year prepared~~
 2124 ~~in accordance with generally accepted accounting procedures. The~~
 2125 ~~report shall show the amounts of receipts by accounts and~~
 2126 ~~receipt classifications and shall show the amounts of expenses~~
 2127 ~~by accounts and expense classifications including, if~~
 2128 ~~applicable, but not limited to, the following:~~

- 2129 ~~1. Costs for security;~~
- 2130 ~~2. Professional and management fees and expenses;~~

2131 ~~3. Taxes;~~
 2132 ~~4. Costs for recreation facilities;~~
 2133 ~~5. Expenses for refuse collection and utility services;~~
 2134 ~~6. Expenses for lawn care;~~
 2135 ~~7. Costs for building maintenance and repair;~~
 2136 ~~8. Insurance costs;~~
 2137 ~~9. Administrative and salary expenses; and~~
 2138 ~~10. Reserves for capital expenditures, deferred~~
 2139 ~~maintenance, and any other category for which the association~~
 2140 ~~maintains a reserve account or accounts.~~

2141 ~~(b) The division shall adopt rules that may require that~~
 2142 ~~the association deliver to the unit owners, in lieu of the~~
 2143 ~~financial report required by this section, a complete set of~~
 2144 ~~financial statements for the preceding fiscal year. The~~
 2145 ~~financial statements shall be delivered within 90 days following~~
 2146 ~~the end of the previous fiscal year or annually on such other~~
 2147 ~~date as provided in the bylaws. The rules of the division may~~
 2148 ~~require that the financial statements be compiled, reviewed, or~~
 2149 ~~audited, and the rules shall take into consideration the~~
 2150 ~~criteria set forth in s. 719.501(1)(j). The requirement to have~~
 2151 ~~the financial statements compiled, reviewed, or audited does not~~
 2152 ~~apply to associations if a majority of the voting interests of~~
 2153 ~~the association present at a duly called meeting of the~~
 2154 ~~association have determined for a fiscal year to waive this~~
 2155 ~~requirement. In an association in which turnover of control by~~
 2156 ~~the developer has not occurred, the developer may vote to waive~~
 2157 ~~the audit requirement for the first 2 years of the operation of~~
 2158 ~~the association, after which time waiver of an applicable audit~~

2159 ~~requirement shall be by a majority of voting interests other~~
 2160 ~~than the developer. The meeting shall be held prior to the end~~
 2161 ~~of the fiscal year, and the waiver shall be effective for only~~
 2162 ~~one fiscal year. This subsection does not apply to a cooperative~~
 2163 ~~that consists of 50 or fewer units.~~

2164 (5) ASSESSMENTS.--The association has the power to make
 2165 and collect assessments and to lease, maintain, repair, and
 2166 replace the common areas. However, the association may not
 2167 charge a use fee against a shareholder ~~the unit owner~~ for the
 2168 use of common areas unless otherwise provided for in the
 2169 cooperative documents or by a majority vote of the association
 2170 or unless the charges relate to expenses incurred by a
 2171 shareholder ~~an owner~~ having exclusive use of common areas.

2172 (6) PURCHASE OF LEASES.--The association has the power to
 2173 purchase any land or recreation lease upon the approval of such
 2174 voting interest as is required by the cooperative documents. If
 2175 the cooperative documents make no provision for acquisition of
 2176 the land or recreational lease, the vote required is that
 2177 required to amend the cooperative documents to permit the
 2178 acquisition.

2179 (7) COMMINGLING.--All funds shall be maintained separately
 2180 in the association's name. Reserve and operating funds of the
 2181 association shall not be commingled unless combined for
 2182 investment purposes. This subsection is not meant to prohibit
 2183 prudent investment of association funds even if combined with
 2184 operating or other reserve funds of the same association, but
 2185 such funds must be accounted for separately, and the combined
 2186 account balance may not, at any time, be less than the amount

HB 1397

2009

2187 identified as reserve funds in the combined account. No manager
2188 or business entity required to be licensed or registered under
2189 s. 468.432, or an agent, employee, officer, or director of a
2190 cooperative association may commingle any association funds with
2191 his or her own funds or with the funds of any other cooperative
2192 association or community association as defined in s. 468.431.

2193 (8) CORPORATE ENTITY.--

2194 (a) The operation of the cooperative shall be by the
2195 association, which must be a Florida corporation not for profit.
2196 The shareholders shall be members of the association. The
2197 officers and directors of the association have a fiduciary
2198 relationship to the shareholders ~~unit owners~~. It is the intent
2199 of the Legislature that nothing in this paragraph shall be
2200 construed as providing for or removing a requirement of a
2201 fiduciary relationship between any manager employed by the
2202 association and the shareholders. An officer, director, or
2203 manager may not solicit, offer to accept, or accept any thing or
2204 service of value for which consideration has not been provided
2205 for his or her own benefit or that of his or her immediate
2206 family, from any person providing or proposing to provide goods
2207 or services to the association. Any such officer, director, or
2208 manager who knowingly solicits, offers to accept, or accepts any
2209 thing or service of value is subject to a civil penalty pursuant
2210 to s. 719.501(1)(d). However, this paragraph does not prohibit
2211 an officer, director, or manager from accepting services or
2212 items received in connection with trade fairs or education
2213 programs.

2214 (b) A director of the association who is present at a
 2215 meeting of its board at which action on any corporate matter is
 2216 taken is presumed to have assented to the action taken unless
 2217 the director votes against such action or abstains from voting
 2218 ~~in respect thereto because of an asserted conflict of interest.~~
 2219 A director of the association who abstains from voting on any
 2220 action taken on any corporate matter shall be presumed to have
 2221 taken no position with regard to the action. Directors may not
 2222 vote by proxy or by secret ballot at board meetings, except that
 2223 officers may be elected by secret ballot. A vote or abstention
 2224 for each member present shall be recorded in the minutes.

2225 (c) A shareholder ~~unit owner~~ does not have any authority
 2226 to act for the association by reason of being a shareholder ~~unit~~
 2227 ~~owner.~~

2228 (d) As required by s. 617.0830, an officer, director, or
 2229 agent shall discharge his or her duties in good faith, with the
 2230 care an ordinarily prudent person in a like position would
 2231 exercise under similar circumstances, and in a manner he or she
 2232 reasonably believes to be in the interests of the association.
 2233 An officer, director, or agent shall be liable for monetary
 2234 damages as provided in s. 617.0834 if such officer, director, or
 2235 agent breached or failed to perform his or her duties and the
 2236 breach of, or failure to perform, his or her duties constitutes
 2237 a violation of criminal law as provided in s. 617.0834;
 2238 constitutes a transaction from which the officer or director
 2239 derived an improper personal benefit, either directly or
 2240 indirectly; or constitutes recklessness or an act or omission
 2241 that was in bad faith, with malicious purpose, or in a manner

2242 exhibiting wanton and willful disregard of human rights, safety,
 2243 or property.

2244 (9) EASEMENTS.--Unless prohibited by the cooperative
 2245 documents, the board of administration has the authority,
 2246 without the joinder of any shareholder ~~unit-owner~~, to grant,
 2247 modify, or move any easement, if the easement constitutes part
 2248 of or crosses the common areas or association property. This
 2249 subsection does not authorize the board of administration to
 2250 modify, move, or vacate any easement created in whole or in part
 2251 for the use or benefit of anyone other than the shareholders
 2252 ~~unit-owners~~, or crossing the property of anyone other than the
 2253 shareholders ~~unit-owners~~, without the consent or approval of
 2254 those other persons having the use or benefit of the easement,
 2255 as required by law or by the instrument creating the easement.

2256 (10) POWERS AND DUTIES.--The powers and duties of the
 2257 association include those set forth in this section and, except
 2258 as expressly limited or restricted in this chapter, those set
 2259 forth in the articles of incorporation and bylaws and chapters
 2260 607 and 617, as applicable.

2261 (11) NOTIFICATION OF DIVISION.--When the board of
 2262 directors intends to dissolve or merge the cooperative
 2263 association, the board shall so notify the division before
 2264 taking any action to dissolve or merge the cooperative
 2265 association.

2266 (12) POWER TO MANAGE COOPERATIVE PROPERTY AND TO CONTRACT,
 2267 SUE, AND BE SUED.--The association may contract, sue, or be sued
 2268 with respect to the exercise or nonexercise of its powers. For
 2269 these purposes, the powers of the association include, but are

2270 not limited to, the maintenance, management, and operation of
 2271 the cooperative property. After control of the association is
 2272 obtained by shareholders other than the developer, the
 2273 association may institute, maintain, settle, or appeal actions
 2274 or hearings in its name on behalf of all shareholders concerning
 2275 matters of common interest to most or all shareholders,
 2276 including, but not limited to, the common areas; the roof and
 2277 structural components of a building or other improvements;
 2278 mechanical, electrical, and plumbing elements serving an
 2279 improvement or a building; representations of the developer
 2280 pertaining to any existing or proposed commonly used facilities;
 2281 and protesting ad valorem taxes on commonly used facilities and
 2282 units; and the association may defend actions in eminent domain
 2283 or bring inverse condemnation actions. If the association has
 2284 the authority to maintain a class action, the association may be
 2285 joined in an action as representative of that class with
 2286 reference to litigation and disputes involving the matters for
 2287 which the association could bring a class action. Nothing herein
 2288 limits any statutory or common-law right of any individual
 2289 shareholder or class of shareholders to bring any action without
 2290 participation by the association which may otherwise be
 2291 available.

2292 (13) TITLE TO PROPERTY.--

2293 (a) The association has the power to acquire title to
 2294 property or otherwise hold, convey, lease, and mortgage
 2295 association property for the use and benefit of its
 2296 shareholders. The power to acquire personal property shall be
 2297 exercised by the board of directors. Except as otherwise

HB 1397

2009

2298 provided in subsections (6) and (14), no association may
 2299 acquire, convey, lease, or mortgage association real property
 2300 except in the manner provided in the cooperative documents, and
 2301 if the cooperative documents do not specify the procedure, then
 2302 approval of 75 percent of the total voting interests shall be
 2303 required.

2304 (b) Subject to the provisions of s. 719.106(1)(m), the
 2305 association, through its board, has the limited power to convey
 2306 a portion of the common areas to a condemning authority for the
 2307 purposes of providing utility easements, right-of-way expansion,
 2308 or other public purposes, whether negotiated or as a result of
 2309 eminent domain proceedings.

2310 (14) PURCHASE OF UNITS.--The association has the power,
 2311 unless prohibited by the cooperative documents, to purchase
 2312 units in the cooperative and to acquire and hold, lease,
 2313 mortgage, and convey the units. There shall be no limitation on
 2314 the association's right to purchase a unit at a foreclosure sale
 2315 resulting from the association's foreclosure of its lien for
 2316 unpaid assessments, or to take title by deed in lieu of
 2317 foreclosure.

2318 Section 16. Section 719.106, Florida Statutes, is amended
 2319 to read:

2320 719.106 Bylaws; cooperative ownership.--

2321 (1) MANDATORY PROVISIONS.--The bylaws or other cooperative
 2322 documents shall provide for the following, and if they do not,
 2323 they shall be deemed to include the following:

2324 (a) Administration.--

2325 1. The form of administration of the association shall be
 2326 described, indicating the titles of the officers and board of
 2327 administration and specifying the powers, duties, manner of
 2328 selection and removal, and compensation, if any, of officers and
 2329 board members. In the absence of such a provision, the board of
 2330 administration shall be composed of five members, except in the
 2331 case of cooperatives having five or fewer units, in which case
 2332 in not-for-profit corporations, the board shall consist of not
 2333 fewer than three members. In the absence of provisions to the
 2334 contrary, the board of administration shall have a president, a
 2335 secretary, and a treasurer, who shall perform the duties of
 2336 those offices customarily performed by officers of corporations.
 2337 Unless prohibited in the bylaws, the board of administration may
 2338 appoint other officers and grant them those duties it deems
 2339 appropriate. Unless otherwise provided in the bylaws, the
 2340 officers shall serve without compensation and at the pleasure of
 2341 the board. Unless otherwise provided in the bylaws, the members
 2342 of the board shall serve without compensation.

2343 2. When a shareholder ~~unit owner~~ files a written inquiry
 2344 by certified mail with the board of administration, the board
 2345 shall respond in writing to the shareholder ~~unit owner~~ within 30
 2346 days of receipt of the inquiry. The board's response shall
 2347 either give a substantive response to the inquirer, notify the
 2348 inquirer that a legal opinion has been requested, or notify the
 2349 inquirer that advice has been requested from the division. If
 2350 the board requests advice from the division, the board shall,
 2351 within 10 days of its receipt of the advice, provide in writing
 2352 a substantive response to the inquirer. If a legal opinion is

2353 requested, the board shall, within 60 days after the receipt of
 2354 the inquiry, provide in writing a substantive response to the
 2355 inquirer. The failure to provide a substantive response to the
 2356 inquirer as provided herein precludes the board from recovering
 2357 attorney's fees and costs in any subsequent litigation,
 2358 administrative proceeding, or arbitration arising out of the
 2359 inquiry. The association may, through its board of
 2360 administration, adopt reasonable rules and regulations regarding
 2361 the frequency and manner of responding to the shareholders' ~~unit~~
 2362 ~~owners'~~ inquiries, one of which may be that the association is
 2363 obligated to respond to only one written inquiry per unit in any
 2364 given 30-day period. In such case, any additional inquiry or
 2365 inquiries must be responded to in the subsequent 30-day period,
 2366 or periods, as applicable.

2367 (b) Quorum; voting requirements; proxies.--

2368 1. Unless otherwise provided in the bylaws, the percentage
 2369 of voting interests required to constitute a quorum at a meeting
 2370 of the members shall be a majority of voting interests, and
 2371 decisions shall be made by owners of a majority of the voting
 2372 interests. Unless otherwise provided in this chapter, or in the
 2373 articles of incorporation, bylaws, or other cooperative
 2374 documents, and except as provided in subparagraph (d)1.,
 2375 decisions shall be made by owners of a majority of the voting
 2376 interests represented at a meeting at which a quorum is present.

2377 2. Except as specifically otherwise provided herein, after
 2378 January 1, 1992, shareholders ~~unit owners~~ may not vote by
 2379 general proxy, but may vote by limited proxies substantially
 2380 conforming to a limited proxy form adopted by the division.

2381 Limited proxies and general proxies may be used to establish a
 2382 quorum. Limited proxies shall be used for votes taken to waive
 2383 or reduce reserves in accordance with subparagraph (j)2., for
 2384 votes taken to waive the financial reporting requirements of s.
 2385 719.104(4) ~~(b)~~, for votes taken to amend the articles of
 2386 incorporation or bylaws pursuant to this section, and for any
 2387 other matter for which this chapter requires or permits a vote
 2388 of the shareholders ~~unit owners~~. Except as provided in paragraph
 2389 (d), after January 1, 1992, no proxy, limited or general, shall
 2390 be used in the election of board members. General proxies may be
 2391 used for other matters for which limited proxies are not
 2392 required, and may also be used in voting for nonsubstantive
 2393 changes to items for which a limited proxy is required and
 2394 given. Notwithstanding the provisions of this section,
 2395 shareholders ~~unit owners~~ may vote in person at shareholder ~~unit~~
 2396 ~~owner~~ meetings. Nothing contained herein shall limit the use of
 2397 general proxies or require the use of limited proxies or require
 2398 the use of limited proxies for any agenda item or election at
 2399 any meeting of a timeshare cooperative.

2400 3. Any proxy given shall be effective only for the
 2401 specific meeting for which originally given and any lawfully
 2402 adjourned meetings thereof. In no event shall any proxy be valid
 2403 for a period longer than 90 days after the date of the first
 2404 meeting for which it was given. Every proxy shall be revocable
 2405 at any time at the pleasure of the shareholder ~~unit owner~~
 2406 executing it.

2407 4. A member of the board of administration or a committee
 2408 may submit in writing his or her agreement or disagreement with

2409 any action taken at a meeting that the member did not attend.
 2410 This agreement or disagreement may not be used as a vote for or
 2411 against the action taken and may not be used for the purposes of
 2412 creating a quorum.

2413 5. When some or all of the board or committee members meet
 2414 by telephone conference, those board or committee members
 2415 attending by telephone conference may be counted toward
 2416 obtaining a quorum and may vote by telephone. A telephone
 2417 speaker shall be utilized so that the conversation of those
 2418 board or committee members attending by telephone may be heard
 2419 by the board or committee members attending in person, as well
 2420 as by shareholders ~~unit owners~~ present at a meeting.

2421 (c) Board of administration meetings.--Meetings of the
 2422 board of administration at which a quorum of the members is
 2423 present shall be open to all shareholders ~~unit owners~~. Any
 2424 shareholder ~~unit owner~~ may tape record or videotape meetings of
 2425 the board of administration. The right to attend such meetings
 2426 includes the right to speak at such meetings with reference to
 2427 all designated agenda items. The division shall adopt reasonable
 2428 rules governing the tape recording and videotaping of the
 2429 meeting. The association may adopt reasonable written rules
 2430 governing the frequency, duration, and manner of shareholder
 2431 ~~unit owner~~ statements. Adequate notice of all meetings shall be
 2432 posted in a conspicuous place upon the cooperative property at
 2433 least 48 continuous hours preceding the meeting, except in an
 2434 emergency. If 20 percent of the voting interests petition the
 2435 board to address an item of business, the board shall at its
 2436 next regular board meeting or at a special meeting of the board,

2437 but not later than 60 days after the receipt of the petition,
 2438 place the item on the agenda. Any item not included on the
 2439 notice may be taken up on an emergency basis by at least a
 2440 majority plus one of the members of the board. Such emergency
 2441 action shall be noticed and ratified at the next regular meeting
 2442 of the board. However, written notice of any meeting at which
 2443 nonemergency special assessments, or at which amendment to rules
 2444 regarding unit use, will be considered shall be mailed,
 2445 delivered, or electronically transmitted to the shareholders
 2446 ~~unit owners~~ and posted conspicuously on the cooperative property
 2447 not less than 14 days prior to the meeting. Evidence of
 2448 compliance with this 14-day notice shall be made by an affidavit
 2449 executed by the person providing the notice and filed among the
 2450 official records of the association. Upon notice to the
 2451 shareholders ~~unit owners~~, the board shall by duly adopted rule
 2452 designate a specific location on the cooperative property upon
 2453 which all notices of board meetings shall be posted. In lieu of
 2454 or in addition to the physical posting of notice of any meeting
 2455 of the board of administration on the cooperative property, the
 2456 association may, by reasonable rule, adopt a procedure for
 2457 conspicuously posting and repeatedly broadcasting the notice and
 2458 the agenda on a closed-circuit cable television system serving
 2459 the cooperative association. However, if broadcast notice is
 2460 used in lieu of a notice posted physically on the cooperative
 2461 property, the notice and agenda must be broadcast at least four
 2462 times every broadcast hour of each day that a posted notice is
 2463 otherwise required under this section. When broadcast notice is
 2464 provided, the notice and agenda must be broadcast in a manner

HB 1397

2009

2465 and for a sufficient continuous length of time so as to allow an
2466 average reader to observe the notice and read and comprehend the
2467 entire content of the notice and the agenda. Notice of any
2468 meeting in which regular or special assessments against
2469 shareholders ~~unit-owners~~ are to be considered for any reason
2470 shall specifically state ~~contain a statement~~ that assessments
2471 will be considered and the nature, actual cost, and description
2472 of the purposes for ~~any~~ such assessments. Meetings of a
2473 committee to take final action on behalf of the board or to make
2474 recommendations to the board regarding the association budget
2475 are subject to the provisions of this paragraph. Meetings of a
2476 committee that does not take final action on behalf of the board
2477 or make recommendations to the board regarding the association
2478 budget are subject to the provisions of this section, unless
2479 those meetings are exempted from this section by the bylaws of
2480 the association. Notwithstanding any other law to the contrary,
2481 the requirement that board meetings and committee meetings be
2482 open to the shareholders ~~unit-owners~~ is inapplicable to meetings
2483 between the board or a committee and the association's attorney,
2484 with respect to proposed or pending litigation, when the meeting
2485 is held for the purpose of seeking or rendering legal advice.

