

1 A bill to be entitled
2 An act relating to residential properties; amending s.
3 399.02, F.S.; exempting certain elevators from
4 specific code update requirements; amending s.
5 468.433, F.S.; prohibiting the Department of Business
6 and Professional Regulation from publishing a
7 community association manager's personal home address
8 unless it is for the purpose of satisfying a public
9 records request; amending s. 718.112, F.S.; revising
10 condominium unit owner meeting notice requirements;
11 providing application of certain provisions relating
12 to elections; revising recordkeeping requirements of a
13 condominium association board; requiring challenges to
14 an election to commence within a certain time period;
15 providing requirements for challenging the failure of
16 a board to duly notice and hold the required board
17 meeting or to file the required petition for a recall;
18 providing requirements for recalled board members to
19 challenge the recall; providing duties of the division
20 regarding recall petitions; amending s. 718.113, F.S.;
21 providing requirements for a condominium association
22 board relating to the installation of hurricane
23 shutters, impact glass, code-compliant windows or
24 doors, and other types of code-compliant hurricane
25 protection under certain circumstances; amending s.
26 718.115, F.S.; conforming provisions to changes made
27 by the act; amending s. 718.116, F.S.; revising
28 liability of certain condominium unit owners acquiring

29 title; amending s. 718.303, F.S.; revising provisions
30 relating to imposing remedies against a noncompliant
31 or delinquent condominium unit owner or member;
32 revising voting requirements under certain conditions;
33 amending s. 718.403, F.S.; providing requirements for
34 the completion of phase condominiums; creating s.
35 718.406, F.S.; providing definitions; providing
36 requirements for condominiums created within
37 condominium parcels; providing for the establishment
38 of primary condominium and secondary condominium
39 units; providing requirements for association
40 declarations; authorizing a primary condominium
41 association to provide insurance and adopt hurricane
42 shutter or hurricane protection specifications under
43 certain conditions; providing requirements relating to
44 assessments; providing for resolution of conflicts
45 between primary condominium declarations and secondary
46 condominium declarations; providing requirements
47 relating to common expenses due the primary
48 condominium association; amending s. 718.5011, F.S.;
49 revising the restriction on officers and full-time
50 employees of the ombudsman from engaging in other
51 businesses or professions; amending s. 718.707, F.S.;
52 revising the time limitation for classification as a
53 bulk assignee or bulk buyer; amending s. 719.104,
54 F.S.; specifying additional records that are not
55 accessible to unit owners; amending s. 719.1055, F.S.;
56 revising provisions relating to the amendment of

57 cooperative documents; providing legislative findings
58 and a finding of compelling state interest; providing
59 criteria for consent or joinder to an amendment;
60 requiring notice regarding proposed amendments to
61 mortgagees; providing criteria for notification;
62 providing for voiding certain amendments; amending s.
63 719.106, F.S.; revising applicability of certain board
64 of administration meeting requirements; requiring
65 challenges to an election to commence within a certain
66 time period; specifying certification or educational
67 requirements for a newly elected or appointed
68 cooperative board director; providing requirements for
69 challenging the failure of a board to duly notice and
70 hold the required board meeting or to file the
71 required petition for a recall; providing requirements
72 for recalled board members to challenge the recall;
73 providing duties of the division regarding recall
74 petitions; amending s. 719.108, F.S.; revising
75 language with respect to assessments and liens;
76 revising liability of unit owners; providing liability
77 limitations of a first mortgagee or its successor or
78 assignees who acquire title to a unit by foreclosure;
79 providing requirements for persons acquiring title;
80 authorizing the association to record a claim of lien
81 under certain conditions; amending s. 719.303, F.S.;
82 revising provisions relating to imposing remedies
83 against a noncompliant or delinquent cooperative unit
84 owner or member; revising voting requirements under

85 | certain conditions; amending s. 720.303, F.S.;

86 | revising the types of records that are not accessible

87 | to homeowners' association members and parcel owners;

88 | providing requirements for challenging the failure of

89 | a board to duly notice and hold the required board

90 | meeting or to file the required petition for a recall;

91 | providing requirements for recalled board members to

92 | challenge the recall; providing duties of the division

93 | regarding recall petitions; amending s. 720.305, F.S.;

94 | revising provisions relating to imposing remedies

95 | against a noncompliant or delinquent homeowners'

96 | association member and parcel owner; revising voting

97 | requirements under certain conditions; amending s.

98 | 720.306, F.S.; revising provisions relating to the

99 | amendment of homeowners' association declarations;

100 | providing legislative findings and a finding of

101 | compelling state interest; providing criteria for

102 | consent or joinder to an amendment; requiring notice

103 | to mortgagees regarding proposed amendments; providing

104 | criteria for notification; providing for voiding

105 | certain amendments; requiring challenges to an

106 | election to commence within a certain time period;

107 | specifying certification or educational requirements

108 | for a newly elected or appointed homeowners'

109 | association board director; amending s. 720.3085,

110 | F.S.; revising liability of certain parcel owners

111 | acquiring title; requiring a person acquiring title to

112 | pay certain amounts due within a certain time period;

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113 | amending s. 721.16, F.S.; conforming a cross-
 114 | reference; providing an effective date.