2486 (d) Shareholder meetings.--There shall be an annual
2487 meeting of the shareholders held at the location provided in the
2488 association bylaws and, if the bylaws are silent as to the
2489 location, the meeting shall be held within 45 miles of the
2490 cooperative property. However, such distance requirement does
2491 not apply to an association governing a timeshare condominium.
2492 All members of the board of administration shall be elected at

HB 1397

2009

2493 | the first annual meeting after July 1, 2009, and annually
2494 | thereafter, except that if ~~unless~~ the bylaws provide for
2495 | staggered election terms of no more than 2 years and upon
2496 | approval of a majority of the total voting interests, the
2497 | association board members may serve 2-year staggered terms,
2498 | starting with the first annual meeting after July 1, 2009, at
2499 | which time the newly elected directors wherein staggered terms
2500 | are allowed shall, by random lot, determine which directors
2501 | shall serve a full 2-year term and which directors shall only
2502 | serve a 1-year term in order to start the staggered terms. If no
2503 | person is interested in or demonstrates an intention to run for
2504 | the position of a board member whose term has expired, such
2505 | board member whose term has expired shall be automatically
2506 | reappointed to the board of administration and need not stand
2507 | for reelection ~~or for their election at another meeting.~~ Any
2508 | shareholder ~~unit owner~~ desiring to be a candidate for board
2509 | membership shall comply with subparagraph 1. The bylaws shall
2510 | provide the method for calling meetings, including annual
2511 | meetings. Written notice, which notice shall incorporate an
2512 | identification of agenda items, shall be given to each
2513 | shareholder ~~unit owner~~ at least 14 days prior to the annual
2514 | meeting and shall be posted in a conspicuous place on the
2515 | cooperative property at least 14 continuous days preceding the
2516 | annual meeting. Upon notice to the shareholders ~~unit owners~~, the
2517 | board shall by duly adopted rule designate a specific location
2518 | on the cooperative property upon which all notice of shareholder
2519 | ~~unit owner~~ meetings shall be posted. In lieu of or in addition
2520 | to the physical posting of notice of any meeting of the

2521 | shareholders on the cooperative property, the association may,
 2522 | by reasonable rule, adopt a procedure for conspicuously posting
 2523 | and repeatedly broadcasting the notice and the agenda on a
 2524 | closed-circuit cable television system serving the cooperative
 2525 | association. However, if broadcast notice is used in lieu of a
 2526 | notice posted physically on the cooperative property, the notice
 2527 | and agenda must be broadcast at least four times every broadcast
 2528 | hour of each day that a posted notice is otherwise required
 2529 | under this section. When broadcast notice is provided, the
 2530 | notice and agenda must be broadcast in a manner and for a
 2531 | sufficient continuous length of time so as to allow an average
 2532 | reader to observe the notice and read and comprehend the entire
 2533 | content of the notice and the agenda. Unless a shareholder ~~unit~~
 2534 | ~~owner~~ waives in writing the right to receive notice of the
 2535 | annual meeting, the notice of the annual meeting shall be sent
 2536 | by mail, hand delivered, or electronically transmitted to each
 2537 | shareholder ~~unit~~ ~~owner~~. An officer of the association shall
 2538 | provide an affidavit or United States Postal Service certificate
 2539 | of mailing, to be included in the official records of the
 2540 | association, affirming that notices of the association meeting
 2541 | were mailed, hand delivered, or electronically transmitted, in
 2542 | accordance with this provision, to each shareholder ~~unit~~ ~~owner~~
 2543 | at the address last furnished to the association.

2544 | 1. After January 1, 1992, the board of administration
 2545 | shall be elected by written ballot or voting machine. Proxies
 2546 | shall in no event be used in electing the board of
 2547 | administration, either in general elections or elections to fill
 2548 | vacancies caused by recall, resignation, or otherwise unless

HB 1397

2009

2549 otherwise provided in this chapter. Not less than 60 days before
 2550 a scheduled election, the association shall mail, deliver, or
 2551 transmit, whether by separate association mailing, delivery, or
 2552 electronic transmission or included in another association
 2553 mailing, delivery, or electronic transmission, including
 2554 regularly published newsletters, to each shareholder ~~unit owner~~
 2555 entitled to vote, a first notice of the date of the election.
 2556 Any shareholder ~~unit owner~~ or other eligible person desiring to
 2557 be a candidate for the board of administration shall give
 2558 written notice to the association not less than 40 days before a
 2559 scheduled election. Together with the written notice and agenda
 2560 as set forth in this section, the association shall mail,
 2561 deliver, or electronically transmit a second notice of election
 2562 to all shareholders ~~unit owners~~ entitled to vote therein,
 2563 together with a ballot which shall list all candidates. Upon
 2564 request of a candidate, the association shall include an
 2565 information sheet, no larger than 8 1/2 inches by 11 inches,
 2566 which must be furnished by the candidate not less than 35 days
 2567 prior to the election, to be included with the mailing,
 2568 delivery, or electronic transmission of the ballot, with the
 2569 costs of mailing, delivery, or transmission and copying to be
 2570 borne by the association. The association has no liability for
 2571 the contents of the information sheets provided by the
 2572 candidates. In order to reduce costs, the association may print
 2573 or duplicate the information sheets on both sides of the paper.
 2574 The division shall by rule establish voting procedures
 2575 consistent with the provisions contained herein, including rules
 2576 establishing procedures for giving notice by electronic

2577 transmission and rules providing for the secrecy of ballots.
 2578 Elections shall be decided by a plurality of those ballots cast.
 2579 There shall be no quorum requirement. However, at least 20
 2580 percent of the eligible voters must cast a ballot in order to
 2581 have a valid election of members of the board of administration.
 2582 No shareholder ~~unit owner~~ shall permit any other person to vote
 2583 his or her ballot, and any such ballots improperly cast shall be
 2584 deemed invalid. A shareholder ~~unit owner~~ who needs assistance in
 2585 casting the ballot for the reasons stated in s. 101.051 may
 2586 obtain assistance in casting the ballot. Any shareholder ~~unit~~
 2587 ~~owner~~ violating this provision may be fined by the association
 2588 in accordance with s. 719.303. The regular election shall occur
 2589 on the date of the annual meeting. The provisions of this
 2590 subparagraph shall not apply to timeshare cooperatives.
 2591 Notwithstanding the provisions of this subparagraph, an election
 2592 and balloting are not required unless more candidates file a
 2593 notice of intent to run or are nominated than vacancies exist on
 2594 the board.

2595 2. Any approval by shareholders ~~unit owners~~ called for by
 2596 this chapter, or the applicable cooperative documents, shall be
 2597 made at a duly noticed meeting of shareholders ~~unit owners~~ and
 2598 shall be subject to all requirements of this chapter or the
 2599 applicable cooperative documents relating to shareholder ~~unit~~
 2600 ~~owner~~ decisionmaking, except that shareholders ~~unit owners~~ may
 2601 take action by written agreement, without meetings, on matters
 2602 for which action by written agreement without meetings is
 2603 expressly allowed by the applicable cooperative documents or any

2604 Florida statute which provides for the shareholder ~~unit owner~~
 2605 action.

2606 3. Shareholders ~~Unit owners~~ may waive notice of specific
 2607 meetings if allowed by the applicable cooperative documents or
 2608 any Florida statute. If authorized by the bylaws, notice of
 2609 meetings of the board of administration, shareholder meetings,
 2610 except shareholder meetings called to recall board members under
 2611 paragraph (f), and committee meetings may be given by electronic
 2612 transmission to shareholders ~~unit owners~~ who consent to receive
 2613 notice by electronic transmission.

2614 4. Shareholders ~~Unit owners~~ shall have the right to
 2615 participate in meetings of shareholders ~~unit owners~~ with
 2616 reference to all designated agenda items. However, the
 2617 association may adopt reasonable rules governing the frequency,
 2618 duration, and manner of shareholder ~~unit owner~~ participation.

2619 5. Any shareholder ~~unit owner~~ may tape record or videotape
 2620 meetings of the shareholders ~~unit owners~~ subject to reasonable
 2621 rules adopted by the division.

2622
 2623 Notwithstanding subparagraphs (b)2. and (d)1., an association of
 2624 10 units or less may, by the affirmative vote of a majority of
 2625 the total voting interests, provide for a different voting and
 2626 election procedure in its bylaws, which vote may be by a proxy
 2627 specifically delineating the different voting and election
 2628 procedures. The different voting and election procedures may
 2629 provide for elections to be conducted by limited or general
 2630 proxy.

2631 (e) Budget procedures.--

2632 1. The board of administration shall mail, hand deliver,
 2633 or electronically transmit to each shareholder ~~unit-owner~~ at the
 2634 address last furnished to the association, a meeting notice and
 2635 copies of the proposed annual budget of common expenses to the
 2636 shareholders ~~unit-owners~~ not less than 14 days prior to the
 2637 meeting at which the budget will be considered. Evidence of
 2638 compliance with this 14-day notice must be made by an affidavit
 2639 executed by an officer of the association or the manager or
 2640 other person providing notice of the meeting and filed among the
 2641 official records of the association. The meeting must be open to
 2642 the shareholders ~~unit-owners~~.

2643 2. If an adopted budget requires assessment against the
 2644 shareholders ~~unit-owners~~ in any fiscal or calendar year which
 2645 exceeds 115 percent of the assessments for the preceding year,
 2646 the board upon written application of 10 percent of the voting
 2647 interests to the board, shall call a special meeting of the
 2648 shareholders ~~unit-owners~~ within 30 days, upon not less than 10
 2649 days' written notice to each shareholder ~~unit-owner~~. At the
 2650 special meeting, shareholders ~~unit-owners~~ shall consider and
 2651 enact a budget. Unless the bylaws require a larger vote, the
 2652 adoption of the budget requires a vote of not less than a
 2653 majority of all the voting interests.

2654 3. The board of administration may, in any event, propose
 2655 a budget to the shareholders ~~unit-owners~~ at a meeting of members
 2656 or by writing, and if the budget or proposed budget is approved
 2657 by the shareholders ~~unit-owners~~ at the meeting or by a majority
 2658 of all voting interests in writing, the budget is adopted. If a
 2659 meeting of the shareholders ~~unit-owners~~ has been called and a

2660 quorum is not attained or a substitute budget is not adopted by
 2661 the shareholders ~~unit owners~~, the budget adopted by the board of
 2662 directors goes into effect as scheduled.

2663 4. In determining whether assessments exceed 115 percent
 2664 of similar assessments for prior years, any authorized
 2665 provisions for reasonable reserves for repair or replacement of
 2666 cooperative property, anticipated expenses by the association
 2667 which are not anticipated to be incurred on a regular or annual
 2668 basis, or assessments for betterments to the cooperative
 2669 property must be excluded from computation. However, as long as
 2670 the developer is in control of the board of administration, the
 2671 board may not impose an assessment for any year greater than 115
 2672 percent of the prior fiscal or calendar year's assessment
 2673 without approval of a majority of all voting interests.

2674 (f) Recall of board members.--Subject to the provisions of
 2675 s. 719.301, any member of the board of administration may be
 2676 recalled and removed from office with or without cause by the
 2677 vote or agreement in writing by a majority of all the voting
 2678 interests. A special meeting of the voting interests to recall
 2679 any member of the board of administration may be called by 10
 2680 percent of the shareholders ~~unit owners~~ giving notice of the
 2681 meeting as required for a meeting of shareholders ~~unit owners~~,
 2682 and the notice shall state the purpose of the meeting.

2683 Electronic transmission may not be used as a method of giving
 2684 notice of a meeting called in whole or in part for this purpose.

2685 1. If the recall is approved by a majority of all voting
 2686 interests by a vote at a meeting, the recall shall be effective
 2687 as provided herein. The board shall duly notice and hold a board

2688 meeting within 5 full business days of the adjournment of the
 2689 shareholder ~~unit-owner~~ meeting to recall one or more board
 2690 members. At the meeting, the board shall either certify the
 2691 recall, in which case such member or members shall be recalled
 2692 effective immediately and shall turn over to the board within 5
 2693 full business days any and all records and property of the
 2694 association in their possession, or shall proceed as set forth
 2695 in subparagraph 3.

2696 2. If the proposed recall is by an agreement in writing by
 2697 a majority of all voting interests, the agreement in writing or
 2698 a copy thereof shall be served on the association by certified
 2699 mail or by personal service in the manner authorized by chapter
 2700 48 and the Florida Rules of Civil Procedure. The board of
 2701 administration shall duly notice and hold a meeting of the board
 2702 within 5 full business days after receipt of the agreement in
 2703 writing. At the meeting, the board shall either certify the
 2704 written agreement to recall members of the board, in which case
 2705 such members shall be recalled effective immediately and shall
 2706 turn over to the board, within 5 full business days, any and all
 2707 records and property of the association in their possession, or
 2708 proceed as described in subparagraph 3.

2709 3. If the board determines not to certify the written
 2710 agreement to recall members of the board, or does not certify
 2711 the recall by a vote at a meeting, the board shall, within 5
 2712 full business days after the board meeting, file with the
 2713 division a petition for binding arbitration pursuant to the
 2714 procedures of s. 719.1255. For purposes of this paragraph, the
 2715 shareholders ~~unit-owners~~ who voted at the meeting or who

2716 | executed the agreement in writing shall constitute one party
 2717 | under the petition for arbitration. If the arbitrator certifies
 2718 | the recall as to any member of the board, the recall shall be
 2719 | effective upon mailing of the final order of arbitration to the
 2720 | association. If the association fails to comply with the order
 2721 | of the arbitrator, the division may take action pursuant to s.
 2722 | 719.501. Any member so recalled shall deliver to the board any
 2723 | and all records and property of the association in the member's
 2724 | possession within 5 full business days of the effective date of
 2725 | the recall.

2726 | 4. If the board fails to duly notice and hold a board
 2727 | meeting within 5 full business days of service of an agreement
 2728 | in writing or within 5 full business days of the adjournment of
 2729 | the shareholder ~~unit-owner~~ recall meeting, the recall shall be
 2730 | deemed effective and the board members so recalled shall
 2731 | immediately turn over to the board any and all records and
 2732 | property of the association.

2733 | 5. If a vacancy occurs on the board as a result of a
 2734 | recall or removal and less than a majority of the board members
 2735 | are removed, the vacancy may be filled by the affirmative vote
 2736 | of a majority of the remaining directors, notwithstanding any
 2737 | provision to the contrary contained in this chapter. If
 2738 | vacancies occur on the board as a result of a recall and a
 2739 | majority or more of the board members are removed, the vacancies
 2740 | shall be filled in accordance with procedural rules to be
 2741 | adopted by the division, which rules need not be consistent with
 2742 | this chapter. The rules must provide procedures governing the
 2743 | conduct of the recall election as well as the operation of the

HB 1397

2009

2744 association during the period after a recall but prior to the
2745 recall election.

2746 (g) Common expenses.--The manner of collecting from the
2747 shareholders ~~unit owners~~ their shares of the common expenses
2748 shall be stated. Assessments shall be made against shareholders
2749 ~~unit owners~~ not less frequently than quarterly, in an amount no
2750 less than is required to provide funds in advance for payment of
2751 all of the anticipated current operating expense and for all of
2752 the unpaid operating expense previously incurred. Nothing in
2753 this paragraph shall preclude the right of an association to
2754 accelerate assessments of a shareholder ~~an owner~~ delinquent in
2755 payment of common expenses in actions taken pursuant to s.
2756 719.104 (5) ~~(4)~~.

2757 (h) Amendment of bylaws.--

2758 1. The method by which the bylaws may be amended
2759 consistent with the provisions of this chapter shall be stated.
2760 If the bylaws fail to provide a method of amendment, the bylaws
2761 may be amended if the amendment is approved by shareholders
2762 ~~owners~~ of not less than two-thirds of the voting interests.

2763 2. No bylaw shall be revised or amended by reference to
2764 its title or number only. Proposals to amend existing bylaws
2765 shall contain the full text of the bylaws to be amended; new
2766 words shall be inserted in the text underlined, and words to be
2767 deleted shall be lined through with hyphens. However, if the
2768 proposed change is so extensive that this procedure would
2769 hinder, rather than assist, the understanding of the proposed
2770 amendment, it is not necessary to use underlining and hyphens as
2771 indicators of words added or deleted, but, instead, a notation

HB 1397

2009

2772 must be inserted immediately preceding the proposed amendment in
2773 substantially the following language: "Substantial rewording of
2774 bylaw. See bylaw _____ for present text."

2775 3. Nonmaterial errors or omissions in the bylaw process
2776 shall not invalidate an otherwise properly promulgated
2777 amendment.

2778 4. If the bylaws provide for amendment by the board of
2779 directors, no bylaw may be amended unless it is heard and
2780 noticed at two consecutive meetings of the board of directors
2781 that are at least 1 week apart. If the bylaws provide for
2782 amendment of the bylaws by a vote of the shareholders, the
2783 meeting at which the vote is to be taken must be conducted
2784 between the hours of 6 p.m. and 10 p.m. local time.

2785 (i) Transfer fees.--No charge may be made by the
2786 association or any body thereof in connection with the sale,
2787 mortgage, lease, sublease, or other transfer of a unit unless
2788 the association is required to approve such transfer and a fee
2789 for such approval is provided for in the cooperative documents.
2790 Any such fee may be preset, but in no event shall it exceed \$100
2791 per applicant other than husband/wife or parent/dependent child,
2792 which are considered one applicant. However, if the lease or
2793 sublease is a renewal of a lease or sublease with the same
2794 lessee or sublessee, no charge shall be made. Nothing in this
2795 paragraph shall be construed to prohibit an association from
2796 requiring as a condition to permitting the letting or renting of
2797 a unit, when the association has such authority in the
2798 documents, the depositing into an escrow account maintained by
2799 the association a security deposit in an amount not to exceed

HB 1397

2009

2800 the equivalent of 1 month's rent. The security deposit shall
 2801 protect against damages to the common areas or cooperative
 2802 property. Within 15 days after a tenant vacates the premises,
 2803 the association shall refund the full security deposit or give
 2804 written notice to the tenant of any claim made against the
 2805 security. Disputes under this paragraph shall be handled in the
 2806 same fashion as disputes concerning security deposits under s.
 2807 83.49.

2808 (j) Annual budget.--

2809 1. The proposed annual budget of estimated revenues and
 2810 ~~common~~ expenses shall be detailed and shall show the amounts
 2811 budgeted by accounts and expense classifications, including, if
 2812 applicable, but not limited to, those expenses listed in s.
 2813 719.504(20).

2814 2. In addition to annual operating expenses, the budget
 2815 shall include reserve accounts for capital expenditures and
 2816 deferred maintenance. These accounts shall include, but not be
 2817 limited to, roof replacement, building painting, and pavement
 2818 resurfacing, regardless of the amount of deferred maintenance
 2819 expense or replacement cost, and for any other items for which
 2820 the deferred maintenance expense or replacement cost exceeds
 2821 \$10,000. The amount to be reserved shall be computed by means of
 2822 a formula which is based upon estimated remaining useful life
 2823 and estimated replacement cost or deferred maintenance expense
 2824 of each reserve item. The association may adjust replacement
 2825 reserve assessments annually to take into account any changes in
 2826 estimates or extension of the useful life of a reserve item
 2827 caused by deferred maintenance. This paragraph shall not apply

2828 to any budget in which the members of an association have, at a
 2829 duly called meeting of the association, determined for a fiscal
 2830 year to provide no reserves or reserves less adequate than
 2831 required by this subsection. However, prior to turnover of
 2832 control of an association by a developer to shareholders ~~unit~~
 2833 ~~owners~~ other than a developer pursuant to s. 719.301, the
 2834 developer may vote to waive the reserves or reduce the funding
 2835 of reserves for the first 2 years of the operation of the
 2836 association after which time reserves may only be waived or
 2837 reduced upon the vote of a majority of all nondeveloper voting
 2838 interests voting in person or by limited proxy at a duly called
 2839 meeting of the association. If a meeting of the shareholders
 2840 ~~unit owners~~ has been called to determine to provide no reserves,
 2841 or reserves less adequate than required, and such result is not
 2842 attained or a quorum is not attained, the reserves as included
 2843 in the budget shall go into effect.

2844 3. Reserve funds and any interest accruing thereon shall
 2845 remain in the reserve account or accounts, and shall be used
 2846 only for authorized reserve expenditures unless their use for
 2847 other purposes is approved in advance by a vote of the majority
 2848 of the voting interests, voting in person or by limited proxy at
 2849 a duly called meeting of the association. Prior to turnover of
 2850 control of an association by a developer to shareholders ~~unit~~
 2851 ~~owners~~ other than the developer under s. 719.301, the developer
 2852 may not vote to use reserves for purposes other than that for
 2853 which they were intended without the approval of a majority of
 2854 all nondeveloper voting interests, voting in person or by
 2855 limited proxy at a duly called meeting of the association.

2856 4. The only voting interests which are eligible to vote on
 2857 questions that involve waiving or reducing the funding of
 2858 reserves, or using existing reserve funds for purposes other
 2859 than purposes for which the reserves were intended, are the
 2860 voting interests of the units subject to assessment to fund the
 2861 reserves in question. Proxy questions relating to waiving or
 2862 reducing the funding of reserves or using existing reserve funds
 2863 for purposes other than purposes for which the reserves were
 2864 intended shall contain the following statement in capitalized,
 2865 bold letters in a font size larger than any other used on the
 2866 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
 2867 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY
 2868 RESULT IN SHAREHOLDER LIABILITY FOR PAYMENT OF UNANTICIPATED
 2869 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

2870 (k) Insurance or fidelity bonds.--The association shall
 2871 obtain and maintain adequate insurance or fidelity bonding of
 2872 all persons who control or disburse funds of the association.
 2873 The insurance policy or fidelity bond must cover the maximum
 2874 funds that will be in the custody of the association or its
 2875 management agent at any one time. As used in this paragraph, the
 2876 term "persons who control or disburse funds of the association"
 2877 includes, but is not limited to, those individuals authorized to
 2878 sign checks, and the president, secretary, and treasurer of the
 2879 association. The association shall bear the cost of bonding and
 2880 insurance.

2881 (1) Arbitration.--There shall be a provision for mandatory
 2882 nonbinding arbitration of internal disputes arising from the
 2883 operation of the cooperative in accordance with s. 719.1255.

HB 1397

2009

2884 (m) Common areas; limited power to convey.--

2885 1. The bylaws shall include a provision granting the
2886 association a limited power to convey a portion of the common
2887 areas to a condemning authority for the purpose of providing
2888 utility easements, right-of-way expansion, or other public
2889 purposes, whether negotiated or as a result of eminent domain
2890 proceedings.

2891 2. In any case in which the bylaws are silent as to the
2892 association's power to convey common areas as described in
2893 subparagraph 1., the bylaws shall be deemed to include the
2894 provision described in subparagraph 1.

2895 (n) Director or officer delinquencies.--A director or
2896 officer more than 90 days delinquent in the payment of regular
2897 assessments shall be deemed to have abandoned the office,
2898 creating a vacancy in the office to be filled according to law.

2899 (o) Director or officer offenses.--A director or officer
2900 charged by information or indictment with a felony theft or
2901 embezzlement offense involving the association's funds or
2902 property shall be removed from office, creating a vacancy in the
2903 office to be filled according to law. While such director or
2904 officer has such criminal charge pending in the state or federal
2905 court system, he or she may not be appointed or elected to a
2906 position as a director or officer. However, should the charges
2907 be resolved without a finding of guilt, the director or officer
2908 shall be reinstated for the remainder of his or her term of
2909 office, if any.

2910 (p) Qualifications of directors.-- In addition to any
2911 other requirement for office in statute or in the governing

2912 documents of the association, a person running for or seeking
 2913 appointment to the board must meet the following qualifications:

2914 1. In a cooperative association of 10 or more units, only
 2915 one individual coowner of a unit may serve on the board of
 2916 administration.

2917 2. No person may serve as a director of any cooperative
 2918 association in the state if restricted from serving by action of
 2919 the division pursuant to s. 719.501.

2920 3. A person who has been convicted of any felony in this
 2921 state or in a United States District or Territorial Court, or
 2922 who has been convicted of any offense in another jurisdiction
 2923 that would be considered a felony if committed in this state, is
 2924 not eligible for board membership unless such felon's civil
 2925 rights have been restored for a period of no less than 5 years
 2926 as of the date on which such person seeks election to the board.

2927 4. Within 30 days after being elected or appointed to the
 2928 board of directors, a director shall certify in writing to the
 2929 secretary of the association that he or she has read parts I and
 2930 III of chapter 719; ss. 719.501, 617.0202, 617.0206, 617.0302-
 2931 617.0304, 617.0501, 617.0505, 617.0801-617.0833, 617.0840-
 2932 617.0843, 617.1622, and 617.2102; and the association's
 2933 cooperative documents, bylaws, and current written policies.
 2934 The director shall further certify that he or she will work to
 2935 uphold such documents and policies to the best of his or her
 2936 ability, and that he or she will faithfully discharge his or her
 2937 fiduciary responsibility to the association's members. If the
 2938 division finds that a director has falsely certified that he or
 2939 she has read the required statutes and documents, the division

2940 shall order the director removed the board and shall order the
 2941 director to reimburse the division for the cost of prosecution
 2942 and hearing.

2943 5. After turnover of the association pursuant to s.
 2944 718.301(4), a director must:

2945 a. If the unit is owned by an individual or individuals,
 2946 be one of those individuals.

2947 b. If the unit is owned by a trust, be an individual
 2948 qualified pursuant to s. 617.0802.

2949 c. If the unit is owned by an entity other than a trust,
 2950 be an individual designated by the entity that owns the unit.

2951
 2952 These qualifications shall operate on a continuing basis, and
 2953 upon a failure of a director at any time to meet a
 2954 qualification, the secretary shall certify that the director is
 2955 removed from office and that a vacancy in office exists.

2956 (2) OPTIONAL PROVISIONS.--The bylaws may provide for the
 2957 following:

2958 (a) Administrative rules.--A method of adopting and of
 2959 amending administrative rules and regulations governing the
 2960 details of the operation and use of the common areas.

2961 (b) Use and maintenance restrictions.--Restrictions on,
 2962 and requirements for, the use, maintenance, and appearance of
 2963 the units and the use of the common areas, not inconsistent with
 2964 the cooperative documents, designed to prevent unreasonable
 2965 interference with the use of the units and common areas.

2966 (c) Notice of meetings.--Provisions for giving notice by
 2967 electronic transmissions in a manner authorized by law of

HB 1397

2009

2968 meetings of the board of directors and committees and of annual
 2969 and special meetings of the members.

2970 (d) Other matters.--Other provisions not inconsistent with
 2971 this chapter or with the cooperative documents as may be
 2972 desired.

2973 Section 17. Section 719.1064, Florida Statutes, is
 2974 repealed.

2975 Section 18. Paragraphs (b) and (c) of subsection (1) and
 2976 subsection (2) of section 719.107, Florida Statutes, are
 2977 amended, and subsection (3) is added to that section, to read:

2978 719.107 Common expenses; assessment.--

2979 (1)

2980 (b) If so provided in the bylaws, the cost of a master
 2981 antenna television system or duly franchised cable television
 2982 service obtained pursuant to a bulk contract shall be deemed a
 2983 common expense, and if not obtained pursuant to a bulk contract,
 2984 such cost shall be considered common expense if it is designated
 2985 as such in a written contract between the board of
 2986 administration and the company providing the master television
 2987 antenna system or the cable television service. The contract
 2988 shall be for a term of not less than 2 years.

2989 1. Any contract made by the board after April 2, 1992, for
 2990 a community antenna system or duly franchised cable television
 2991 service may be canceled by a majority of the voting interests
 2992 present at the next regular or special meeting of the
 2993 association. Any member may make a motion to cancel the
 2994 contract, but if no motion is made or if such motion fails to
 2995 obtain the required majority at the next regular or special

2996 meeting, whichever is sooner, following the making of the
 2997 contract, then such contract shall be deemed ratified for the
 2998 term therein expressed.

2999 2. Any such contract shall provide, and shall be deemed to
 3000 provide if not expressly set forth, that any hearing impaired or
 3001 legally blind shareholder ~~unit owner~~ who does not occupy the
 3002 unit with a nonhearing impaired or sighted person may
 3003 discontinue the service without incurring disconnect fees,
 3004 penalties, or subsequent service charges, and as to such units,
 3005 the shareholders ~~owners~~ shall not be required to pay any common
 3006 expenses charge related to such service. If less than all
 3007 members of an association share the expenses of cable
 3008 television, the expense shall be shared equally by all
 3009 participating shareholders ~~unit owners~~. The association may use
 3010 the provisions of s. 719.108 to enforce payment of the shares of
 3011 such costs by the shareholders ~~unit owners~~ receiving cable
 3012 television.

3013 (c) If any unpaid share of common expenses or assessments
 3014 is extinguished by foreclosure of a superior lien or by a deed
 3015 in lieu of foreclosure thereof, the unpaid share of common
 3016 expenses or assessments are common expenses collectible from all
 3017 the shareholders ~~unit owners~~ in the cooperative in which the
 3018 unit is located.

3019 (2) Funds for the payment of common expenses shall be
 3020 collected by assessments against shareholders ~~unit owners~~ in the
 3021 proportions or percentages of sharing common expenses provided
 3022 in the cooperative documents.

3023 (3) The expense of installation, replacement, operation,
 3024 repair, and maintenance of hurricane shutters or other hurricane
 3025 protection by the board pursuant to s. 719.113(5) shall
 3026 constitute a common expense as defined in this section and shall
 3027 be collected as provided in this section if the association is
 3028 responsible for the maintenance, repair, and replacement of the
 3029 hurricane shutters or other hurricane protection pursuant to the
 3030 cooperative documents. However, if the maintenance, repair, and
 3031 replacement of the hurricane shutters or other hurricane
 3032 protection is the responsibility of the shareholders pursuant to
 3033 the cooperative documents, the cost of the installation of the
 3034 hurricane shutters or other hurricane protection shall not be a
 3035 common expense, but shall be charged individually to the
 3036 shareholders based on the cost of installation of the hurricane
 3037 shutters or other hurricane protection appurtenant to the unit.
 3038 Notwithstanding the provisions of s. 719.108(8), and regardless
 3039 of whether or not the cooperative documents requires the
 3040 association or shareholders maintain, repair, or replace
 3041 hurricane shutters or other hurricane protection, a shareholder
 3042 who has previously installed hurricane shutters in accordance
 3043 with s. 719.113(5), other hurricane protection, or laminated
 3044 glass architecturally designed to function as hurricane
 3045 protection, which hurricane shutters or other hurricane
 3046 protection or laminated glass comply with the current applicable
 3047 building code, shall receive a credit equal to the pro rata
 3048 portion of the assessed installation cost assigned to each unit.
 3049 However, such shareholder shall remain responsible for the pro
 3050 rata share of expenses for hurricane shutters or other hurricane

HB 1397

2009

3051 protection installed on common areas by the board pursuant to s.
 3052 719.113(5), and shall remain responsible for a pro rata share of
 3053 the expense of the replacement, operation, repair, and
 3054 maintenance of such shutters or other hurricane protection.

3055 Section 19. Section 719.108, Florida Statutes, is amended
 3056 to read:

3057 719.108 Rents and assessments; liability; lien and
 3058 priority; interest; collection; cooperative ownership.--

3059 (1)(a) A shareholder ~~unit owner~~, regardless of how title
 3060 is acquired, including, without limitation, a purchaser at a
 3061 judicial sale or by deed in lieu of foreclosure, shall be liable
 3062 for all rents and assessments coming due while the shareholder
 3063 ~~unit owner~~ is in exclusive possession of a unit. ~~In a voluntary~~
 3064 ~~transfer,~~ The shareholder ~~unit owner~~ in exclusive possession
 3065 shall be jointly and severally liable with the previous
 3066 shareholder ~~unit owner~~ for all unpaid rents and assessments
 3067 against the previous shareholder ~~unit owner~~ for his or her share
 3068 of the common expenses up to the time of the transfer, without
 3069 prejudice to the rights of the shareholder ~~unit owner~~ in
 3070 exclusive possession to recover from a ~~the~~ previous shareholder
 3071 ~~unit owner~~ the amounts paid by the shareholder ~~unit owner~~ in
 3072 exclusive possession therefor.

3073 (b) The liability of a first mortgagee or its successor or
 3074 assignees who acquire title to a unit by foreclosure or by deed
 3075 in lieu of foreclosure for the unpaid assessments that became
 3076 due prior to the mortgagee's acquisition of title is limited to
 3077 the lesser of:

3078 1. The unit's unpaid common expenses and regular periodic

HB 1397

2009

3079 assessments which accrued or came due during the 24 months
3080 immediately preceding the acquisition of title and for which
3081 payment in full has not been received by the association; or
3082 2. One-half of the unit's unpaid common expenses and
3083 regular periodic assessments which accrued or came due from the
3084 filing of the foreclosure action through the sale of the unit,
3085 provided that the mortgagee timely paid in full the payment
3086 required by paragraph (d) and, at the same time, remitted to the
3087 association advanced common expenses and regular periodic
3088 assessments equal to one-half of the total unpaid common
3089 expenses and regular periodic assessments that came due in that
3090 time period. Any such advance shall be taxed as a cost in the
3091 foreclosure action, and the mortgagor shall be personally liable
3092 to the mortgagee for the value of the payment made to the
3093 association plus interest at the interest rate provided for in
3094 the promissory note for advances.

3095 (c) The person acquiring title shall pay the amount owed
3096 to the association within 30 days after transfer of title.
3097 Failure to pay the full amount when due shall entitle the
3098 association to record a claim of lien against the parcel and
3099 proceed in the same manner as provided in this section for the
3100 collection of unpaid assessments.

3101 (d) A mortgagee who files a foreclosure case on a mortgage
3102 secured by a condominium unit shall pay to the association
3103 within 15 days after the filing of the action all of the
3104 condominium unit's then unpaid common expenses and regular
3105 periodic assessments which accrued or came due up to the date of
3106 the filing of the foreclosure action. The payment shall be taxed

3107 as a cost in the foreclosure action, and the mortgagor shall be
 3108 personally liable to the mortgagee for the value of the payment
 3109 made to the association plus interest at the interest rate
 3110 provided for in the promissory note for advances. The court
 3111 shall dismiss a foreclosure action on the association's motion
 3112 to dismiss for failure to make such payment and shall award the
 3113 association the costs and reasonable attorney's fees related to
 3114 the motion.

3115 (e) The provisions of this subsection are intended to
 3116 clarify existing law and shall not be available in any case
 3117 where the unpaid assessments sought to be recovered by the
 3118 association are secured by a lien recorded prior to the
 3119 recording of the mortgage. Notwithstanding the provisions of
 3120 chapter 48, the association shall be a proper party to intervene
 3121 in any foreclosure proceeding to seek equitable relief. For
 3122 purposes of this subsection, the term "successor or assignee" as
 3123 used with respect to a first mortgagee includes only a
 3124 subsequent holder of the first mortgage.

3125 (2) The liability for rents and assessments may not be
 3126 avoided by waiver of the use or enjoyment of any common areas or
 3127 by abandonment of the unit for which the rents and assessments
 3128 are made.

3129 (3) Rents and assessments, and installments on them, not
 3130 paid when due bear interest at the rate provided in the
 3131 cooperative documents from the date due until paid. This rate
 3132 may not exceed the rate allowed by law, and, if no rate is
 3133 provided in the cooperative documents, then interest shall
 3134 accrue at 18 percent per annum. Also, if the cooperative

3135 documents or bylaws so provide, the association may charge an
 3136 administrative late fee in addition to such interest, in an
 3137 amount not to exceed the greater of \$25 or 5 percent of each
 3138 installment of the assessment for each delinquent installment
 3139 that the payment is late. Any payment received by an association
 3140 shall be applied first to any interest accrued by the
 3141 association, then to any administrative late fee, then to any
 3142 costs and reasonable attorney's fees incurred in collection, and
 3143 then to the delinquent assessment. The foregoing shall be
 3144 applicable notwithstanding any restrictive endorsement,
 3145 designation, or instruction placed on or accompanying a payment.
 3146 A late fee is not subject to chapter 687 or s. 719.303(3).

3147 (4) If the association is authorized by the cooperative
 3148 documents or bylaws to approve or disapprove a proposed lease of
 3149 a unit, the grounds for disapproval may include, but are not
 3150 limited to, a shareholder being delinquent in the payment of an
 3151 assessment at the time approval is sought.

3152 (5) (a) (4) The association has ~~shall have~~ a lien on each
 3153 cooperative parcel to secure the payment of ~~for~~ any unpaid rents
 3154 and assessments, plus interest, against the shareholder who owns
 3155 ~~unit owner of~~ the cooperative parcel. If authorized by the
 3156 cooperative documents, said lien shall also secure reasonable
 3157 attorney's fees incurred by the association incident to the
 3158 collection of the rents and assessments or enforcement of such
 3159 lien. The lien is effective from and shall relate back to ~~and~~
 3160 ~~after~~ the recording of the cooperative documents ~~a claim of lien~~
 3161 ~~in the public records in the county in which the cooperative~~
 3162 ~~parcel is located which states the description of the~~

HB 1397

2009

3163 ~~cooperative parcel, the name of the unit owner, the amount due,~~
3164 ~~and the due dates.~~

3165 (b) To be valid, a claim of lien must state the
3166 description of the cooperative parcel, the name of the record
3167 owner, the name and address of the association, the amount due,
3168 and the due dates. The claim of lien must be executed and
3169 acknowledged by an officer or authorized agent of the
3170 association. The lien shall expire if a claim of lien is not
3171 filed within 1 year after the date the assessment was due, and
3172 no such lien shall continue for a longer period than 1 year
3173 after the claim of lien has been recorded unless, within that
3174 time, an action to enforce the lien is commenced in a court of
3175 competent jurisdiction. The 1-year period shall automatically be
3176 extended for any length of time during which the association is
3177 prevented from filing a foreclosure action by an automatic stay
3178 resulting from a bankruptcy petition filed by the shareholder or
3179 any other person claiming an interest in the parcel. The claim
3180 of lien shall secure all unpaid assessments which are due and
3181 which may accrue subsequent to the recording of the claim of
3182 lien and prior to the entry of a certificate of title, as well
3183 as interest and all reasonable costs and attorney's fees
3184 incurred by the association incident to the collection process.
3185 Upon payment in full, the person making the payment is entitled
3186 to a satisfaction of the lien. ~~No lien may be filed by the~~
3187 ~~association against a cooperative parcel until 30 days after the~~
3188 ~~date on which a notice of intent to file a lien has been served~~
3189 ~~on the unit owner of the cooperative parcel by certified mail or~~

3190 ~~by personal service in the manner authorized by chapter 48 and~~
 3191 ~~the Florida Rules of Civil Procedure.~~

3192 (c) By recording a notice in substantially the following
 3193 form, a shareholder or the shareholder's agent or attorney may
 3194 require the association to enforce a recorded claim of lien
 3195 against his or her cooperative parcel:

3197 NOTICE OF CONTEST OF LIEN

3199 TO: (Name and address of association) You are notified
 3200 that the undersigned contests the claim of lien filed by you on
 3201 , (year) , and recorded in Official Records Book
 3202 at Page , of the public records of County, Florida,
 3203 and that the time within which you may file suit to enforce your
 3204 lien is limited to 90 days after the date of service of this
 3205 notice. Executed this day of , (year) .