115 |

116 | Be It Enacted by the Legislature of the State of Florida:

117 |

118 | Section 1. Subsection (9) of section 399.02, Florida
 119 | Statutes, is amended to read:

120 | 399.02 General requirements.—

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

136 | Section 2. Subsection (5) is added to section 468.433,
 137 | Florida Statutes, to read:

138 | 468.433 Licensure by examination.—

139 (5) The department may not publish a licensee's personal
 140 home address unless it is for the purpose of satisfying a public
 141 records request.

142 Section 3. Paragraphs (d) and (j) of subsection (2) of
 143 section 718.112, Florida Statutes, are amended to read:

144 718.112 Bylaws.—

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

148 (d) Unit owner meetings.—

149 1. An annual meeting of the unit owners shall be held at
 150 the location provided in the association bylaws and, if the
 151 bylaws are silent as to the location, the meeting shall be held
 152 within 45 miles of the condominium property. However, such
 153 distance requirement does not apply to an association governing
 154 a timeshare condominium.

155 2. Unless the bylaws provide otherwise, a vacancy on the
 156 board caused by the expiration of a director's term shall be
 157 filled by electing a new board member, and the election must be
 158 by secret ballot. An election is not required if the number of
 159 vacancies equals or exceeds the number of candidates. For
 160 purposes of this paragraph, the term "candidate" means an
 161 eligible person who has timely submitted the written notice, as
 162 described in sub-subparagraph 4.a., of his or her intention to
 163 become a candidate. Except in a timeshare condominium, or if the
 164 staggered term of a board member does not expire until a later
 165 annual meeting, or if all members' terms would otherwise expire
 166 but there are no candidates, the terms of all board members

167 | expire at the annual meeting, and such members may stand for
168 | reelection unless prohibited by the bylaws. If the bylaws permit
169 | staggered terms of no more than 2 years and upon approval of a
170 | majority of the total voting interests, the association board
171 | members may serve 2-year staggered terms. If the number of board
172 | members whose terms expire at the annual meeting equals or
173 | exceeds the number of candidates, the candidates become members
174 | of the board effective upon the adjournment of the annual
175 | meeting. Unless the bylaws provide otherwise, any remaining
176 | vacancies shall be filled by the affirmative vote of the
177 | majority of the directors making up the newly constituted board
178 | even if the directors constitute less than a quorum or there is
179 | only one director. In a condominium association of more than 10
180 | units or in a condominium association that does not include
181 | timeshare units or timeshare interests, coowners of a unit may
182 | not serve as members of the board of directors at the same time
183 | unless they own more than one unit or unless there are not
184 | enough eligible candidates to fill the vacancies on the board at
185 | the time of the vacancy. Any unit owner desiring to be a
186 | candidate for board membership must comply with sub-subparagraph
187 | 4.a. and must be eligible to serve on the board of directors at
188 | the time of the deadline for submitting a notice of intent to
189 | run in order to have his or her name listed as a proper
190 | candidate on the ballot or to serve on the board. A person who
191 | has been suspended or removed by the division under this
192 | chapter, or who is delinquent in the payment of any fee, fine,
193 | or special or regular assessment as provided in paragraph (n),
194 | is not eligible for board membership. A person who has been

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195 convicted of any felony in this state or in a United States
196 District or Territorial Court, or who has been convicted of any
197 offense in another jurisdiction which would be considered a
198 felony if committed in this state, is not eligible for board
199 membership unless such felon's civil rights have been restored
200 for at least 5 years as of the date such person seeks election
201 to the board. The validity of an action by the board is not
202 affected if it is later determined that a board member is
203 ineligible for board membership due to having been convicted of
204 a felony.

205 3. The bylaws must provide the method of calling meetings
206 of unit owners, including annual meetings. Written notice must
207 include an agenda, must be mailed, hand delivered, or
208 electronically transmitted to each unit owner at least 14 days
209 before the annual meeting, and must be posted in a conspicuous
210 place on the condominium property at least 14 continuous days
211 before the annual meeting. Upon notice to the unit owners, the
212 board shall, by duly adopted rule, designate a specific location
213 on the condominium property or association property where all
214 notices of unit owner meetings shall be posted. This requirement
215 does not apply if there is no condominium property or
216 association property for posting notices. In lieu of, or in
217 addition to, the physical posting of meeting notices, the
218 association may, by reasonable rule, adopt a procedure for
219 conspicuously posting and repeatedly broadcasting the notice and
220 the agenda on a closed-circuit cable television system serving
221 the condominium association. However, if broadcast notice is
222 used in lieu of a notice posted physically on the condominium