3207 Signed: (Shareholder or Attorney)

3209 After notice of contest of lien has been recorded, the clerk of
 3210 the circuit court shall mail a copy of the recorded notice to
 3211 the association by certified mail, return receipt requested, at
 3212 the address shown in the claim of lien or most recent amendment
 3213 to the claim of lien and shall certify to the service on the
 3214 face of the notice. Service is complete upon mailing. After
 3215 service, the association has 90 days in which to file an action
 3216 to enforce the lien; and, if the action is not filed within the
 3217 90-day period, the lien is void. However, the 90-day period

3218 shall be extended for any length of time that the association is
 3219 prevented from filing its action because of an automatic stay
 3220 resulting from the filing of a bankruptcy petition by the
 3221 shareholder or by any other person claiming an interest in the
 3222 parcel.

3223 (6) (a) ~~(5)~~ Liens for rents and assessments may be
 3224 foreclosed by suit brought in the name of the association, in
 3225 like manner as a foreclosure of a mortgage on real property. In
 3226 any foreclosure, the shareholder ~~unit owner~~ shall pay a
 3227 reasonable rental for the cooperative parcel, if so provided in
 3228 the cooperative documents, and the plaintiff in the foreclosure
 3229 is entitled to the appointment of a receiver to collect the
 3230 rent. The association has the power, unless prohibited by the
 3231 cooperative documents, to bid on the cooperative parcel at the
 3232 foreclosure sale and to acquire and hold, lease, mortgage, or
 3233 convey it. Suit to recover a money judgment for unpaid rents and
 3234 assessments may be maintained without waiving the lien securing
 3235 them.

3236 (b) No foreclosure judgment may be entered until at least
 3237 30 days after the association gives written notice to the
 3238 shareholder of its intention to foreclose its lien to collect
 3239 the unpaid rents and assessments. If this notice is not given at
 3240 least 30 days before the foreclosure action is filed, and if the
 3241 unpaid rents and assessments, including those coming due after
 3242 the claim of lien is recorded, are paid before the entry of a
 3243 final judgment of foreclosure, the association shall not recover
 3244 attorney's fees or costs. The notice must be given by delivery
 3245 of a copy of it to the shareholder or by certified or registered

HB 1397

2009

3246 mail, return receipt requested, addressed to the shareholder at
3247 his or her last known address; and, upon such mailing, the
3248 notice shall be deemed to have been given, and the court shall
3249 proceed with the foreclosure action and may award attorney's
3250 fees and costs as permitted by law. The notice requirements of
3251 this paragraph are satisfied if the shareholder records a notice
3252 of contest of lien as provided in subsection (5). The notice
3253 requirements of this paragraph do not apply if an action to
3254 foreclose a mortgage on the cooperative unit is pending before
3255 any court; if the rights of the association would be affected by
3256 such foreclosure; and if actual, constructive, or substitute
3257 service of process has been made on the shareholder.

3258 (c) If the shareholder remains in possession of the unit
3259 after a foreclosure judgment has been entered, the court, in its
3260 discretion, may require the shareholder to pay a reasonable
3261 rental for the unit. If the unit is rented or leased during the
3262 pendency of the foreclosure action, the association is entitled
3263 to the appointment of a receiver to collect the rent. The
3264 expenses of the receiver shall be paid by the party which does
3265 not prevail in the foreclosure action.

3266 (d) The association has the power to purchase the
3267 cooperative unit at the foreclosure sale and to hold, lease,
3268 mortgage, or convey it.

3269 (7) Within 15 days after receiving a written request
3270 therefor from a shareholder or his or her designee, or a unit
3271 mortgagee or his or her designee, the association shall provide
3272 a certificate signed by an officer or agent of the association

HB 1397

2009

3273 stating all assessments and other moneys owed to the association
3274 by the shareholder with respect to the cooperative parcel.

3275 (a) Any person other than the shareholder who relies upon
3276 such certificate shall be protected thereby.

3277 (b) A summary proceeding pursuant to s. 51.011 may be
3278 brought to compel compliance with this subsection, and in any
3279 such action the prevailing party is entitled to recover
3280 reasonable attorney's fees.

3281 (c) Notwithstanding any limitation on transfer fees
3282 contained in s. 719.106(1)(i), the association or its authorized
3283 agent may charge a reasonable fee for the preparation of the
3284 certificate. The amount of the fee must be included on the
3285 certificate.

3286 (d) The authority to charge a fee for the certificate
3287 shall be established by a written resolution adopted by the
3288 board or provided by a written management, bookkeeping, or
3289 maintenance contract and is payable upon the preparation of the
3290 certificate. If the certificate is requested in conjunction with
3291 the sale or mortgage of a unit but the closing does not occur
3292 and no later than 30 days after the closing date for which the
3293 certificate was sought the preparer receives a written request,
3294 accompanied by reasonable documentation, that the sale did not
3295 occur from a payor that is not the shareholder, the fee shall be
3296 refunded to that payor within 30 days after receipt of the
3297 request. The refund is the obligation of the shareholder, and
3298 the association may collect the refund from that shareholder in
3299 the same manner as an assessment as provided in this section.

3300 ~~(6) Within 15 days after request by a unit owner or~~
 3301 ~~mortgagee, the association shall provide a certificate stating~~
 3302 ~~all assessments and other moneys owed to the association by the~~
 3303 ~~unit owner with respect to the cooperative parcel. Any person~~
 3304 ~~other than the unit owner who relies upon such certificate shall~~
 3305 ~~be protected thereby. Notwithstanding any limitation on transfer~~
 3306 ~~fees contained in s. 719.106(1)(i), the association or its~~
 3307 ~~authorized agent may charge a reasonable fee for the preparation~~
 3308 ~~of the certificate.~~

3309 ~~(7) The remedies provided in this section do not exclude~~
 3310 ~~other remedies provided by the cooperative documents and~~
 3311 ~~permitted by law.~~

3312 (8) (a) No shareholder ~~unit owner~~ may be excused from the
 3313 payment of his or her share of the rents or assessments of a
 3314 cooperative unless all shareholders ~~unit owners~~ are likewise
 3315 proportionately excused from payment, except as ~~provided in~~
 3316 ~~subsection (6) and in the following cases:~~

3317 1. If the cooperative documents so provide, a developer or
 3318 other person owning cooperative units offered for sale may be
 3319 excused from the payment of the share of the common expenses,
 3320 assessments, and rents related to those units for a stated
 3321 period of time. The period must terminate no later than the
 3322 first day of the fourth calendar month following the month in
 3323 which the right of exclusive possession is first granted to a
 3324 shareholder ~~unit owner~~. However, the developer must pay the
 3325 portion of common expenses incurred during that period which
 3326 exceed the amount assessed against other shareholders ~~unit~~
 3327 ~~owners.~~

HB 1397

2009

3328 2. A developer, or other person with an ownership interest
3329 in cooperative units or having an obligation to pay common
3330 expenses, may be excused from the payment of his or her share of
3331 the common expenses which would have been assessed against those
3332 units during the period of time that he or she shall have
3333 guaranteed to each purchaser in the purchase contract or in the
3334 cooperative documents, or by agreement between the developer and
3335 a majority of the shareholders ~~unit owners~~ other than the
3336 developer, that the assessment for common expenses of the
3337 cooperative imposed upon the shareholders ~~unit owners~~ would not
3338 increase over a stated dollar amount and shall have obligated
3339 himself or herself to pay any amount of common expenses incurred
3340 during that period and not produced by the assessments at the
3341 guaranteed level receivable from other shareholders ~~unit owners~~.

3342 (b) If the purchase contract, cooperative documents, or
3343 agreement between the developer and a majority of shareholders
3344 ~~unit owners~~ other than the developer provides for the developer
3345 or another person to be excused from the payment of assessments
3346 pursuant to paragraph (a), no funds receivable from shareholders
3347 ~~unit owners~~ payable to the association or collected by the
3348 developer on behalf of the association, other than regular
3349 periodic assessments for common expenses as provided in the
3350 cooperative documents and disclosed in the estimated operating
3351 budget pursuant to s. 719.503(1)(b)6. or s. 719.504(20)(b), may
3352 be used for payment of common expenses prior to the expiration
3353 of the period during which the developer or other person is so
3354 excused. This restriction applies to funds including, but not

3355 limited to, capital contributions or startup funds collected
 3356 from shareholders ~~unit purchasers~~ at closing.

3357 (9) The specific purposes of any special assessment,
 3358 including any contingent special assessment levied in
 3359 conjunction with the purchase of an insurance policy authorized
 3360 by s. 719.104(3), approved in accordance with the cooperative
 3361 documents shall be set forth in a written notice of such
 3362 assessment sent or delivered to each shareholder ~~unit owner~~. The
 3363 funds collected pursuant to a special assessment shall be used
 3364 only for the specific purpose or purposes set forth in such
 3365 notice or returned to the shareholders ~~unit owners~~. However,
 3366 upon completion of such specific purposes, any excess funds
 3367 shall be considered common surplus and may, at the discretion of
 3368 the board, either be returned to the shareholders ~~unit owners~~ or
 3369 applied as a credit toward future assessments.

3370 (10) During the pendency of any foreclosure action of a
 3371 cooperative unit, if the unit is occupied by a tenant and the
 3372 shareholder is delinquent in the payment of regular assessments,
 3373 the association may demand that the tenant pay to the
 3374 association the future regular assessments related to the
 3375 cooperative unit. The demand shall be continuing in nature, and
 3376 upon demand the tenant shall continue to pay the regular
 3377 assessments to the association until the association releases
 3378 the tenant or the tenant discontinues tenancy in the unit. The
 3379 association shall mail written notice to the shareholder of the
 3380 association's demand that the tenant pay regular assessments to
 3381 the association. The tenant shall not be liable for increases in
 3382 the amount of the regular assessment due unless the tenant was

HB 1397

2009

3383 reasonably notified of the increase prior to the day that the
 3384 rent is due. The tenant shall be given a credit against rents
 3385 due to the shareholder in the amount of assessments paid to the
 3386 association. The association shall, upon request, provide the
 3387 tenant with written receipts for payments made. The association
 3388 may issue notices under s. 83.56 and may sue for eviction under
 3389 ss. 83.59-83.625 as if the association were a landlord under
 3390 part II of chapter 83 should the tenant fail to pay an
 3391 assessment. However, the association shall not otherwise be
 3392 considered a landlord under chapter 83 and shall specifically
 3393 not have any duty under s. 83.51. The tenant shall not, by
 3394 virtue of payment of assessments, have any of the rights of a
 3395 shareholder to vote in any election or to examine the books and
 3396 records of the association. A court may supersede the effect of
 3397 this subsection by appointing a receiver.

3398 Section 20. Section 719.113, Florida Statutes, is created
 3399 to read:

3400 719.113 Maintenance; limitation upon improvement; display
 3401 of flag; hurricane shutters; display of religious decorations.--

3402 (1) Maintenance of the common areas is the responsibility
 3403 of the association. The cooperative documents may provide that
 3404 certain limited common areas shall be maintained by those
 3405 entitled to use the limited common areas or that the association
 3406 shall provide the maintenance, either as a common expense or
 3407 with the cost shared only by those entitled to use the limited
 3408 common areas. If the maintenance is to be provided by the
 3409 association at the expense of only those entitled to use the
 3410 limited common areas, the cooperative documents shall describe

HB 1397

2009

3411 in detail the method of apportioning such costs among those
3412 entitled to use the limited common areas. The association may
3413 use the provisions of s. 719.108 to enforce payment of the
3414 shares of such costs by the shareholders entitled to use the
3415 limited common areas.

3416 (2) Except as otherwise provided in this section, there
3417 shall be no material alteration or substantial additions to the
3418 common areas, except in a manner provided in the cooperative
3419 documents as originally recorded or as amended under the
3420 procedures provided therein. If the cooperative documents as
3421 originally recorded or as amended under the procedures provided
3422 therein do not specify the procedure for approval of material
3423 alterations or substantial additions, 75 percent of the total
3424 voting interests of the association must approve the alterations
3425 or additions. This subsection is intended to clarify existing
3426 law and applies to associations existing on July 1, 2009.

3427 (3) A shareholder shall not do anything within his or her
3428 unit or on the common areas which would adversely affect the
3429 safety or soundness of the common areas or any portion of the
3430 association property or cooperative property which is to be
3431 maintained by the association.

3432 (4) Any shareholder may display one portable, removable
3433 United States flag in a respectful way and, on Armed Forces Day,
3434 Memorial Day, Flag Day, Independence Day, and Veterans' Day, may
3435 display in a respectful way portable, removable official flags,
3436 not larger than 4 1/2 feet by 6 feet, that represent the United
3437 States Army, Navy, Air Force, Marine Corps, or Coast Guard,

HB 1397

2009

3438 regardless of any declaration rules or requirements dealing with
3439 flags or decorations.

3440 (5) Each board of directors shall adopt hurricane shutter
3441 specifications for each building within each cooperative which
3442 shall include color, style, and other factors deemed relevant by
3443 the board. All specifications adopted by the board shall comply
3444 with the applicable building code.

3445 (a) The board may, subject to the provisions of s.
3446 719.3026 and the approval of a majority of voting interests of
3447 the condominium, install hurricane shutters or hurricane
3448 protection that complies with or exceeds the applicable building
3449 code, or both, except that a vote of the shareholders is not
3450 required if the maintenance, repair, and replacement of
3451 hurricane shutters or other forms of hurricane protection are
3452 the responsibility of the association pursuant to the
3453 declaration of condominium. However, when hurricane protection
3454 or laminated glass or window film architecturally designed to
3455 function as hurricane protection which complies with or exceeds
3456 the current applicable building code has been previously
3457 installed, the board may not install hurricane shutters or other
3458 hurricane protection. Code-compliant impact glass may be
3459 installed by the association as hurricane protection if the area
3460 in which the glass is to be installed is an area that is the
3461 responsibility of the association. Notwithstanding s.
3462 719.107(3), if a shareholder installed code-compliant impact
3463 glass prior to the association voting to install such glass, and
3464 such glass and the frame thereof complies with the current
3465 applicable building codes and is otherwise in good repair, the

HB 1397

2009

3466 shareholder shall not be required to pay the shareholders' pro
3467 rata share of the cost of installing code-compliant impact glass
3468 in the cooperative association.

3469 (b) The association shall be responsible for the
3470 maintenance, repair, and replacement of the hurricane shutters
3471 or other hurricane protection authorized by this subsection if
3472 such hurricane shutters or other hurricane protection is the
3473 responsibility of the association pursuant to the declaration of
3474 condominium. If the hurricane shutters or other hurricane
3475 protection authorized by this subsection are the responsibility
3476 of the shareholders pursuant to the cooperative documents, the
3477 responsibility for the maintenance, repair, and replacement of
3478 such items shall be the responsibility of the shareholder.

3479 (c) The board may operate hurricane shutters installed
3480 pursuant to this subsection without permission of the
3481 shareholders only when such operation is necessary to preserve
3482 and protect the cooperative property and association property.
3483 The installation, replacement, operation, repair, and
3484 maintenance of such shutters in accordance with the procedures
3485 set forth herein shall not be deemed a material alteration to
3486 the common elements or association property within the meaning
3487 of this section.

3488 (d) Notwithstanding any provision to the contrary in the
3489 cooperative documents, if approval is required by the documents,
3490 a board shall not refuse to approve the installation or
3491 replacement of hurricane shutters by a shareholder conforming to
3492 the specifications adopted by the board.

3493 (6) As to any cooperative building greater than three
 3494 stories in height, at least every 5 years, and within 5 years if
 3495 not available for inspection on July 1, 2009, the board shall
 3496 have the cooperative building inspected to provide a report
 3497 under seal of an architect or engineer authorized to practice in
 3498 this state attesting to required maintenance, useful life, and
 3499 replacement costs of the common areas. However, if approved by a
 3500 majority of the voting interests present at a properly called
 3501 meeting of the association, an association may waive this
 3502 requirement. Such meeting and approval must occur prior to the
 3503 end of the 5-year period and is effective only for that 5-year
 3504 period.

3505 (7) An association may not refuse the request of a
 3506 shareholder for a reasonable accommodation for the attachment on
 3507 the mantel or frame of the door of the shareholder of a
 3508 religious object not to exceed 3 inches wide, 6 inches high, and
 3509 1.5 inches deep.

3510 (8) Notwithstanding the provisions of this section or the
 3511 governing documents of a cooperative association, the board of
 3512 directors may, without any requirement for approval of the
 3513 shareholders, install upon or within the common areas or
 3514 association property solar collectors, clotheslines, or other
 3515 energy-efficient devices based on renewable resources for the
 3516 benefit of the shareholders.

3517 Section 21. Section 719.117, Florida Statutes, is created
 3518 to read:

3519 719.117 Termination of cooperative.--

HB 1397

2009

3520 (1) LEGISLATIVE FINDINGS.--The Legislature finds that
3521 cooperatives are created as authorized by statute. In
3522 circumstances that may create economic waste, areas of
3523 disrepair, or obsolescence of a cooperative property for its
3524 intended use and thereby lower property tax values, the
3525 Legislature further finds that it is the public policy of this
3526 state to provide by statute a method to preserve the value of
3527 the property interests and the rights of alienation thereof that
3528 shareholders have in the cooperative property before and after
3529 termination. The Legislature further finds that it is contrary
3530 to the public policy of this state to require the continued
3531 operation of a cooperative when to do so constitutes economic
3532 waste or when the ability to do so is made impossible by law or
3533 regulation. This section applies to all cooperatives in this
3534 state in existence on or after July 1, 2009.

3535 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
3536 IMPOSSIBILITY.--

3537 (a) Notwithstanding any provision to the contrary in the
3538 cooperative documents, the cooperative form of ownership of a
3539 property may be terminated by a plan of termination approved by
3540 the lesser of the lowest percentage of voting interests
3541 necessary to amend the articles of incorporation when:

3542 1. The total estimated cost of repairs necessary to
3543 restore the improvements to their former condition or bring them
3544 into compliance with applicable laws or regulations exceeds the
3545 combined fair market value of all units in the cooperative after
3546 completion of the repairs; or

3547 2. It becomes impossible to operate or reconstruct a
 3548 cooperative in its prior physical configuration because of land
 3549 use laws or regulations.

3550 (b) Notwithstanding paragraph (a), a cooperative in which
 3551 75 percent or more of the units are timeshare units may be
 3552 terminated only pursuant to a plan of termination approved by 80
 3553 percent of the total voting interests of the association and the
 3554 holders of 80 percent of the original principal amount of
 3555 outstanding recorded mortgage liens of timeshare estates in the
 3556 cooperative, unless the declaration provides for a lower voting
 3557 percentage.

3558 (3) OPTIONAL TERMINATION.--Except as provided in
 3559 subsection (2) or unless the declaration provides for a lower
 3560 percentage, the cooperative form of ownership of the property
 3561 may be terminated pursuant to a plan of termination approved by
 3562 at least 80 percent of the total voting interests of the
 3563 cooperative if not more than 10 percent of the total voting
 3564 interests of the cooperative have rejected the plan of
 3565 termination by negative vote or by providing written objections
 3566 thereto. This subsection does not apply to cooperatives in which
 3567 75 percent or more of the units are timeshare units.

3568 (4) EXEMPTION.--A plan of termination is not an amendment
 3569 subject to s. 719.1055(1).

3570 (5) MORTGAGE LIENHOLDERS.--Notwithstanding any provision
 3571 to the contrary in the declaration or this chapter, approval of
 3572 a plan of termination by the holder of a recorded mortgage lien
 3573 affecting a cooperative parcel in which fewer than 75 percent of
 3574 the units are timeshare units is not required unless the plan of

HB 1397

2009

3575 termination will result in less than the full satisfaction of
3576 the mortgage lien affecting the cooperative parcel. If such
3577 approval is required and not given, a holder of a recorded
3578 mortgage lien who objects to the plan of termination may contest
3579 the plan as provided in subsection (16). At the time of sale,
3580 the lien shall be transferred to the proportionate share of the
3581 proceeds assigned to the cooperative parcel in the plan of
3582 termination or as subsequently modified by the court.

3583 (6) POWERS IN CONNECTION WITH TERMINATION.--The approval
3584 of the plan of termination does not terminate the association.
3585 The association shall continue in existence following approval
3586 of the plan of termination with all powers and duties it had
3587 before approval of the plan. Notwithstanding any provision to
3588 the contrary in the declaration or bylaws, after approval of the
3589 plan the board shall:

3590 (a) Employ directors, agents, attorneys, and other
3591 professionals to liquidate or conclude its affairs.

3592 (b) Conduct the affairs of the association as necessary
3593 for the liquidation or termination.

3594 (c) Carry out contracts and collect, pay, and settle debts
3595 and claims for and against the association.

3596 (d) Defend suits brought against the association.

3597 (e) Sue in the name of the association for all sums due or
3598 owed to the association or to recover any of its property.

3599 (f) Perform any act necessary to maintain, repair, or
3600 demolish unsafe or uninhabitable improvements or other
3601 cooperative property in compliance with applicable codes.

3602 (g) Sell at public or private sale or exchange, convey, or
 3603 otherwise dispose of assets of the association for an amount
 3604 deemed to be in the best interests of the association, and
 3605 execute bills of sale and deeds of conveyance in the name of the
 3606 association.

3607 (h) Collect and receive rents, profits, accounts
 3608 receivable, income, maintenance fees, special assessments, or
 3609 insurance proceeds for the association.

3610 (i) Contract and do anything in the name of the
 3611 association which is proper or convenient to terminate the
 3612 affairs of the association.

3613 (7) NATURAL DISASTERS.--

3614 (a) If, after a natural disaster, the identity of the
 3615 directors or their right to hold office is in doubt, if they are
 3616 deceased or unable to act, if they fail or refuse to act, or if
 3617 they cannot be located, any interested person may petition the
 3618 circuit court to determine the identity of the directors or, if
 3619 found to be in the best interests of the shareholders, to
 3620 appoint a receiver to conclude the affairs of the association
 3621 after a hearing following notice to such persons as the court
 3622 directs. Lienholders shall be given notice of the petition and
 3623 have the right to propose persons for the consideration by the
 3624 court as receiver. If a receiver is appointed, the court shall
 3625 direct the receiver to provide to all shareholders written
 3626 notice of his or her appointment as receiver. Such notice shall
 3627 be mailed or delivered within 10 days after the appointment.
 3628 Notice by mail to a shareholder shall be sent to the address

3629 used by the county property appraiser for notice to the
 3630 shareholder.

3631 (b) The receiver shall have all powers given to the board
 3632 pursuant to the declaration, bylaws, and subsection (6), and any
 3633 other powers that are necessary to conclude the affairs of the
 3634 association and are set forth in the order of appointment. The
 3635 appointment of the receiver is subject to the bonding
 3636 requirements of such order. The order shall also provide for the
 3637 payment of a reasonable fee to the receiver from the sources
 3638 identified in the order, which may include rents, profits,
 3639 incomes, maintenance fees, or special assessments collected from
 3640 the cooperative property.

3641 (8) REPORTS AND REPLACEMENT OF RECEIVER.--

3642 (a) The association, receiver, or termination trustee
 3643 shall prepare reports each quarter following the approval of the
 3644 plan of termination setting forth the status and progress of the
 3645 termination, the costs and fees incurred, the date the
 3646 termination is expected to be completed, and the current
 3647 financial condition of the association, receivership, or
 3648 trusteeship and provide copies of the report by regular mail to
 3649 the shareholders and lienors at the mailing address provided to
 3650 the association by the shareholders and the lienors.

3651 (b) The shareholders of an association in termination may
 3652 recall or remove members of the board of administration with or
 3653 without cause at any time as provided in s. 718.106(1)(f).

3654 (c) The lienors of an association in termination
 3655 representing at least 50 percent of the outstanding amount of
 3656 liens may petition the court for the appointment of a

3657 termination trustee, which shall be granted upon good cause
 3658 shown.

3659 (9) PLAN OF TERMINATION.--The plan of termination must be
 3660 a written document executed in the same manner as a deed by
 3661 shareholders having the requisite percentage of voting interests
 3662 to approve the plan and by the termination trustee. A copy of
 3663 the proposed plan of termination shall be given to all
 3664 shareholders, in the same manner as provided for notice of an
 3665 annual meeting, at least 14 days prior to the meeting at which
 3666 the plan of termination is to be voted upon or prior to or
 3667 simultaneously with the distribution of the solicitation seeking
 3668 execution of the plan of termination or written consent to or
 3669 joinder in the plan. A shareholder may document assent to the
 3670 plan by executing the plan or by consent to or joinder in the
 3671 plan in the manner of a deed. A plan of termination and the
 3672 consents or joinders of shareholders and, if required, consents
 3673 or joinders of mortgagees must be recorded in the public records
 3674 of each county in which any portion of the cooperative is
 3675 located. The plan is effective only upon recordation or at a
 3676 later date specified in the plan.

3677 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.--The plan
 3678 of termination must specify:

3679 (a) The name, address, and powers of the termination
 3680 trustee.

3681 (b) A date after which the plan of termination is void if
 3682 it has not been recorded.

3683 (c) The interests of the respective shareholders in the
 3684 association property, common surplus, and other assets of the

3685 association, which shall be the same as the respective interests
 3686 of the shareholders in the common areas immediately before the
 3687 termination, unless otherwise provided in the declaration.

3688 (d) The interests of the respective shareholders in any
 3689 proceeds from the sale of the cooperative property. The plan of
 3690 termination may apportion those proceeds pursuant to any method
 3691 prescribed in subsection (12). If, pursuant to the plan of
 3692 termination, cooperative property or real property owned by the
 3693 association is to be sold following termination, the plan must
 3694 provide for the sale and may establish any minimum sale terms.

3695 (e) Any interests of the respective shareholders in
 3696 insurance proceeds or condemnation proceeds that are not used
 3697 for repair or reconstruction at the time of termination. Unless
 3698 the declaration expressly addresses the distribution of
 3699 insurance proceeds or condemnation proceeds, the plan of
 3700 termination may apportion those proceeds pursuant to any method
 3701 prescribed in subsection (12).

3702 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
 3703 TERMINATION.--

3704 (a) The plan of termination may provide that each
 3705 shareholder retains the exclusive right of possession to the
 3706 portion of the real estate that formerly constituted the unit,
 3707 in which case the plan must specify the conditions of
 3708 possession.

3709 (b) In a conditional termination, the plan must specify
 3710 the conditions for termination. A conditional plan does not vest
 3711 title in the termination trustee until the plan and a
 3712 certificate executed by the association with the formalities of

HB 1397

2009

3713 a deed, confirming that the conditions in the conditional plan
3714 have been satisfied or waived by the requisite percentage of the
3715 voting interests, have been recorded.

3716 (12) ALLOCATION OF PROCEEDS OF SALE OF COOPERATIVE
3717 PROPERTY.--

3718 (a) Unless the declaration expressly provides for the
3719 allocation of the proceeds of sale of cooperative property, the
3720 plan of termination must first apportion the proceeds between
3721 the aggregate value of all units and the value of the common
3722 areas, based on their respective fair market values immediately
3723 before the termination, as determined by one or more independent
3724 appraisers selected by the association or termination trustee.

3725 (b) The portion of proceeds allocated to the units shall
3726 be further apportioned among the individual units. The
3727 apportionment is deemed fair and reasonable if it is so
3728 determined by the shareholders, who may approve the plan of
3729 termination by any of the following methods:

3730 1. The respective values of the units based on the fair
3731 market values of the units immediately before the termination,
3732 as determined by one or more independent appraisers selected by
3733 the association or termination trustee;

3734 2. The respective values of the units based on the most
3735 recent market value of the units before the termination, as
3736 provided in the county property appraiser's records; or

3737 3. The respective interests of the units in the common
3738 elements specified in the cooperative documents immediately
3739 before the termination.

HB 1397

2009

3740 (c) The methods of apportionment in paragraph (b) do not
3741 prohibit any other method of apportioning the proceeds of sale
3742 allocated to the units agreed upon in the plan of termination.
3743 The portion of the proceeds allocated to the common elements
3744 shall be apportioned among the units based upon their respective
3745 interests in the common areas as provided in the declaration.

3746 (d) Liens that encumber a unit shall be transferred to the
3747 proceeds of sale of the cooperative property and the proceeds of
3748 sale or other distribution of association property, common
3749 surplus, or other association assets attributable to such unit
3750 in their same priority. The proceeds of any sale of cooperative
3751 property pursuant to a plan of termination may not be deemed to
3752 be common surplus or association property.

3753 (13) TERMINATION TRUSTEE.--The association shall serve as
3754 termination trustee unless another person is appointed in the
3755 plan of termination. If the association is unable, unwilling, or
3756 fails to act as trustee, any shareholder may petition the court
3757 to appoint a trustee. Upon the date of the recording or at a
3758 later date specified in the plan, title to the cooperative
3759 property vests in the trustee. Unless prohibited by the plan,
3760 the termination trustee shall be vested with the powers given to
3761 the board pursuant to the cooperative documents, bylaws, and
3762 subsection (6). If the association is not the termination
3763 trustee, the trustee's powers shall be coextensive with those of
3764 the association to the extent not prohibited in the plan of
3765 termination or the order of appointment. If the association is
3766 not the termination trustee, the association shall transfer any
3767 association property to the trustee. If the association is

HB 1397

2009

3768 dissolved, the trustee shall also have such other powers
3769 necessary to conclude the affairs of the association.

3770 (14) TITLE VESTED IN TERMINATION TRUSTEE.--If termination
3771 is pursuant to a plan of termination under subsection (2) or
3772 subsection (3), the shareholders' rights and title as tenants in
3773 common in undivided interests in the cooperative property vest
3774 in the termination trustee when the plan is recorded or at a
3775 later date specified in the plan. The shareholders thereafter
3776 become the beneficiaries of the proceeds realized from the plan
3777 of termination. The termination trustee may deal with the
3778 cooperative property or any interest therein if the plan confers
3779 on the trustee the authority to protect, conserve, manage, sell,
3780 or dispose of the cooperative property. The trustee, on behalf
3781 of the shareholders, may contract for the sale of real property,
3782 but the contract is not binding on the shareholders until the
3783 plan is approved pursuant to subsection (2) or subsection (3).

3784 (15) NOTICE.--

3785 (a) Within 30 days after a plan of termination has been
3786 recorded, the termination trustee shall deliver by certified
3787 mail, return receipt requested, notice to all shareholders,
3788 lienors of the cooperative property, and lienors of all units at
3789 their last known addresses that a plan of termination has been
3790 recorded. The notice must include the book and page number of
3791 the public records in which the plan was recorded, notice that a
3792 copy of the plan shall be furnished upon written request, and
3793 notice that the shareholder or lienor has the right to contest
3794 the fairness of the plan.

HB 1397

2009

3795 (b) The trustee, within 90 days after the effective date
3796 of the plan, shall provide to the division a certified copy of
3797 the recorded plan, the date the plan was recorded, and the
3798 county, book, and page number of the public records in which the
3799 plan is recorded.

3800 (16) RIGHT TO CONTEST.--A shareholder or lienor may
3801 contest a plan of termination by initiating a summary procedure
3802 pursuant to s. 51.011 within 90 days after the date the plan is
3803 recorded. A shareholder or lienor who does not contest the plan
3804 within the 90-day period is barred from asserting or prosecuting
3805 a claim against the association, the termination trustee, any
3806 shareholder, or any successor in interest to the cooperative
3807 property. In an action contesting a plan of termination, the
3808 person contesting the plan has the burden of pleading and
3809 proving that the apportionment of the proceeds from the sale
3810 among the shareholders was not fair and reasonable. The
3811 apportionment of sale proceeds is presumed fair and reasonable
3812 if it was determined pursuant to the methods prescribed in
3813 subsection (12). The court shall determine the rights and
3814 interests of the parties and order the plan of termination to be
3815 implemented if it is fair and reasonable. If the court
3816 determines that the plan of termination is not fair and
3817 reasonable, the court may void the plan or may modify the plan
3818 to apportion the proceeds in a fair and reasonable manner
3819 pursuant to this section based upon the proceedings and order
3820 the modified plan of termination to be implemented. In such
3821 action, the prevailing party shall recover reasonable attorney's
3822 fees and costs.

3823 (17) DISTRIBUTION.--
 3824 (a) Following termination of the cooperative, the
 3825 cooperative property, association property, common surplus, and
 3826 other assets of the association shall be held by the termination
 3827 trustee, as trustee for shareholders and holders of liens on the
 3828 units, in their order of priority.
 3829 (b) Not less than 30 days before the first distribution,
 3830 the termination trustee shall deliver by certified mail, return
 3831 receipt requested, a notice of the estimated distribution to all
 3832 shareholders, lienors of the cooperative property, and lienors
 3833 of each unit at their last known addresses stating a good faith
 3834 estimate of the amount of the distributions to each class and
 3835 the procedures and deadline for notifying the termination
 3836 trustee of any objections to the amount. The deadline must be at
 3837 least 15 days after the date the notice was mailed. The notice
 3838 may be sent with or after the notice required by subsection
 3839 (15). If a shareholder or lienor files a timely objection with
 3840 the termination trustee, the trustee need not distribute the
 3841 funds and property allocated to the respective shareholder or
 3842 lienor until the trustee has had a reasonable time to determine
 3843 the validity of the adverse claim. In the alternative, the
 3844 trustee may interplead the shareholder, lienor, and any other
 3845 person claiming an interest in the unit and deposit the funds
 3846 allocated to the unit in the court registry, at which time the
 3847 cooperative property, association property, common surplus, and
 3848 other assets of the association are free of all claims and liens
 3849 of the parties to the suit. In an interpleader action, the

3850 trustee and prevailing party may recover reasonable attorney's
 3851 fees and costs.

3852 (c) The proceeds from any sale of cooperative property or
 3853 association property and any remaining cooperative property or
 3854 association property, common surplus, and other assets shall be
 3855 distributed in the following priority:

3856 1. To pay the reasonable termination trustee's fees and
 3857 costs and accounting fees and costs.

3858 2. To lienholders of liens recorded prior to the recording
 3859 of the cooperative documents.

3860 3. To purchase-money lienholders on units to the extent
 3861 necessary to satisfy their liens; however, the distribution may
 3862 not exceed a shareholder's share of the proceeds.

3863 4. To creditors of the association, as their interests
 3864 appear.

3865 5. To shareholders, the proceeds of any sale of
 3866 cooperative property subject to satisfaction of liens on each
 3867 unit in their order of priority, in shares specified in the plan
 3868 of termination, unless objected to by a shareholder or lienor as
 3869 provided in paragraph (b).

3870 6. To shareholders, the remaining cooperative property,
 3871 subject to satisfaction of liens on each unit in their order of
 3872 priority, in shares specified in the plan of termination, unless
 3873 objected to by a shareholder or a lienor as provided in
 3874 paragraph (b).

3875 7. To shareholders, the proceeds of any sale of
 3876 association property, the remaining association property, common
 3877 surplus, and other assets of the association, subject to

3878 satisfaction of liens on each unit in their order of priority,
 3879 in shares specified in the plan of termination, unless objected
 3880 to by a shareholder or a lienor as provided in paragraph (b).

3881 (d) After determining that all known debts and liabilities
 3882 of an association in the process of termination have been paid
 3883 or adequately provided for, the termination trustee shall
 3884 distribute the remaining assets pursuant to the plan of
 3885 termination. If the termination is by court proceeding or
 3886 subject to court supervision, the distribution may not be made
 3887 until any period for the presentation of claims ordered by the
 3888 court has elapsed.

3889 (e) Assets held by an association upon a valid condition
 3890 requiring return, transfer, or conveyance, which condition has
 3891 occurred or will occur, shall be returned, transferred, or
 3892 conveyed in accordance with the condition. The remaining
 3893 association assets shall be distributed pursuant to paragraph
 3894 (c).

3895 (f) Distribution may be made in money, property, or
 3896 securities and in installments or as a lump sum, if it can be
 3897 done fairly and ratably and in conformity with the plan of
 3898 termination. Distribution shall be made as soon as is reasonably
 3899 consistent with the beneficial liquidation of the assets.

3900 (18) ASSOCIATION STATUS.--The termination of a cooperative
 3901 does not change the corporate status of the association that
 3902 operated the cooperative property. The association continues to
 3903 exist to conclude its affairs, prosecute and defend actions by
 3904 or against it, collect and discharge obligations, dispose of and

3905 convey its property, and collect and divide its assets, but not
 3906 to act except as necessary to conclude its affairs.

3907 (19) CREATION OF ANOTHER COOPERATIVE.--The termination of
 3908 a cooperative does not bar the creation by the termination
 3909 trustee of another cooperative affecting any portion of the same
 3910 property.

3911 Section 22. Section 719.1224, Florida Statutes, is created
 3912 to read:

3913 719.1224 Prohibition against SLAPP suits.--

3914 (1) It is the intent of the Legislature to protect the
 3915 right of cooperative shareholders to exercise their rights to
 3916 instruct their representatives and petition for redress of
 3917 grievances before the various governmental entities of this
 3918 state as protected by the First Amendment to the United States
 3919 Constitution and s. 5, Art. I of the State Constitution. The
 3920 Legislature recognizes that strategic lawsuits against public
 3921 participation, or "SLAPP suits," as they are typically referred
 3922 to, have occurred when association members are sued by
 3923 individuals, business entities, or governmental entities arising
 3924 out of a cooperative shareholder's appearance and presentation
 3925 before a governmental entity on matters related to the
 3926 cooperative association. However, it is the public policy of
 3927 this state that governmental entities, business organizations,
 3928 and individuals not engage in SLAPP suits because such actions
 3929 are inconsistent with the right of cooperative shareholders to
 3930 participate in the state's institutions of government.

3931 Therefore, the Legislature finds and declares that prohibiting
 3932 such lawsuits by governmental entities, business entities, and

3933 individuals against cooperative shareholders who address matters
 3934 concerning their cooperative association will preserve this
 3935 fundamental state policy, preserve the constitutional rights of
 3936 cooperative shareholders, and ensure the continuation of
 3937 representative government in this state. It is the intent of the
 3938 Legislature that such lawsuits be expeditiously disposed of by
 3939 the courts. As used in this subsection, the term "governmental
 3940 entity" means the state, including the executive, legislative,
 3941 and judicial branches of government; the independent
 3942 establishments of the state, counties, municipalities,
 3943 districts, authorities, boards, or commissions; or any agencies
 3944 of these branches that are subject to chapter 286.