223 property, the notice and agenda must be broadcast at least four
224 times every broadcast hour of each day that a posted notice is
225 otherwise required under this section. If broadcast notice is
226 provided, the notice and agenda must be broadcast in a manner
227 and for a sufficient continuous length of time so as to allow an
228 average reader to observe the notice and read and comprehend the
229 entire content of the notice and the agenda. Unless a unit owner
230 waives in writing the right to receive notice of the annual
231 meeting, such notice must be hand delivered, mailed, or
232 electronically transmitted to each unit owner. Notice for
233 meetings and notice for all other purposes must be mailed to
234 each unit owner at the address last furnished to the association
235 by the unit owner, or hand delivered to each unit owner.
236 However, if a unit is owned by more than one person, the
237 association must provide notice to the address that the
238 developer identifies for that purpose and thereafter as one or
239 more of the owners of the unit advise the association in
240 writing, or if no address is given or the owners of the unit do
241 not agree, to the address provided on the deed of record. An
242 officer of the association, or the manager or other person
243 providing notice of the association meeting, must provide an
244 affidavit or United States Postal Service certificate of
245 mailing, to be included in the official records of the
246 association affirming that the notice was mailed or hand
247 delivered in accordance with this provision.

248 4. The members of the board shall be elected by written
249 ballot or voting machine. Proxies may not be used in electing
250 the board in general elections or elections to fill vacancies

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251 | caused by recall, resignation, or otherwise, unless otherwise
252 | provided in this chapter. This subparagraph does not apply to an
253 | association governing a timeshare condominium.

254 | a. At least 60 days before a scheduled election, the
255 | association shall mail, deliver, or electronically transmit, by
256 | separate association mailing or included in another association
257 | mailing, delivery, or transmission, including regularly
258 | published newsletters, to each unit owner entitled to a vote, a
259 | first notice of the date of the election. Any unit owner or
260 | other eligible person desiring to be a candidate for the board
261 | must give written notice of his or her intent to be a candidate
262 | to the association at least 40 days before a scheduled election.
263 | Together with the written notice and agenda as set forth in
264 | subparagraph 3., the association shall mail, deliver, or
265 | electronically transmit a second notice of the election to all
266 | unit owners entitled to vote, together with a ballot that lists
267 | all candidates. Upon request of a candidate, an information
268 | sheet, no larger than 8 1/2 inches by 11 inches, which must be
269 | furnished by the candidate at least 35 days before the election,
270 | must be included with the mailing, delivery, or transmission of
271 | the ballot, with the costs of mailing, delivery, or electronic
272 | transmission and copying to be borne by the association. The
273 | association is not liable for the contents of the information
274 | sheets prepared by the candidates. In order to reduce costs, the
275 | association may print or duplicate the information sheets on
276 | both sides of the paper. The division shall by rule establish
277 | voting procedures consistent with this sub-subparagraph,
278 | including rules establishing procedures for giving notice by

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279 | electronic transmission and rules providing for the secrecy of
280 | ballots. Elections shall be decided by a plurality of ballots
281 | cast. There is no quorum requirement; however, at least 20
282 | percent of the eligible voters must cast a ballot in order to
283 | have a valid election. A unit owner may not permit any other
284 | person to vote his or her ballot, and any ballots improperly
285 | cast are invalid. A unit owner who violates this provision may
286 | be fined by the association in accordance with s. 718.303. A
287 | unit owner who needs assistance in casting the ballot for the
288 | reasons stated in s. 101.051 may obtain such assistance. The
289 | regular election must occur on the date of the annual meeting.
290 | Notwithstanding this sub-subparagraph, an election is not
291 | required unless more candidates file notices of intent to run or
292 | are nominated than board vacancies exist.

293 | b. Within 90 days after being elected or appointed to the
294 | board, each newly elected or appointed director shall certify in
295 | writing to the secretary of the association that he or she has
296 | read the association's declaration of condominium, articles of
297 | incorporation, bylaws, and current written policies; that he or
298 | she will work to uphold such documents and policies to the best
299 | of his or her ability; and that he or she will faithfully
300 | discharge his or her fiduciary responsibility to the
301 | association's members. In lieu of this written certification,
302 | within 90 days after being elected or appointed to the board,
303 | the newly elected or appointed director may submit a certificate
304 | of having satisfactorily completed the educational curriculum
305 | administered by a division-approved condominium education
306 | provider within 1 year before or 90 days after the date of

307 election or appointment. The written certification or
308 educational certificate is valid and does not have to be
309 resubmitted as long as the director serves on the board without
310 interruption. A director who fails to timely file the written
311 certification or educational certificate is suspended from
312 service on the board until he or she complies with this sub-
313 subparagraph. The board may temporarily fill the vacancy during
314 the period of suspension. The secretary shall cause the
315 association to retain a director's written certification or
316 educational certificate for inspection by the members for 5
317 years after a director's election or the duration of the
318 director's uninterrupted tenure, whichever is longer. Failure to
319 have such written certification or educational certificate on
320 file does not affect the validity of any board action.