3945 (2) A governmental entity, business organization, or
 3946 individual in this state may not file or cause to be filed
 3947 through its employees or agents any lawsuit, cause of action,
 3948 claim, cross-claim, or counterclaim against a cooperative
 3949 shareholder without merit and solely because such cooperative
 3950 shareholder has exercised the right to instruct his or her
 3951 representatives or the right to petition for redress of
 3952 grievances before the various governmental entities of this
 3953 state, as protected by the First Amendment to the United States
 3954 Constitution and s. 5, Art. I of the State Constitution.

3955 (3) A cooperative shareholder sued by a governmental
 3956 entity, business organization, or individual in violation of
 3957 this section has a right to an expeditious resolution of a claim
 3958 that the suit is in violation of this section. A cooperative
 3959 shareholder may petition the court for an order dismissing the
 3960 action or granting final judgment in favor of that cooperative

3961 shareholder. The petitioner may file a motion for summary
 3962 judgment, together with supplemental affidavits, seeking a
 3963 determination that the governmental entity's, business
 3964 organization's, or individual's lawsuit has been brought in
 3965 violation of this section. The governmental entity, business
 3966 organization, or individual shall thereafter file its response
 3967 and any supplemental affidavits. As soon as practicable, the
 3968 court shall set a hearing on the petitioner's motion, which
 3969 shall be held at the earliest possible time after the filing of
 3970 the governmental entity's, business organization's, or
 3971 individual's response. The court may award the cooperative
 3972 shareholder sued by the governmental entity, business
 3973 organization, or individual actual damages arising from the
 3974 governmental entity's, individual's, or business organization's
 3975 violation of this section. A court may treble the damages
 3976 awarded to a prevailing cooperative shareholder and shall state
 3977 the basis for the treble damages award in its judgment. The
 3978 court shall award the prevailing party reasonable attorney's
 3979 fees and costs incurred in connection with a claim that an
 3980 action was filed in violation of this section.

3981 (4) Cooperative associations may not expend association
 3982 funds in prosecuting a SLAPP suit against a cooperative
 3983 shareholder.

3984 Section 23. Section 719.1255, Florida Statutes, is amended
 3985 to read:

3986 719.1255 Alternative resolution of disputes.--The Division
 3987 of Florida Condominiums, Timeshares, and Mobile Homes of the
 3988 Department of Business and Professional Regulation shall provide

3989 | for alternative dispute resolution of matters related to
 3990 | cooperative associations and shareholders in a manner like that
 3991 | provided to condominium associations and unit owners in
 3992 | accordance with s. 718.1255.

3993 | Section 24. Section 719.1265, Florida Statutes, is created
 3994 | to read:

3995 | 719.1265 Association emergency powers.--

3996 | (1) To the extent allowed by law and unless specifically
 3997 | prohibited by the cooperative documents or the bylaws of an
 3998 | association, and consistent with the provisions of s. 617.0830,
 3999 | the board of directors, in response to damage caused by an event
 4000 | for which a state of emergency is declared pursuant to s. 252.36
 4001 | in the locale in which the cooperative is located, may, but is
 4002 | not required to, exercise the following powers:

4003 | (a) Conduct board meetings and shareholder meetings with
 4004 | notice given as is practicable. Such notice may be given in any
 4005 | practicable manner, including publication, radio, United States
 4006 | mail, the Internet, public service announcements, and
 4007 | conspicuous posting on the cooperative property or any other
 4008 | means the board deems reasonable under the circumstances. Notice
 4009 | of board decisions may be communicated as provided in this
 4010 | paragraph.

4011 | (b) Cancel and reschedule any association meeting.

4012 | (c) Name as assistant officers persons who are not
 4013 | directors, which assistant officers shall have the same
 4014 | authority as the executive officers to whom they are assistants
 4015 | for during the state of emergency to accommodate the incapacity
 4016 | or unavailability of any officer of the association.

4017 (d) Relocate the association's principal office or
 4018 designate alternative principal offices.

4019 (e) Enter into agreements with local counties and
 4020 municipalities to assist counties and municipalities with debris
 4021 removal.

4022 (f) Implement a disaster plan before or immediately
 4023 following the event for which a state of emergency is declared
 4024 which may include, but is not limited to, shutting down or off
 4025 elevators; electricity; water, sewer, or security systems; or
 4026 air conditioners.

4027 (g) Based upon advice of emergency management officials or
 4028 upon the advice of licensed professionals retained by the board,
 4029 determine any portion of the cooperative property unavailable
 4030 for entry or occupancy by shareholders, family members, tenants,
 4031 guests, agents, or invitees to protect the health, safety, or
 4032 welfare of such persons.

4033 (h) Require the evacuation of the cooperative property in
 4034 the event of a mandatory evacuation order in the locale in which
 4035 the cooperative is located. Should any shareholder or other
 4036 occupant of a cooperative fail or refuse to evacuate the
 4037 cooperative property when the board has required evacuation, the
 4038 association shall be immune from liability or injury to persons
 4039 or property arising from such failure or refusal.

4040 (i) Based upon advice of emergency management officials or
 4041 upon the advice of licensed professionals retained by the board,
 4042 determine whether the cooperative property can be safely
 4043 inhabited or occupied. However, such determination is not

4044 conclusive as to any determination of habitability pursuant to
 4045 the declaration.

4046 (j) Mitigate further damage, including taking action to
 4047 contract for the removal of debris and to prevent or mitigate
 4048 the spread of fungus, including, but not limited to, mold or
 4049 mildew, by removing and disposing of wet drywall, insulation,
 4050 carpet, cabinetry, or other fixtures on or within the
 4051 cooperative property, even if the shareholder is obligated by
 4052 the cooperative documents or law to insure or replace those
 4053 fixtures and to remove personal property from a unit.

4054 (k) Contract, on behalf of any shareholder or
 4055 shareholders, for items or services for which the shareholder or
 4056 shareholders are otherwise individually responsible, but which
 4057 are necessary to prevent further damage to the cooperative
 4058 property. In such event, the shareholder or shareholders on
 4059 whose behalf the board has contracted are responsible for
 4060 reimbursing the association for the actual costs of the items or
 4061 services, and the association may use its lien authority
 4062 provided by s. 719.108 to enforce collection of the charges.
 4063 Without limitation, such items or services may include the
 4064 drying of units, the boarding of broken windows or doors, and
 4065 the replacement of damaged air conditioners or air handlers to
 4066 provide climate control in the units or other portions of the
 4067 property.

4068 (l) Regardless of any provision to the contrary and even
 4069 if such authority does not specifically appear in the
 4070 cooperative documents or bylaws of the association, levy special
 4071 assessments without a vote of the shareholders.

HB 1397

2009

4072 (m) Without shareholders' approval, borrow money and
 4073 pledge association assets as collateral to fund emergency
 4074 repairs and carry out the duties of the association when
 4075 operating funds are insufficient. This paragraph does not limit
 4076 the general authority of the association to borrow money,
 4077 subject to such restrictions as are contained in the cooperative
 4078 documents or bylaws of the association.

4079 (2) The special powers authorized under subsection (1)
 4080 shall be limited to the time reasonably necessary to protect the
 4081 health, safety, and welfare of the association and the
 4082 shareholders and the shareholders' family members, tenants,
 4083 guests, agents, or invitees and the time reasonably necessary to
 4084 mitigate further damage and make emergency repairs.

4085 Additionally, unless 20 percent or more of the units are made
 4086 uninhabitable by the emergency, the special powers authorized
 4087 under subsection (1) shall only be exercised during the term of
 4088 the Governor's executive order or proclamation declaring the
 4089 state of emergency in the locale in which the condominium is
 4090 located.

4091 Section 25. Subsections (1) and (4) of section 719.301,
 4092 Florida Statutes, are amended to read:

4093 719.301 Transfer of association control.--

4094 (1) When shareholders ~~unit-owners~~ other than the developer
 4095 own 15 percent or more of the units in a cooperative that will
 4096 be operated ultimately by an association, the shareholders ~~unit-~~
 4097 ~~owners~~ other than the developer shall be entitled to elect not
 4098 less than one-third of the members of the board of
 4099 administration of the association. Shareholders ~~Unit-owners~~

4100 other than the developer are entitled to elect not less than a
 4101 majority of the members of the board of administration of an
 4102 association:

4103 (a) Three years after 50 percent of the units that will be
 4104 operated ultimately by the association have been conveyed to
 4105 purchasers;

4106 (b) Three months after 90 percent of the units that will
 4107 be operated ultimately by the association have been conveyed to
 4108 purchasers;

4109 (c) When all the units that will be operated ultimately by
 4110 the association have been completed, some have been conveyed to
 4111 purchasers, and none of the others are being offered for sale by
 4112 the developer in the ordinary course of business;

4113 (d) When some of the units have been conveyed to
 4114 purchasers and none of the others are being constructed or
 4115 offered for sale by the developer in the ordinary course of
 4116 business; ~~or~~

4117 (e) When the developer files a petition seeking protection
 4118 in bankruptcy;

4119 (f) When a receiver for the developer is appointed by a
 4120 circuit court and is not discharged within 30 days after such
 4121 appointment; or

4122 (g)~~(e)~~ Seven years after creation of the cooperative
 4123 association,

4124
 4125 whichever occurs first. The developer is entitled to elect at
 4126 least one member of the board of administration of an
 4127 association as long as the developer holds for sale in the

HB 1397

2009

4128 ordinary course of business at least 5 percent in cooperatives
4129 with fewer than 500 units and 2 percent in cooperatives with 500
4130 or more units in a cooperative operated by the association.
4131 After the developer relinquishes control of the association, the
4132 developer may exercise the right to vote any developer-owned
4133 units in the same manner as any other shareholder ~~unit owner~~
4134 except for purposes of reacquiring control of the association or
4135 selecting the majority of the members of the board.

4136 (4) When shareholders ~~unit owners~~ other than the developer
4137 elect a majority of the members of the board of administration
4138 of an association, the developer shall relinquish control of the
4139 association, and the shareholders ~~unit owners~~ shall accept
4140 control. Simultaneously, or for the purpose of paragraph (c) not
4141 more than 90 days thereafter, the developer shall deliver to the
4142 association, at the developer's expense, all property of the
4143 shareholders ~~unit owners~~ and of the association held or
4144 controlled by the developer, including, but not limited to, the
4145 following items, if applicable, as to each cooperative operated
4146 by the association:

4147 (a)1. The original or a photocopy of the recorded
4148 cooperative documents and all amendments thereto. If a photocopy
4149 is provided, it shall be certified by affidavit of the
4150 developer, or an officer or agent of the developer, as being a
4151 complete copy of the actual recorded cooperative documents.

4152 2. A certified copy of the association's articles of
4153 incorporation, or if it is not incorporated, then copies of the
4154 documents creating the association.

4155 3. A copy of the bylaws.

4156 4. The minute books, including all minutes, and other
 4157 books and records of the association, if any.

4158 5. Any house rules and regulations which have been
 4159 promulgated.

4160 (b) Resignations of officers and members of the board of
 4161 administration who are required to resign because the developer
 4162 is required to relinquish control of the association.

4163 (c) The financial records, including financial statements
 4164 of the association, and source documents since the incorporation
 4165 of the association through the date of turnover. The records
 4166 shall be audited for the period of the incorporation of the
 4167 association or for the period covered by the last audit, if an
 4168 audit has been performed for each fiscal year since
 4169 incorporation, by an independent certified public accountant.
 4170 All financial statements shall be prepared in accordance with
 4171 generally accepted accounting standards and shall be audited in
 4172 accordance with generally accepted auditing standards as
 4173 prescribed by the Board of Accountancy. The accountant
 4174 performing the review shall examine to the extent necessary
 4175 supporting documents and records, including the cash
 4176 disbursements and related paid invoices to determine if
 4177 expenditures were for association purposes and the billings,
 4178 cash receipts, and related records to determine that the
 4179 developer was charged and paid the proper amounts of
 4180 assessments.

4181 (d) Association funds or control thereof.

4182 (e) All tangible personal property that is property of the
 4183 association, represented by the developer to be part of the

4184 common areas or ostensibly part of the common areas, and an
 4185 inventory of that property.

4186 (f) A copy of the plans and specifications utilized in the
 4187 construction or remodeling of improvements and the supplying of
 4188 equipment to the cooperative and in the construction and
 4189 installation of all mechanical components serving the
 4190 improvements and the site, with a certificate in affidavit form
 4191 of the developer, the developer's agent, or an architect or
 4192 engineer authorized to practice in this state that such plans
 4193 and specifications represent, to the best of their knowledge and
 4194 belief, the actual plans and specifications utilized in the
 4195 construction and improvement of the cooperative property and for
 4196 the construction and installation of the mechanical components
 4197 serving the improvements. If the cooperative property has been
 4198 organized as a cooperative more than 3 years after the
 4199 completion of construction or remodeling of the improvements,
 4200 the requirements of this paragraph shall not apply.

4201 (g) A list of the names and addresses, of which the
 4202 developer had knowledge at any time in the development of the
 4203 cooperative, of all contractors, subcontractors, and suppliers
 4204 utilized in the construction or remodeling of the improvements
 4205 and in the landscaping.

4206 (h) Insurance policies.

4207 (i) Copies of any certificates of occupancy which may have
 4208 been issued for the cooperative property.

4209 (j) Any other permits issued by governmental bodies
 4210 applicable to the cooperative property in force or issued within
 4211 1 year prior to the date the shareholders ~~unit-owners~~ other than

4212 the developer take control of the association.

4213 (k) All written warranties of the contractor,
 4214 subcontractors, suppliers, and manufacturers, if any, that are
 4215 still effective.

4216 (l) A roster of shareholders ~~unit owners~~ and their
 4217 addresses and telephone numbers, if known, as shown on the
 4218 developer's records.

4219 (m) Leases of the common areas and other leases to which
 4220 the association is a party.

4221 (n) Employment contracts or service contracts in which the
 4222 association is one of the contracting parties or service
 4223 contracts in which the association or the shareholders ~~unit~~
 4224 ~~owners~~ have an obligation or responsibility, directly or
 4225 indirectly, to pay some or all of the fee or charge of the
 4226 person or persons performing the service.

4227 (o) All other contracts to which the association is a
 4228 party.

4229 (p) A turnover inspection report included in the official
 4230 records, under seal of an architect or engineer authorized to
 4231 practice in this state, attesting to required maintenance,
 4232 useful life, and replacement costs of the following applicable
 4233 common areas:

- 4234 1. Roof.
- 4235 2. Structure.
- 4236 3. Fireproofing and fire protection systems.
- 4237 4. Elevators.
- 4238 5. Heating and cooling systems.
- 4239 6. Plumbing.

- 4240 7. Electrical systems.
- 4241 8. Swimming pool or spa and equipment.
- 4242 9. Seawalls.
- 4243 10. Pavement and parking areas.
- 4244 11. Drainage systems.
- 4245 12. Painting.
- 4246 13. Irrigation systems.

4247 Section 26. Section 719.3025, Florida Statutes, is created
 4248 to read:

4249 719.3025 Agreements for operation, maintenance, or
 4250 management of cooperatives; specific requirements.--

4251 (1) No written contract between a party contracting to
 4252 provide maintenance or management services and an association
 4253 which contract provides for operation, maintenance, or
 4254 management of a cooperative association or property serving the
 4255 shareholders of a cooperative shall be valid or enforceable
 4256 unless the contract:

4257 (a) Specifies the services, obligations, and
 4258 responsibilities of the party contracting to provide maintenance
 4259 or management services to the shareholders.

4260 (b) Specifies those costs incurred in the performance of
 4261 those services, obligations, or responsibilities which are to be
 4262 reimbursed by the association to the party contracting to
 4263 provide maintenance or management services.

4264 (c) Provides an indication of how often each service,
 4265 obligation, or responsibility is to be performed, whether stated
 4266 for each service, obligation, or responsibility or in categories
 4267 thereof.

4268 (d) Specifies a minimum number of personnel to be employed
 4269 by the party contracting to provide maintenance or management
 4270 services for the purpose of providing service to the
 4271 association.

4272 (e) Discloses any financial or ownership interest which
 4273 the developer, if the developer is in control of the
 4274 association, holds with regard to the party contracting to
 4275 provide maintenance or management services.

4276 (f) Discloses any financial or ownership interest a board
 4277 member or any party providing maintenance or management services
 4278 to the association holds with the contracting party.

4279 (2) In any case in which the party contracting to provide
 4280 maintenance or management services fails to provide such
 4281 services in accordance with the contract, the association is
 4282 authorized to procure such services from some other party and
 4283 shall be entitled to collect any fees or charges paid for
 4284 services performed by another party from the party contracting
 4285 to provide maintenance or management services.

4286 (3) Any services or obligations not stated on the face of
 4287 the contract shall be unenforceable.

4288 (4) Notwithstanding the fact that certain vendors contract
 4289 with associations to maintain equipment or property which is
 4290 made available to serve shareholders, it is the intent of the
 4291 Legislature that this section applies to contracts for
 4292 maintenance or management services for which the association
 4293 pays compensation. This section does not apply to contracts for
 4294 services or property made available for the convenience of
 4295 shareholders by lessees or licensees of the association, such as

HB 1397

2009

4296 coin-operated laundry, food, soft drink, or telephone vendors;
 4297 cable television operators; retail store operators; businesses;
 4298 restaurants; or similar vendors.

4299 Section 27. Section 719.3026, Florida Statutes, is amended
 4300 to read:

4301 719.3026 Contracts for products and services; in writing;
 4302 bids; exceptions.--Associations with 10 or fewer ~~less than 100~~
 4303 units may opt out of the provisions of this section if two-
 4304 thirds of the shareholders ~~unit owners~~ vote to do so, which opt-
 4305 out may be accomplished by a proxy specifically setting forth
 4306 the exception from this section.

4307 (1) All contracts as further described herein or any
 4308 contract that is not to be fully performed within 1 year after
 4309 the making thereof, for the purchase, lease, or renting of
 4310 materials or equipment to be used by the association in
 4311 accomplishing its purposes under this chapter, and all contracts
 4312 for the provision of services, shall be in writing. If a
 4313 contract for the purchase, lease, or renting of materials or
 4314 equipment, or for the provision of services, requires payment by
 4315 the association in an amount which in the aggregate exceeds 5
 4316 percent of the association's budget, including reserves, the
 4317 association shall obtain competitive bids for the materials,
 4318 equipment, or services. Nothing contained herein shall be
 4319 construed to require the association to accept the lowest bid.

4320 (2) (a) ~~1-~~ Notwithstanding the foregoing, contracts with
 4321 employees of the association, and contracts for attorney,
 4322 accountant, architect, community association manager, timeshare

4323 management firm, engineering, and landscape architect services
 4324 shall not be subject to the provisions of this section.

4325 ~~2. A contract executed before January 1, 1992, and any~~
 4326 ~~renewal thereof, is not subject to the competitive bid~~
 4327 ~~requirements of this section. If a contract was awarded under~~
 4328 ~~the competitive bid procedures of this section, any renewal of~~
 4329 ~~that contract is not subject to such competitive bid~~
 4330 ~~requirements if the contract contains a provision that allows~~
 4331 ~~the board to cancel the contract on 30 days' notice. Materials,~~
 4332 ~~equipment, or services provided to a cooperative pursuant to a~~
 4333 ~~local government franchise agreement by a franchise holder are~~
 4334 ~~not subject to the competitive bid requirement. A contract with~~
 4335 ~~a manager, if made by a competitive bid, may be made for up to 3~~
 4336 ~~years. A condominium whose declaration or bylaws provides for~~
 4337 ~~competitive bidding for services may operate under the~~
 4338 ~~provisions of that declaration or bylaws in lieu of this section~~
 4339 ~~if those provisions are not less stringent than the requirements~~
 4340 ~~of this section.~~

4341 (b) This section does not limit the ability of an
 4342 association to obtain needed products and services in an
 4343 emergency.

4344 (c) This section does not apply if the business entity
 4345 with which the association desires to enter into a contract is
 4346 the only source of supply within the county serving the
 4347 association.

4348 (d) Nothing contained in this subsection shall excuse a
 4349 party contracting to provide maintenance or management services
 4350 from compliance with s. 719.3025.

4351 (3) As to any contract or other transaction between an
 4352 association and one or more of its directors or any other
 4353 corporation, firm, association, or entity in which one or more
 4354 of its directors are directors or officers or are financially
 4355 interested:

4356 (a) The association shall comply with the requirements of
 4357 s. 617.0832.

4358 (b) The disclosures required by s. 617.0832 shall be
 4359 entered into the written minutes of the meeting.

4360 (c) Approval of the contract or other transaction shall
 4361 require an affirmative vote of two-thirds of the directors
 4362 present.

4363 (d) At the next regular or special meeting of the
 4364 shareholders, the existence of the contract or other transaction
 4365 shall be disclosed to the shareholders. Upon motion of any
 4366 shareholder, the contract or transaction shall be brought up for
 4367 a vote and may be canceled by a majority vote of the
 4368 shareholders present. Should the shareholders cancel the
 4369 contract, the association shall only be liable for the
 4370 reasonable value of goods and services provided up to the time
 4371 of cancellation and shall not be liable for any termination fee,
 4372 liquidated damages, or other form of penalty for such
 4373 cancellation.

4374 Section 28. Section 719.303, Florida Statutes, is amended
 4375 to read:

4376 719.303 Obligations of shareholders ~~owners~~.--

4377 (1) Each shareholder ~~unit owner~~, each tenant and other
 4378 invitee, and each association shall be governed by, and shall

4379 | comply with the provisions of, this chapter, the cooperative
 4380 | documents, the documents creating the association, and the
 4381 | association bylaws, and the provisions thereof shall be deemed
 4382 | expressly incorporated into any lease of a unit. Actions for
 4383 | damages or for injunctive relief, or both, for failure to comply
 4384 | with these provisions may be brought by the association or by a
 4385 | shareholder ~~unit owner~~ against:

- 4386 | (a) The association.
- 4387 | (b) A shareholder ~~unit owner~~.
- 4388 | (c) Directors designated by the developer, for actions
 4389 | taken by them prior to the time control of the association is
 4390 | assumed by shareholders ~~unit owners~~ other than the developer.
- 4391 | (d) Any director who willfully and knowingly fails to
 4392 | comply with these provisions.
- 4393 | (e) Any tenant leasing a unit, and any other invitee
 4394 | occupying a unit.

4395 |
 4396 | The prevailing party in any such action or in any action in
 4397 | which the purchaser claims a right of voidability based upon
 4398 | contractual provisions as required in s. 719.503(1)(a) is
 4399 | entitled to recover reasonable attorney's fees. A shareholder
 4400 | ~~unit owner~~ prevailing in an action between the association and
 4401 | the shareholder ~~unit owner~~ under this section, in addition to
 4402 | recovering his or her reasonable attorney's fees, may recover
 4403 | additional amounts as determined by the court to be necessary to
 4404 | reimburse the shareholder ~~unit owner~~ for his or her share of
 4405 | assessments levied by the association to fund its expenses of
 4406 | the litigation. This relief does not exclude other remedies

4407 provided by law. Actions arising under this subsection shall not
 4408 be deemed to be actions for specific performance.

4409 (2) A provision of this chapter may not be waived if the
 4410 waiver would adversely affect the rights of a shareholder unit
 4411 ~~owner~~ or the purpose of the provision, except that shareholders
 4412 ~~unit owners~~ or members of a board of administration may waive
 4413 notice of specific meetings in writing if provided by the
 4414 bylaws. Any instrument given in writing by the shareholder unit
 4415 ~~owner~~ or purchaser to an escrow agent may be relied upon by an
 4416 escrow agent, whether or not such instruction and the payment of
 4417 funds thereunder might constitute a waiver of any provision of
 4418 this chapter.

4419 (3) If the cooperative documents so provide, the
 4420 association may levy reasonable fines against a shareholder unit
 4421 ~~owner~~ for failure of the shareholder unit~~owner~~ or his or her
 4422 licensee or invitee or the unit's occupant to comply with any
 4423 provision of the cooperative documents or reasonable rules of
 4424 the association. No fine shall become a lien against a unit. No
 4425 fine shall exceed \$100 per violation. However, a fine may be
 4426 levied on the basis of each day of a continuing violation, with
 4427 a single notice and opportunity for hearing, provided that no
 4428 such fine shall in the aggregate exceed \$1,000. No fine may be
 4429 levied except after giving reasonable notice and opportunity for
 4430 a hearing to the shareholder unit~~owner~~ and, if applicable, his
 4431 or her licensee or invitee. The hearing shall be held before a
 4432 committee of other shareholders who are neither board members
 4433 nor persons residing in a board member's household ~~unit owners~~.

4434 If the committee does not agree with the fine, it shall not be
 4435 levied. This subsection does not apply to unoccupied units.

4436 Section 29. Section 719.501, Florida Statutes, is amended
 4437 to read:

4438 719.501 Authority, responsibilities, ~~Powers~~ and duties of
 4439 Division of Florida Condominiums, Timeshares, and Mobile
 4440 Homes.--

4441 (1) The Division of Florida Condominiums, Timeshares, and
 4442 Mobile Homes of the Department of Business and Professional
 4443 Regulation, referred to as the "division" in this part, in
 4444 addition to other powers and duties prescribed by chapter 718,
 4445 has the power to enforce and ensure compliance with this chapter
 4446 and adopted rules relating to the development, construction,
 4447 sale, lease, ownership, operation, and management of residential
 4448 cooperative units. In performing its duties, the division has
 4449 complete jurisdiction to investigate complaints and enforce
 4450 compliance with the provisions of this chapter. ~~shall have the~~
 4451 ~~following powers and duties:~~

4452 (a) The division may make necessary public or private
 4453 investigations within or outside this state to determine whether
 4454 any person has violated this chapter or any rule or order
 4455 hereunder, to aid in the enforcement of this chapter, or to aid
 4456 in the adoption of rules or forms hereunder.

4457 (b) The division may require or permit any person to file
 4458 a statement in writing, under oath or otherwise, as the division
 4459 determines, as to the facts and circumstances concerning a
 4460 matter to be investigated.

HB 1397

2009

4461 (c) For the purpose of any investigation under this
4462 chapter, the division director or any officer or employee
4463 designated by the division director may administer oaths or
4464 affirmations, subpoena witnesses and compel their attendance,
4465 take evidence, and require the production of any matter which is
4466 relevant to the investigation, including the existence,
4467 description, nature, custody, condition, and location of any
4468 books, documents, or other tangible things and the identity and
4469 location of persons having knowledge of relevant facts or any
4470 other matter reasonably calculated to lead to the discovery of
4471 material evidence. Upon failure by a person to obey a subpoena
4472 or to answer questions propounded by the investigating officer
4473 and upon reasonable notice to all persons affected thereby, the
4474 division may apply to the circuit court for an order compelling
4475 compliance.

4476 (d) Notwithstanding any remedies available to shareholders
4477 ~~unit owners~~ and associations, if the division has reasonable
4478 cause to believe that a violation of any provision of this
4479 chapter or related rule has occurred, the division may institute
4480 enforcement proceedings in its own name against a developer,
4481 association, officer, or member of the board, or its assignees
4482 or agents, as follows:

4483 1. The division may permit a person whose conduct or
4484 actions may be under investigation to waive formal proceedings
4485 and enter into a consent proceeding whereby orders, rules, or
4486 letters of censure or warning, whether formal or informal, may
4487 be entered against the person.

HB 1397

2009

4488 2. The division may issue an order requiring the
4489 developer, association, officer, or member of the board, or its
4490 assignees or agents, or any community association manager or
4491 community association management firm to cease and desist from
4492 the unlawful practice and take such affirmative action as in the
4493 judgment of the division will carry out the purposes of this
4494 chapter. If the division finds that a developer, association,
4495 officer, or member of the board of directors, or its assignees
4496 or agents, or any community association manager or community
4497 association management firm is violating or is about to violate
4498 any provision of this chapter, any rule adopted or order issued
4499 by the division, or any written agreement entered into with the
4500 division, and presents an immediate danger to the public
4501 requiring an immediate final order, it may issue an emergency
4502 cease and desist order reciting with particularity the facts
4503 underlying such findings. The emergency cease and desist order
4504 is effective for 90 days. If the division begins nonemergency
4505 cease and desist proceedings, the emergency cease and desist
4506 order remains effective until the conclusion of the proceedings
4507 under ss. 120.569 and 120.57. Such affirmative action may
4508 ~~include, but is not limited to, an order requiring a developer~~
4509 ~~to pay moneys determined to be owed to a condominium~~
4510 ~~association.~~

4511 3. If a developer fails to pay any restitution determined
4512 by the division to be owed, plus any accrued interest at the
4513 highest rate permitted by law, within 30 days after expiration
4514 of any appellate time period of a final order requiring payment
4515 of restitution or the conclusion of any appeal thereof,

HB 1397

2009

4516 whichever is later, the division shall bring an action in
4517 circuit or county court on behalf of any association, class of
4518 shareholders, lessees, or purchasers for restitution,
4519 declaratory relief, injunctive relief, or any other available
4520 remedy. The division may also temporarily revoke its acceptance
4521 of the filing for the developer to which the restitution relates
4522 until payment of restitution is made. ~~The division may bring an~~
4523 ~~action in circuit court on behalf of a class of unit owners,~~
4524 ~~lessees, or purchasers for declaratory relief, injunctive~~
4525 ~~relief, or restitution.~~

4526 4. The division may petition the court for the appointment
4527 of a receiver or conservator. If appointed, the receiver or
4528 conservator may take action to implement the court order to
4529 ensure the performance of the order and to remedy any breach
4530 thereof. In addition to all other means provided by law for the
4531 enforcement of an injunction or temporary restraining order, the
4532 circuit court may impound or sequester the property of a party
4533 defendant, including books, papers, documents, and related
4534 records, and allow the examination and use of the property by
4535 the division and a court-appointed receiver or conservator.

4536 5. The division may apply to the circuit court for an
4537 order of restitution in which the defendant in an action brought
4538 pursuant to subparagraph 4. shall be ordered to make restitution
4539 of those sums shown by the division to have been obtained by the
4540 defendant in violation of this chapter. Such restitution shall,
4541 at the option of the court, be payable to the conservator or
4542 receiver appointed pursuant to subparagraph 4. or directly to

4543 the persons whose funds or assets were obtained in violation of
 4544 this chapter.

4545 6.4. The division may impose a civil penalty against a
 4546 developer or association, or its assignees or agents, for any
 4547 violation of this chapter or ~~related~~ rule adopted under this
 4548 chapter. The division may impose a civil penalty individually
 4549 against any officer or board member who willfully and knowingly
 4550 violates a provision of this chapter, a rule adopted pursuant to
 4551 this chapter, or a final order of the division; may order the
 4552 removal of such individual as an officer or from the board of
 4553 directors or as an officer of the association; and may prohibit
 4554 such individual from serving as an officer or on the board of a
 4555 community association for a stated period of time. The term
 4556 "willfully and knowingly" means that the division informed the
 4557 officer or board member that his or her action or intended
 4558 action violates this chapter, a rule adopted under this chapter,
 4559 or a final order of the division, and that the officer or board
 4560 member refused to comply with the requirements of this chapter,
 4561 a rule adopted under this chapter, or a final order of the
 4562 division. The division, prior to initiating formal agency action
 4563 under chapter 120, shall afford the officer or board member an
 4564 opportunity to voluntarily comply with this chapter, a rule
 4565 adopted under this chapter, or a final order of the division. An
 4566 officer or board member who complies within 10 days is not
 4567 subject to a civil penalty. A penalty may be imposed on the
 4568 basis of each day of continuing violation, but in no event shall
 4569 the penalty for any offense exceed \$5,000. By January 1, 1998,
 4570 the division shall adopt, by rule, penalty guidelines applicable

4571 to possible violations or to categories of violations of this
 4572 chapter or rules adopted by the division. The guidelines must
 4573 specify a meaningful range of civil penalties for each such
 4574 violation of the statute and rules and must be based upon the
 4575 harm caused by the violation, the repetition of the violation,
 4576 and upon such other factors deemed relevant by the division. For
 4577 example, the division may consider whether the violations were
 4578 committed by a developer or shareholder-controlled ~~owner-~~
 4579 ~~controlled~~ association, the size of the association, and other
 4580 factors. The guidelines must designate the possible mitigating
 4581 or aggravating circumstances that justify a departure from the
 4582 range of penalties provided by the rules. It is the legislative
 4583 intent that minor violations be distinguished from those which
 4584 endanger the health, safety, or welfare of the cooperative
 4585 residents or other persons and that such guidelines provide
 4586 reasonable and meaningful notice to the public of likely
 4587 penalties that may be imposed for proscribed conduct. This
 4588 subsection does not limit the ability of the division to
 4589 informally dispose of administrative actions or complaints by
 4590 stipulation, agreed settlement, or consent order. All amounts
 4591 collected shall be deposited with the Chief Financial Officer to
 4592 the credit of the Division of Florida Condominiums, Timeshares,
 4593 and Mobile Homes Trust Fund. If a developer fails to pay the
 4594 civil penalty and the amount deemed to be owed to the
 4595 association, the division shall thereupon issue an order
 4596 directing that such developer cease and desist from further
 4597 operation until such time as the civil penalty is paid or may
 4598 pursue enforcement of the penalty in a court of competent

4599 jurisdiction. If an association fails to pay the civil penalty,
 4600 the division shall thereupon pursue enforcement in a court of
 4601 competent jurisdiction, and the order imposing the civil penalty
 4602 or the cease and desist order shall not become effective until
 4603 20 days after the date of such order. Any action commenced by
 4604 the division shall be brought in the county in which the
 4605 division has its executive offices or in the county where the
 4606 violation occurred.

4607 7. If a shareholder presents the division with proof that
 4608 the shareholder has requested access to official records in
 4609 writing by certified mail, and that after 10 days the
 4610 shareholder again made the same request for access to official
 4611 records in writing by certified mail, and that more than 10 days
 4612 has elapsed since the second request and the association has
 4613 still failed or refused to provide access to official records as
 4614 required by this chapter, the division shall issue a subpoena
 4615 requiring production of the requested records where the records
 4616 are kept pursuant to s. 719.104.

4617 8. In addition to subparagraph 6., the division may seek
 4618 the imposition of a civil penalty through the circuit court for
 4619 any violation for which the division may issue a notice to show
 4620 cause under paragraph (r). The civil penalty shall be at least
 4621 \$500 but no more than \$5,000 for each violation. The court may
 4622 also award to the prevailing party court costs and reasonable
 4623 attorney's fees and, if the division prevails, may also award
 4624 reasonable costs of investigation.

4625 9. When the division finds that any person has derived an
 4626 improper personal benefit from a cooperative association, the

4627 division shall order the person to pay restitution to the
 4628 association and shall order the person to pay to the division
 4629 the costs of investigation and prosecution.

4630 (e) The division may prepare and disseminate a prospectus
 4631 and other information to assist prospective shareholders ~~owners,~~
 4632 purchasers, lessees, and developers of residential cooperatives
 4633 in assessing the rights, privileges, and duties pertaining
 4634 thereto.

4635 (f) The division has authority to adopt rules pursuant to
 4636 ss. 120.536(1) and 120.54 to implement and enforce the
 4637 provisions of this chapter.

4638 (g) The division shall establish procedures for providing
 4639 notice to an association and the developer during the period
 4640 when the developer controls the association when the division is
 4641 considering the issuance of a declaratory statement with respect
 4642 to the cooperative documents governing such cooperative
 4643 community.

4644 (h) The division shall furnish each association which pays
 4645 the fees required by paragraph (2) (a) a copy of this chapter
 4646 ~~act, subsequent changes to this act~~ on an annual basis, as an
 4647 ~~amended version of this act as it becomes available from the~~
 4648 ~~Secretary of State's office on a biennial basis,~~ and the rules
 4649 adopted thereto on an annual basis.

4650 (i) The division shall annually provide each association
 4651 with a summary of declaratory statements and formal legal
 4652 opinions relating to the operations of cooperatives which were
 4653 rendered by the division during the previous year.

4654 ~~(j) The division shall adopt uniform accounting~~
 4655 ~~principles, policies, and standards to be used by all~~
 4656 ~~associations in the preparation and presentation of all~~
 4657 ~~financial statements required by this chapter. The principles,~~
 4658 ~~policies, and standards shall take into consideration the size~~
 4659 ~~of the association and the total revenue collected by the~~
 4660 ~~association.~~

4661 (j)~~(k)~~ The division shall provide training and educational
 4662 programs for cooperative association board members and
 4663 shareholders ~~unit owners~~. The training may, in the division's
 4664 discretion, include web-based electronic media and live training
 4665 and seminars in various locations throughout the state. The
 4666 division shall have the authority to review and approve
 4667 educational and training programs for board members and
 4668 shareholders offered by providers and shall maintain a current
 4669 list of approved programs and providers and shall make such list
 4670 available to board members and shareholders in a reasonable and
 4671 cost-effective manner.

4672 (k)~~(l)~~ The division shall maintain a toll-free telephone
 4673 number accessible to cooperative shareholders ~~unit owners~~.

4674 (l) The division shall develop a program to certify both
 4675 volunteer and paid mediators to provide mediation of cooperative
 4676 disputes. The division shall provide, upon request, a list of
 4677 such mediators to any association, shareholder, or other
 4678 participant in arbitration proceedings under s. 719.1255
 4679 requesting a copy of the list. The division shall include on the
 4680 list of volunteer mediators only the names of persons who have
 4681 received at least 20 hours of training in mediation techniques

HB 1397

2009

4682 or who have mediated at least 20 disputes. In order to become
4683 initially certified by the division, paid mediators must be
4684 certified by the Supreme Court to mediate court cases in county
4685 or circuit courts. However, the division may adopt, by rule,
4686 additional factors for the certification of paid mediators,
4687 which factors must be related to experience, education, or
4688 background. Any person initially certified as a paid mediator by
4689 the division must, in order to continue to be certified, comply
4690 with the factors or requirements imposed by rules adopted by the
4691 division.

4692 (m) When a complaint is made to the division, the division
4693 shall conduct its inquiry with reasonable dispatch and with due
4694 regard to the interests of the affected parties. Within 30 days
4695 after receipt of a complaint, the division shall acknowledge the
4696 complaint in writing and notify the complainant whether the
4697 complaint is within the jurisdiction of the division and whether
4698 additional information is needed by the division from the
4699 complainant. The division shall conduct its investigation and
4700 shall, within 90 days after receipt of the original complaint or
4701 timely requested additional information, take action upon the
4702 complaint. However, the failure to complete the investigation
4703 within 90 days does not prevent the division from continuing the
4704 investigation, accepting or considering evidence obtained or
4705 received after 90 days, or taking administrative action if
4706 reasonable cause exists to believe that a violation of this
4707 chapter or a rule of the division has occurred. If an
4708 investigation is not completed within the time limits
4709 established in this paragraph, the division shall, on a monthly

HB 1397

2009

4710 basis, notify the complainant in writing of the status of the
4711 investigation. When reporting its action to the complainant, the
4712 division shall inform the complainant of any right to a hearing
4713 pursuant to ss. 120.569 and 120.57.