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

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

333 6. Unit owners may waive notice of specific meetings if
334 allowed by the applicable bylaws or declaration or any law. If

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335 authorized by the bylaws, notice of meetings of the board of
336 administration, unit owner meetings, except unit owner meetings
337 called to recall board members under paragraph (j), and
338 committee meetings may be given by electronic transmission to
339 unit owners who consent to receive notice by electronic
340 transmission.

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

345 8. A unit owner may tape record or videotape a meeting of
346 the unit owners subject to reasonable rules adopted by the
347 division.

348 9. Unless otherwise provided in the bylaws, any vacancy
349 occurring on the board before the expiration of a term may be
350 filled by the affirmative vote of the majority of the remaining
351 directors, even if the remaining directors constitute less than
352 a quorum, or by the sole remaining director. In the alternative,
353 a board may hold an election to fill the vacancy, in which case
354 the election procedures must conform to sub-subparagraph 4.a.
355 unless the association governs 10 units or fewer and has opted
356 out of the statutory election process, in which case the bylaws
357 of the association control. Unless otherwise provided in the
358 bylaws, a board member appointed or elected under this section
359 shall fill the vacancy for the unexpired term of the seat being
360 filled. Filling vacancies created by recall is governed by
361 paragraph (j) and rules adopted by the division.

362 10. This chapter does not limit the use of general or

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363 limited proxies, require the use of general or limited proxies,
364 or require the use of a written ballot or voting machine for any
365 agenda item or election at any meeting of a timeshare
366 condominium association.

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

376 (j) Recall of board members.—Subject to ~~the provisions of~~
377 s. 718.301, any member of the board of administration may be
378 recalled and removed from office with or without cause by the
379 vote or agreement in writing by a majority of all the voting
380 interests. A special meeting of the unit owners to recall a
381 member or members of the board of administration may be called
382 by 10 percent of the voting interests giving notice of the
383 meeting as required for a meeting of unit owners, and the notice
384 shall state the purpose of the meeting. Electronic transmission
385 may not be used as a method of giving notice of a meeting called
386 in whole or in part for this purpose.

387 1. If the recall is approved by a majority of all voting
388 interests by a vote at a meeting, the recall will be effective
389 as provided in this paragraph herein. The board shall duly
390 notice and hold a board meeting within 5 full business days

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391 after ~~of~~ the adjournment of the unit owner meeting to recall one
392 or more board members. At the meeting, the board shall either
393 certify the recall, in which case such member or members shall
394 be recalled effective immediately and shall turn over to the
395 board within 5 full business days any and all records and
396 property of the association in their possession, or shall
397 proceed as set forth in subparagraph 3.

398 2. If the proposed recall is by an agreement in writing by
399 a majority of all voting interests, the agreement in writing or
400 a copy thereof shall be served on the association by certified
401 mail or by personal service in the manner authorized by chapter
402 48 and the Florida Rules of Civil Procedure. The board of
403 administration shall duly notice and hold a meeting of the board
404 within 5 full business days after receipt of the agreement in
405 writing. At the meeting, the board shall either certify the
406 written agreement to recall a member or members of the board, in
407 which case such member or members shall be recalled effective
408 immediately and shall turn over to the board within 5 full
409 business days any and all records and property of the
410 association in their possession, or proceed as described in
411 subparagraph 3.

412 3. If the board determines not to certify the written
413 agreement to recall a member or members of the board, or does
414 not certify the recall by a vote at a meeting, the board shall,
415 within 5 full business days after the meeting, file with the
416 division a petition for arbitration pursuant to the procedures
417 in s. 718.1255. For the purposes of this section, the unit
418 owners who voted at the meeting or who executed the agreement in

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419 writing shall constitute one party under the petition for
420 arbitration. If the arbitrator certifies the recall as to any
421 member or members of the board, the recall will be effective
422 upon mailing of the final order of arbitration to the
423 association. If the association fails to comply with the order
424 of the arbitrator, the division may take action pursuant to s.
425 718.501. Any member or members so recalled shall deliver to the
426 board any and all records of the association in their possession
427 within 5 full business days after ~~of~~ the effective date of the
428 recall.

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

436 5. If the board fails to duly notice and hold the required
437 meeting or fails to file the required petition, the unit owner
438 representative may file a petition pursuant to s. 718.1255
439 challenging the board's failure to act. The petition must be
440 filed within 60 days after the expiration of the applicable 5-
441 full-business-day period. The review of a petition under this
442 subparagraph is limited to the sufficiency of service on the
443 board and the facial validity of the written agreement or
444 ballots filed.

445 ~~6.5.~~ If a vacancy occurs on the board as a result of a
446 recall or removal and less than a majority of the board members

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

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

463 8. The division may not accept for filing a recall
464 petition, whether filed pursuant to subparagraph 1.,
465 subparagraph 2., subparagraph 5., or subparagraph 7. and
466 regardless of whether the recall was certified, when there are
467 60 or fewer days until the scheduled reelection of the board
468 member sought to be recalled or when 60 or fewer days have
469 elapsed since the election of the board member sought to be
470 recalled.

471 Section 4. Subsection (5) of section 718.113, Florida
472 Statutes, is amended to read:

473 718.113 Maintenance; limitation upon improvement; display
474 of flag; hurricane shutters and protection; display of religious

475 decorations.—

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

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

501 (b) The association is responsible for the maintenance,
 502 repair, and replacement of the hurricane shutters, impact glass,

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503 code-compliant windows or doors, or other types of code-
504 compliant hurricane protection authorized by this subsection if
505 such property hurricane shutters or other hurricane protection
506 is the responsibility of the association pursuant to the
507 declaration of condominium. If the hurricane shutters, impact
508 glass, code-compliant windows or doors, or other types of code-
509 compliant hurricane protection ~~authorized by this subsection~~ are
510 the responsibility of the unit owners pursuant to the
511 declaration of condominium, the maintenance, repair, and
512 replacement of such items are the responsibility of the unit
513 owner.

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

526 (d) Notwithstanding any other provision in the condominium
527 documents, if approval is required by the documents, a board may
528 not refuse to approve the installation or replacement of
529 hurricane shutters, impact glass, code-compliant windows or
530 doors, or other types of code-compliant hurricane protection by

531 a unit owner conforming to the specifications adopted by the
532 board.

533 Section 5. Paragraph (e) of subsection (1) of section
534 718.115, Florida Statutes, is amended to read:

535 718.115 Common expenses and common surplus.—

536 (1)

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

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

587 replacement, operation, repair, and maintenance of such
 588 shutters, impact glass, code-compliant windows or doors, or
 589 other types of code-compliant hurricane protection.

590 Section 6. Paragraphs (a), (b), and (c) of subsection (1)
 591 of section 718.116, Florida Statutes, are amended to read:

592 718.116 Assessments; liability; lien and priority;
 593 interest; collection.—

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

608 (b)1. The liability of a first mortgagee or its successors
 609 ~~successor~~ or assignees who acquire title to a unit by
 610 foreclosure or by deed in lieu of foreclosure for the unpaid
 611 assessments, interest, administrative late fees, reasonable
 612 costs and attorney fees, and any other fee, cost, or expense
 613 incurred in the collection process that became due before the
 614 mortgagee's acquisition of title is limited to the lesser of:

615 a. Only the unit's unpaid common expenses and regular
 616 periodic assessments that ~~which~~ accrued or came due during the
 617 12 months immediately preceding the acquisition of title and for
 618 which payment in full has not been received by the association;
 619 or

620 b. One percent of the original mortgage debt.

621 2. Subparagraph 1. applies ~~The provisions of this~~
 622 ~~paragraph apply~~ only if the first mortgagee joined the
 623 association as a defendant in the foreclosure action. Joinder of
 624 the association is not required if, on the date the complaint is
 625 filed, the association was dissolved or did not maintain an
 626 office or agent for service of process at a location that ~~which~~
 627 was known to or reasonably discoverable by the mortgagee.

628 3. The first mortgagee or its successors or assignees who
 629 acquire title to a unit by foreclosure or by deed in lieu of
 630 foreclosure are not liable for any interest, administrative late
 631 fee, reasonable cost or attorney fee, or any other fee, cost, or
 632 expense that came due prior to its acquisition of title. This
 633 subparagraph is intended to clarify existing law.

634 4.2. An association, or its successor or assignee, that
 635 acquires title to a unit through the foreclosure of its lien for
 636 assessments is not liable for any unpaid assessments, late fees,
 637 interest, or reasonable attorney ~~attorney's~~ fees and costs that
 638 came due before the association's acquisition of title in favor
 639 of any other association, as defined in s. 718.103(2) or s.
 640 720.301(9), which holds a ~~superior~~ lien interest on the unit.
 641 This subparagraph is intended to clarify existing law.

642 (c) The person acquiring title shall pay the amount owed
 643 to the association within 30 days after transfer of title.
 644 Failure to pay the full amount when due entitles ~~shall entitle~~
 645 the association to record a claim of lien against the parcel for
 646 the amounts specified in this subsection and proceed in the same
 647 manner as provided in this section for the collection of the
 648 amount owed and any unpaid assessments coming due after the
 649 acquisition of title and other charges authorized by subsection
 650 (3) on any unpaid assessments coming due after the acquisition
 651 of title.

652 Section 7. Paragraph (a) of subsection (3) and subsection
 653 (5) of section 718.303, Florida Statutes, are amended to read:

654 718.303 Obligations of owners and occupants; remedies.—

655 (3) The association may levy reasonable fines for the
 656 failure of the owner of the unit or its occupant, licensee, or
 657 invitee to comply with any provision of the declaration, the
 658 association bylaws, or reasonable rules of the association. A
 659 fine may not become a lien against a unit. A fine may be levied
 660 on the basis of each day of a continuing violation, with a
 661 single notice and opportunity for hearing. However, the fine may
 662 not exceed \$100 per violation, or \$1,000 in the aggregate.