4714 (n) Cooperative association directors, officers, and
4715 employees; cooperative developers; community association
4716 managers; and community association management firms have an
4717 ongoing duty to reasonably cooperate with the division in any
4718 investigation pursuant to this section. The division shall refer
4719 to local law enforcement authorities any person whom the
4720 division believes has altered, destroyed, concealed, or removed
4721 any record, document, or thing required to be kept or maintained
4722 by this chapter with the purpose to impair its verity or
4723 availability in the department's investigation.

4724 (o) The division may:

4725 1. Contract with agencies in this state or other
4726 jurisdictions to perform investigative functions; or

4727 2. Accept grants-in-aid from any source.

4728 (p) The division shall cooperate with similar agencies in
4729 other jurisdictions to establish uniform filing procedures and
4730 forms, public offering statements, advertising standards, and
4731 rules and common administrative practices.

4732 (q) The division shall consider notice to a developer to
4733 be complete when it is delivered to the developer's address
4734 currently on file with the division.

4735 (r) In addition to its enforcement authority, the division
4736 may issue a notice to show cause, which shall provide for a
4737 hearing, upon written request, in accordance with chapter 120.

HB 1397

2009

4738 (s) In the reports required by s. 718.501(1)(s), the
4739 division shall also report the same information for cooperative
4740 associations. The division may combine figures and issues into
4741 one report covering both condominiums and cooperatives. The
4742 ~~division shall develop a program to certify both volunteer and~~
4743 ~~paid mediators to provide mediation of cooperative disputes. The~~
4744 ~~division shall provide, upon request, a list of such mediators~~
4745 ~~to any association, unit owner, or other participant in~~
4746 ~~arbitration proceedings under s. 718.1255 requesting a copy of~~
4747 ~~the list. The division shall include on the list of voluntary~~
4748 ~~mediators only persons who have received at least 20 hours of~~
4749 ~~training in mediation techniques or have mediated at least 20~~
4750 ~~disputes. In order to become initially certified by the~~
4751 ~~division, paid mediators must be certified by the Supreme Court~~
4752 ~~to mediate court cases in county or circuit courts. However, the~~
4753 ~~division may adopt, by rule, additional factors for the~~
4754 ~~certification of paid mediators, which factors must be related~~
4755 ~~to experience, education, or background. Any person initially~~
4756 ~~certified as a paid mediator by the division must, in order to~~
4757 ~~continue to be certified, comply with the factors or~~
4758 ~~requirements imposed by rules adopted by the division.~~

4759 (2) (a) Each cooperative association shall pay to the
4760 division, on or before January 1 of each year, an annual fee in
4761 the amount of \$4 for each residential unit in cooperatives
4762 operated by the association. If the fee is not paid by March 1,
4763 then the association shall be assessed a penalty of 10 percent
4764 of the amount due, and the association shall not have the

HB 1397

2009

4765 standing to maintain or defend any action in the courts of this
 4766 state until the amount due, plus any penalty, is paid.

4767 (b) All fees shall be deposited in the Division of Florida
 4768 Condominiums, Timeshares, and Mobile Homes Trust Fund as
 4769 provided by law.

4770 Section 30. Section 719.5011, Florida Statutes, is created
 4771 to read:

4772 719.5011 Ombudsman.--The Office of the Condominium
 4773 Ombudsman, created in s. 718.5011, shall assist cooperative
 4774 associations and cooperative shareholders and have the powers
 4775 and duties related to cooperative associations and cooperative
 4776 shareholders as if such associations and shareholders were
 4777 condominium associations and condominium shareholders.

4778 Section 31. Paragraph (b) of subsection (1) and paragraph
 4779 (a) of subsection (2) of section 719.503, Florida Statutes, are
 4780 amended to read:

4781 719.503 Disclosure prior to sale.--

4782 (1) DEVELOPER DISCLOSURE.--

4783 (b) Copies of documents to be furnished to prospective
 4784 buyer or lessee.--Until such time as the developer has furnished
 4785 the documents listed below to a person who has entered into a
 4786 contract to purchase a unit or lease it for more than 5 years,
 4787 the contract may be voided by that person, entitling the person
 4788 to a refund of any deposit together with interest thereon as
 4789 provided in s. 719.202. The contract may be terminated by
 4790 written notice from the proposed buyer or lessee delivered to
 4791 the developer within 15 days after the buyer or lessee receives
 4792 all of the documents required by this section. The developer

4793 shall not close for 15 days following the execution of the
 4794 agreement and delivery of the documents to the buyer as
 4795 evidenced by a receipt for documents signed by the buyer unless
 4796 the buyer is informed in the 15-day voidability period and
 4797 agrees to close prior to the expiration of the 15 days. The
 4798 developer shall retain in his or her records a separate signed
 4799 agreement as proof of the buyer's agreement to close prior to
 4800 the expiration of said voidability period. Said proof shall be
 4801 retained for a period of 5 years after the date of the closing
 4802 transaction. The documents to be delivered to the prospective
 4803 buyer are the prospectus or disclosure statement with all
 4804 exhibits, if the development is subject to the provisions of s.
 4805 719.504, or, if not, then copies of the following which are
 4806 applicable:

4807 1. The question and answer sheet described in s. 719.504,
 4808 and cooperative documents, or the proposed cooperative documents
 4809 if the documents have not been recorded, which shall include the
 4810 certificate of a surveyor approximately representing the
 4811 locations required by s. 719.104.

4812 2. The documents creating the association.

4813 3. The bylaws.

4814 4. The ground lease or other underlying lease of the
 4815 cooperative.

4816 5. The management contract, maintenance contract, and
 4817 other contracts for management of the association and operation
 4818 of the cooperative and facilities used by the shareholders ~~unit~~
 4819 ~~owners~~ having a service term in excess of 1 year, and any
 4820 management contracts that are renewable.

4821 6. The estimated operating budget for the cooperative and
 4822 a schedule of expenses for each type of unit, including fees
 4823 assessed to a shareholder who has exclusive use of limited
 4824 common areas, where such costs are shared only by those entitled
 4825 to use such limited common areas.

4826 7. The lease of recreational and other facilities that
 4827 will be used only by shareholders ~~unit owners~~ of the subject
 4828 cooperative.

4829 8. The lease of recreational and other common areas that
 4830 will be used by shareholders ~~unit owners~~ in common with
 4831 shareholders ~~unit owners~~ of other cooperatives.

4832 9. The form of unit lease if the offer is of a leasehold.

4833 10. Any declaration of servitude of properties serving the
 4834 cooperative but not owned by shareholders ~~unit owners~~ or leased
 4835 to them or the association.

4836 11. If the development is to be built in phases or if the
 4837 association is to manage more than one cooperative, a
 4838 description of the plan of phase development or the arrangements
 4839 for the association to manage two or more cooperatives.

4840 12. If the cooperative is a conversion of existing
 4841 improvements, the statements and disclosure required by s.
 4842 719.616.

4843 13. The form of agreement for sale or lease of units.

4844 14. A copy of the floor plan of the unit and the plot plan
 4845 showing the location of the residential buildings and the
 4846 recreation and other common areas.

4847 15. A copy of all covenants and restrictions which will
 4848 affect the use of the property and which are not contained in
 4849 the foregoing.

4850 16. If the developer is required by state or local
 4851 authorities to obtain acceptance or approval of any dock or
 4852 marina facilities intended to serve the cooperative, a copy of
 4853 any such acceptance or approval acquired by the time of filing
 4854 with the division pursuant to s. 719.502(1) or a statement that
 4855 such acceptance or approval has not been acquired or received.

4856 17. Evidence demonstrating that the developer has an
 4857 ownership, leasehold, or contractual interest in the land upon
 4858 which the cooperative is to be developed.

4859 (2) NONDEVELOPER DISCLOSURE.--

4860 (a) Each shareholder ~~unit owner~~ who is not a developer as
 4861 defined by this chapter must comply with the provisions of this
 4862 subsection prior to the sale of his or her interest in the
 4863 association. Each prospective purchaser who has entered into a
 4864 contract for the purchase of an interest in a cooperative is
 4865 entitled, at the seller's expense, to a current copy of the
 4866 articles of incorporation of the association, the bylaws, and
 4867 rules of the association, as well as a copy of the question and
 4868 answer sheet as provided in s. 719.504. On and after July 1,
 4869 2009, the prospective purchaser shall also be entitled to
 4870 receive from the seller a copy of a governance form. Such form
 4871 shall be provided by the division summarizing governance of
 4872 cooperative associations. In addition to such other information
 4873 as the division considers helpful to a prospective purchaser in

4874 understanding association governance, the governance form shall
 4875 address the following subjects:

4876 1. The role of the board in conducting the day-to-day
 4877 affairs of the association on behalf of, and in the best
 4878 interests of, the shareholders.

4879 2. The board's responsibility to provide advance notice of
 4880 board and shareholder meetings.

4881 3. The rights of shareholders to attend and speak at board
 4882 and shareholder meetings.

4883 4. The responsibility of the board and shareholders with
 4884 respect to maintenance of the cooperative property.

4885 5. The responsibility of the board and shareholders to
 4886 abide by the cooperative documents, this chapter, rules adopted
 4887 by the division, and reasonable rules adopted by the board.

4888 6. Shareholders' rights to inspect and copy association
 4889 records and the limitations on such rights.

4890 7. Remedies available to shareholders with respect to
 4891 actions by the board which may be abusive or beyond the board's
 4892 power and authority.

4893 8. The right of the board to hire a property management
 4894 firm, subject to its own primary responsibility for such
 4895 management.

4896 9. The responsibility of shareholders with regard to
 4897 payment of regular or special assessments necessary for the
 4898 operation of the property and the potential consequences of
 4899 failure to pay such assessments.

4900 10. The voting rights of shareholders.

4901 11. Rights and obligations of the board in enforcement of
 4902 rules in the cooperative documents and rules adopted by the
 4903 board.

4904
 4905 The governance form shall also include the following statement
 4906 in conspicuous type: "This publication is intended as an
 4907 informal educational overview of cooperative governance. In the
 4908 event of a conflict, the provisions of chapter 719, Florida
 4909 Statutes, rules adopted by the Division of Florida Condominiums,
 4910 Timeshares, and Mobile Homes of the Department of Business and
 4911 Professional Regulation, the provisions of the cooperative
 4912 documents, and reasonable rules adopted by the cooperative
 4913 association's board of directors prevail over the contents of
 4914 this publication."

4915 Section 32. Subsections (1) and (2) of section 720.3085,
 4916 Florida Statutes, are amended to read:

4917 720.3085 Payment for assessments; lien claims.--

4918 (1) When authorized by the governing documents, the
 4919 association has a lien on each parcel to secure the payment of
 4920 assessments and other amounts provided for by this section.
 4921 Except as otherwise set forth in this section, the lien is
 4922 effective from and shall relate back to the date on which the
 4923 original declaration of the community was recorded. ~~However, as~~
 4924 ~~to first mortgages of record, the lien is effective from and~~
 4925 ~~after recording of a claim of lien in the public records of the~~
 4926 ~~county in which the parcel is located. This subsection does not~~
 4927 ~~bestow upon any lien, mortgage, or certified judgment of record~~
 4928 ~~on July 1, 2008, including the lien for unpaid assessments~~

4929 ~~created in this section, a priority that, by law, the lien,~~
 4930 ~~mortgage, or judgment did not have before July 1, 2008.~~

4931 (a) To be valid, a claim of lien must state the
 4932 description of the parcel, the name of the record owner, the
 4933 name and address of the association, the assessment amount due,
 4934 and the due date. The claim of lien shall secure all unpaid
 4935 assessments that are due and that may accrue subsequent to the
 4936 recording of the claim of lien and before entry of a certificate
 4937 of title, as well as interest, late charges, and reasonable
 4938 costs and attorney's fees incurred by the association incident
 4939 to the collection process. The person making the payment is
 4940 entitled to a satisfaction of the lien upon payment in full.

4941 (b) By recording a notice in substantially the following
 4942 form, a parcel owner or the parcel owner's agent or attorney may
 4943 require the association to enforce a recorded claim of lien
 4944 against his or her parcel:

4945
 4946 NOTICE OF CONTEST OF LIEN

4947
 4948 TO: (Name and address of association)

4949
 4950 You are notified that the undersigned contests the claim of lien
 4951 filed by you on _____, (year) , and recorded in Official
 4952 Records Book _____ at page _____, of the public records of _____
 4953 County, Florida, and that the time within which you may file
 4954 suit to enforce your lien is limited to 90 days following the
 4955 date of service of this notice. Executed this _____ day of
 4956 _____, (year) .

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Signed: (Owner or Attorney)

After the notice of a contest of lien has been recorded, the clerk of the circuit court shall mail a copy of the recorded notice to the association by certified mail, return receipt requested, at the address shown in the claim of lien or the most recent amendment to it and shall certify to the service on the face of the notice. Service is complete upon mailing. After service, the association has 90 days in which to file an action to enforce the lien and, if the action is not filed within the 90-day period, the lien is void. However, the 90-day period shall be extended for any length of time that the association is prevented from filing its action because of an automatic stay resulting from the filing of a bankruptcy petition by the parcel owner or by any other person claiming an interest in the parcel.

(c) The association may bring an action in its name to foreclose a lien for assessments in the same manner in which a mortgage of real property is foreclosed and may also bring an action to recover a money judgment for the unpaid assessments without waiving any claim of lien. The association is entitled to recover its reasonable attorney's fees incurred in an action to foreclose a lien or an action to recover a money judgment for unpaid assessments.

(d) If the parcel owner remains in possession of the parcel after a foreclosure judgment has been entered, the court may require the parcel owner to pay a reasonable rent for the parcel. If the parcel is rented or leased during the pendency of

4985 the foreclosure action, the association is entitled to the
 4986 appointment of a receiver to collect the rent. The expenses of
 4987 the receiver must be paid by the party who does not prevail in
 4988 the foreclosure action.

4989 (e) The association may purchase the parcel at the
 4990 foreclosure sale and hold, lease, mortgage, or convey the
 4991 parcel.

4992 (2) (a) A parcel owner, regardless of how his or her title
 4993 to property has been acquired, including by purchase at a
 4994 foreclosure sale or by deed in lieu of foreclosure, is liable
 4995 for all assessments that come due while he or she is the parcel
 4996 owner. The parcel owner's liability for assessments may not be
 4997 avoided by waiver or suspension of the use or enjoyment of any
 4998 common area or by abandonment of the parcel upon which the
 4999 assessments are made.

5000 (b) A parcel owner is jointly and severally liable with
 5001 the previous parcel owner for all unpaid assessments that came
 5002 due up to the time of transfer of title. This liability is
 5003 without prejudice to any right the present parcel owner may have
 5004 to recover any amounts paid by the present owner from the
 5005 previous owner.

5006 (c) Notwithstanding anything to the contrary contained in
 5007 this section, the liability of a first mortgagee, or its
 5008 successor or assignee as a subsequent holder of the first
 5009 mortgage who acquires title to a parcel by foreclosure or by
 5010 deed in lieu of foreclosure for the unpaid assessments that
 5011 became due before the mortgagee's acquisition of title, shall be
 5012 the lesser of:

5013 1. The parcel's unpaid common expenses and regular
 5014 periodic or special assessments that accrued or came due during
 5015 the 24 ~~12~~ months immediately preceding the acquisition of title
 5016 and for which payment in full has not been received by the
 5017 association; or

5018 2. One-half of the parcel owner's unpaid common expenses
 5019 and regular periodic assessments which accrued or came due from
 5020 the filing of the foreclosure action through the sale of the
 5021 unit, provided that the mortgagee timely paid in full the
 5022 payment required by paragraph (d) and, at the same time,
 5023 remitted to the association advanced common expenses and regular
 5024 periodic assessments equal to one-half of the total unpaid
 5025 common expenses and regular periodic assessments that came due
 5026 in that time period. Any such advance shall be taxed as a cost
 5027 in the foreclosure action, and the mortgagor shall be personally
 5028 liable to the mortgagee for the value of the payment made to the
 5029 association plus interest at the interest rate provided for in
 5030 the promissory note for advances. ~~One percent of the original~~
 5031 ~~mortgage debt.~~

5032
 5033 ~~The limitations on first mortgagee liability provided by this~~
 5034 ~~paragraph apply only if the first mortgagee filed suit against~~
 5035 ~~the parcel owner and initially joined the association as a~~
 5036 ~~defendant in the mortgagee foreclosure action. Joinder of the~~
 5037 ~~association is not required if, on the date the complaint is~~
 5038 ~~filed, the association was dissolved or did not maintain an~~
 5039 ~~office or agent for service of process at a location that was~~
 5040 ~~known to or reasonably discoverable by the mortgagee.~~

5041 (d) A mortgagee who files a foreclosure case on a mortgage
 5042 secured by a parcel in a homeowners' association shall pay to
 5043 the association within 15 days after the filing of the action
 5044 all of the parcel's then unpaid common expenses and regular
 5045 periodic assessments which accrued or came due up to the date of
 5046 the filing of the foreclosure action. The payment shall be taxed
 5047 as a cost in the foreclosure action, and the mortgagor shall be
 5048 personally liable to the mortgagee for the value of the payment
 5049 made to the association plus interest at the interest rate
 5050 provided for in the promissory note for advances. The court
 5051 shall dismiss a foreclosure action on the association's motion
 5052 to dismiss for failure to make such payment and shall award the
 5053 association the costs and reasonable attorney's fees related to
 5054 the motion.

5055 Section 33. Subsection (3) of section 721.16, Florida
 5056 Statutes, is amended to read:

5057 721.16 Liens for overdue assessments; liens for labor
 5058 performed on, or materials furnished to, a timeshare unit.--

5059 (3) The lien is effective from the date of recording a
 5060 claim of lien in the public records of the county or counties in
 5061 which the accommodations and facilities constituting the
 5062 timeshare plan are located. The claim of lien shall state the
 5063 name of the timeshare plan and identify the timeshare interest
 5064 for which the lien is effective, state the name of the
 5065 purchaser, state the assessment amount due, and state the due
 5066 dates. Notwithstanding any provision of s. 718.116(5) (a) or s.
 5067 719.108 (5) ~~(4)~~ to the contrary, the lien is effective until
 5068 satisfied or until 5 years have expired after the date the claim

HB 1397

2009

5069 of lien is recorded unless, within that time, an action to
5070 enforce the lien is commenced pursuant to subsection (2). A
5071 claim of lien for assessments may include only assessments which
5072 are due when the claim is recorded. A claim of lien shall be
5073 signed and acknowledged by an officer or agent of the managing
5074 entity. Upon full payment, the person making the payment is
5075 entitled to receive a satisfaction of the lien.

5076 Section 34. The Office of Program Policy Analysis and
5077 Government Accountability shall conduct a study to evaluate
5078 whether the state should regulate homeowners' associations in a
5079 manner similar to the regulation of condominiums and
5080 cooperatives. The study's scope shall include, but need not be
5081 limited to, estimating the number of homeowners' associations
5082 and the number of homes that are members of a homeowners'
5083 association. The office shall submit its report to the President
5084 of the Senate and the Speaker of the House of Representatives by
5085 January 1, 2010.

5086 Section 35. This act shall take effect July 1, 2009.