663 (a) An association may suspend, for a reasonable period of
 664 time, the right of a unit owner, or a unit owner's tenant,
 665 guest, or invitee, to use the common elements, common
 666 facilities, or any other association property for failure to
 667 comply with any provision of the declaration, the association
 668 bylaws, or reasonable rules of the association. This paragraph
 669 does not apply to limited common elements intended to be used

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670 only by that unit, common elements needed to access the unit,
671 utility services provided to the unit, parking spaces, or
672 elevators.

673 (5) An association may suspend the voting rights of a unit
674 or member due to nonpayment of any monetary obligation due to
675 the association which is more than 90 days delinquent.

676 Notwithstanding an association's declaration, articles of
677 incorporation, or bylaws, the requirements to establish a
678 quorum, conduct an election, or obtain membership approval on
679 actions under this chapter or pursuant to the declaration,
680 articles of incorporation, or bylaws shall be reduced by the
681 number of suspended voting interests or consent rights. A voting
682 interest or consent right allocated to a unit or member which
683 has been suspended by the association may not be counted towards
684 the total number of voting interests necessary to constitute a
685 quorum, the number of voting interests required to conduct an
686 election, or the number of voting interests required to approve
687 an action under this chapter or pursuant to the declaration,
688 articles of incorporation, or bylaws. The suspension ends upon
689 full payment of all obligations currently due or overdue the
690 association. The notice and hearing requirements under
691 subsection (3) do not apply to a suspension imposed under this
692 subsection.

693 Section 8. Subsection (1) of section 718.403, Florida
694 Statutes, is amended to read:

695 718.403 Phase condominiums.—

696 (1) Notwithstanding ~~the provisions of s. 718.110,~~ a
697 developer may develop a condominium in phases, if the original

698 | declaration of condominium submitting the initial phase to
 699 | condominium ownership or an amendment to the declaration which
 700 | has been approved by all of the unit owners and unit mortgagees
 701 | provides for and describes in detail all anticipated phases; the
 702 | impact, if any, which the completion of subsequent phases would
 703 | have upon the initial phase; and the time period (which may not
 704 | exceed 7 years from the date of recording the declaration of
 705 | condominium, unless extended as provided in this subsection)
 706 | within which all phases must be added to the condominium and
 707 | comply with the requirements of this section and at the end of
 708 | which the right to add additional phases expires.

709 | (a) All phases must be added to the condominium within 7
 710 | years after the date of recording the original declaration of
 711 | condominium submitting the initial phase to condominium
 712 | ownership unless an amendment extending the 7-year period is
 713 | approved by the unit owners.

714 | (b) An amendment to extend the 7-year period requires the
 715 | approval of the owners necessary to amend the declaration of
 716 | condominium consistent with s. 718.110(1)(a). An extension of
 717 | the 7-year period may be submitted for approval only during the
 718 | last 3 years of the 7-year period.

719 | (c) An amendment must describe the time period within
 720 | which all phases must be added to the condominium and such time
 721 | period may not exceed 10 years after the date of recording the
 722 | original declaration of condominium submitting the initial phase
 723 | to condominium ownership.

724 | (d) Notwithstanding s. 718.110, an amendment extending the
 725 | 7-year period is not an amendment subject to s. 718.110(4).

726 Section 9. Section 718.406, Florida Statutes, is created
727 to read:

728 718.406 Condominiums created within condominium parcels.-

729 (1) Unless otherwise expressed in the declaration of
730 condominium, if a condominium is created within a condominium
731 parcel, the term:

732 (a) "Primary condominium" means any condominium that is
733 not a secondary condominium and contains one or more subdivided
734 parcels.

735 (b) "Primary condominium association" means any entity
736 that operates a primary condominium.

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

740 (d) "Secondary condominium" means one or more condominium
741 parcels that have been submitted to condominium ownership
742 pursuant to a secondary condominium declaration.

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

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

748 (g) "Secondary unit" means a unit that is part of a
749 secondary condominium.

750 (h) "Subdivided parcel" means a condominium parcel in a
751 primary condominium that has been submitted to condominium
752 ownership pursuant to a secondary condominium declaration.

753 (2) Unless otherwise provided in the primary condominium

754 declaration, if a condominium parcel is a subdivided parcel, the
755 secondary condominium association responsible for operating the
756 secondary condominium upon the subdivided parcel shall act on
757 behalf of all of the unit owners of secondary units in the
758 secondary condominium and shall exercise all rights of the
759 secondary unit owners in the primary condominium association,
760 other than the right of possession of the secondary unit. The
761 secondary condominium association shall designate a
762 representative who shall cast the vote of the subdivided parcel
763 in the primary condominium association and, if no person is
764 designated by the secondary condominium association to cast such
765 vote, the vote shall be cast by the president of the secondary
766 condominium association or the designee of the president.

767 (3) Unless otherwise provided in the primary condominium
768 declaration as originally recorded, no secondary condominium may
769 be created upon any condominium parcel in the primary
770 condominium, and no amendment to the primary condominium
771 declaration may permit secondary condominiums to be created upon
772 parcels in the primary condominium, unless the record owners of
773 a majority of the condominium parcels join in the execution of
774 the amendment.

775 (4) If the primary condominium declaration permits the
776 creation of a secondary condominium and a condominium parcel in
777 the primary condominium is being submitted for condominium
778 ownership to create a secondary condominium upon the primary
779 condominium parcel, the approval of the board of administration
780 of the primary condominium association is required in order to
781 create the secondary condominium on the primary condominium

782 parcel. Unless otherwise provided in the primary condominium
783 declaration, the owners of condominium parcels in the primary
784 condominium that will not be part of the proposed secondary
785 condominium and the holders of liens upon such primary
786 condominium parcels shall not have approval rights regarding the
787 creation of the secondary condominium or the contents of the
788 secondary condominium declaration being submitted. Only the
789 primary condominium association, the owner of the subdivided
790 parcel, and the holders of liens upon the subdivided parcel
791 shall have approval rights regarding the creation of the
792 secondary condominium and the contents of the secondary
793 condominium declaration. In order for the recording of the
794 secondary condominium declaration to be effective to create the
795 secondary condominium, the board of administration of the
796 primary condominium association, the owner of the subdivided
797 parcel, and all holders of liens on the subdivided parcel must
798 execute the secondary condominium declaration for the purpose of
799 evidencing their approval.

800 (5) An owner of a secondary unit is subject to both the
801 primary condominium declaration and the secondary condominium
802 declaration.

803 (6) The primary condominium association may provide
804 insurance required by s. 718.111(11) for common elements and
805 other improvements within the secondary condominium if the
806 primary condominium declaration permits the primary condominium
807 association to provide such insurance for the benefit of the
808 condominium property included in the subdivided parcel, in lieu
809 of such insurance being provided by the secondary condominium

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810 association.

811 (7) Unless otherwise provided in the primary condominium
812 declaration, the board of administration of the primary
813 condominium association may adopt hurricane shutter or hurricane
814 protection specifications for each building within which
815 subdivided parcels are located and govern any subdivided parcels
816 in the primary condominium.

817 (8) Any unit owner of, or holder of a first mortgage on, a
818 secondary unit may register such unit owner's or mortgagee's
819 interest in the secondary unit with the primary condominium
820 association by delivering written notice to the primary
821 condominium association. Once registered, the primary
822 condominium association must provide written notice to such
823 secondary unit owner and his, her, or its first mortgagee at
824 least 30 days before instituting any foreclosure action against
825 the subdivided parcel in which the secondary unit owner and his,
826 her, or its first mortgagee hold an interest for failure of the
827 subdivided parcel owner to pay any assessments or other amounts
828 due to the primary condominium association. A foreclosure action
829 against a subdivided parcel is not effective without an
830 affidavit indicating that written notice of the foreclosure was
831 timely sent to the names and addresses of secondary unit owners
832 and first mortgagees registered with the primary condominium
833 association pursuant to this subsection. The registered
834 secondary unit owner or mortgagee has a right to pay the
835 proportionate amount of the delinquent assessment attributable
836 to the secondary unit in which the registered unit owner or
837 mortgagee holds an interest. Upon such payment, the primary

838 condominium association shall be obligated to promptly modify or
 839 partially release of record the lien of the primary condominium
 840 association so that the lien no longer encumbers such secondary
 841 unit. Alternatively, a registered secondary unit owner or
 842 mortgagee may pay the amount of all delinquent assessments
 843 attributed to the subdivided parcel and seek reimbursement for
 844 all such amounts paid and all costs incurred from the secondary
 845 condominium association, including, without limitation, the
 846 costs of collection other than the share allocable to the
 847 secondary unit on behalf of which such payment was made.

848 (9) In the event of a conflict between the primary
 849 condominium declaration and the secondary condominium
 850 declaration, the primary condominium declaration controls.

851 (10) All common expenses due to the primary condominium
 852 association with respect to a subdivided parcel are a common
 853 expense of the secondary condominium association and shall be
 854 collected by the secondary condominium association from its
 855 members and paid to the primary condominium association.

856 Section 10. Subsection (2) of section 718.5011, Florida
 857 Statutes, is amended to read:

858 718.5011 Ombudsman; appointment; administration.—

859 (2) The Governor shall appoint the ombudsman. The
 860 ombudsman must be an attorney admitted to practice before the
 861 Florida Supreme Court and shall serve at the pleasure of the
 862 Governor. A vacancy in the office shall be filled in the same
 863 manner as the original appointment. An officer or full-time
 864 employee of the ombudsman's office may not actively engage in
 865 any other business or profession that directly or indirectly

866 relates to or conflicts with his or her work in the ombudsman's
 867 office; serve as the representative of any political party,
 868 executive committee, or other governing body of a political
 869 party; serve as an executive, officer, or employee of a
 870 political party; receive remuneration for activities on behalf
 871 of any candidate for public office; or engage in soliciting
 872 votes or other activities on behalf of a candidate for public
 873 office. The ombudsman or any employee of his or her office may
 874 not become a candidate for election to public office unless he
 875 or she first resigns from his or her office or employment.

876 Section 11. Section 718.707, Florida Statutes, is amended
 877 to read:

878 718.707 Time limitation for classification as bulk
 879 assignee or bulk buyer.—A person acquiring condominium parcels
 880 may not be classified as a bulk assignee or bulk buyer unless
 881 the condominium parcels were acquired on or after July 1, 2010,
 882 but before July 1, 2015 ~~2012~~. The date of such acquisition shall
 883 be determined by the date of recording a deed or other
 884 instrument of conveyance for such parcels in the public records
 885 of the county in which the condominium is located, or by the
 886 date of issuing a certificate of title in a foreclosure
 887 proceeding with respect to such condominium parcels.

888 Section 12. Paragraph (c) of subsection (2) of section
 889 719.104, Florida Statutes, is amended to read:

890 719.104 Cooperatives; access to units; records; financial
 891 reports; assessments; purchase of leases.—

892 (2) OFFICIAL RECORDS.—

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

894 to inspection by any association member or the authorized
 895 representative of such member at all reasonable times. Failure
 896 to permit inspection of the association records as provided in
 897 this subsection ~~herein~~ entitles any person prevailing in an
 898 enforcement action to recover reasonable attorney ~~attorney's~~
 899 fees from the person in control of the records who, directly or
 900 indirectly, knowingly denies access to the records for
 901 inspection. The right to inspect the records includes the right
 902 to make or obtain copies, at the reasonable expense, if any, of
 903 the association member. The association may adopt reasonable
 904 rules regarding the frequency, time, location, notice, and
 905 manner of record inspections and copying. The failure of an
 906 association to provide the records within 10 working days after
 907 receipt of a written request creates a rebuttable presumption
 908 that the association willfully failed to comply with this
 909 paragraph. A unit owner who is denied access to official records
 910 is entitled to the actual damages or minimum damages for the
 911 association's willful failure to comply with this paragraph. The
 912 minimum damages shall be \$50 per calendar day up to 10 days, the
 913 calculation to begin on the 11th day after receipt of the
 914 written request. The association shall maintain an adequate
 915 number of copies of the declaration, articles of incorporation,
 916 bylaws, and rules, and all amendments to each of the foregoing,
 917 as well as the question and answer sheet provided for in s.
 918 719.504, on the cooperative property to ensure their
 919 availability to unit owners and prospective purchasers, and may
 920 charge its actual costs for preparing and furnishing these
 921 documents to those requesting the same. Notwithstanding ~~the~~

922 ~~provisions of~~ this paragraph, the following records shall not be
 923 accessible to unit owners:

924 1. Any record protected by the lawyer-client privilege as
 925 provided in s. 90.502; protected by the work-product privilege,
 926 including any record ~~A record that was~~ prepared by an
 927 association attorney or prepared at the attorney's express
 928 direction; reflecting that reflects a mental impression,
 929 conclusion, litigation strategy, or legal theory of the attorney
 930 or the association; or ~~that was~~ prepared exclusively for civil
 931 or criminal litigation or for adversarial administrative
 932 proceedings or in anticipation of imminent civil or criminal
 933 litigation or imminent adversarial administrative proceedings,
 934 until the conclusion of the litigation or adversarial
 935 administrative proceedings.

936 2. Information obtained by an association in connection
 937 with the approval of the lease, sale, or other transfer of a
 938 unit.

939 3. Medical records of unit owners.

940 4. Personnel records of association employees, including,
 941 but not limited to, disciplinary, payroll, health, and insurance
 942 records. For purposes of this subparagraph, the term "personnel
 943 records" does not include written employment agreements with an
 944 association employee or budgetary or financial records that
 945 indicate the compensation paid to an association employee.

946 5. Social security numbers, driver license numbers, credit
 947 card numbers, e-mail addresses, telephone numbers, emergency
 948 contact information, any addresses of a unit owner other than
 949 addresses provided to fulfill the association's notice

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950 requirements, and other personal identifying information of any
951 person, excluding the person's name, unit designation, mailing
952 address, and property address.

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

955 7. The software and operating system used by the
956 association which allows manipulation of data, even if the owner
957 owns a copy of the same software used by the association. The
958 data is part of the official records of the association.

959 Section 13. Subsection (7) is added to section 719.1055,
960 Florida Statutes, to read:

961 719.1055 Amendment of cooperative documents; alteration
962 and acquisition of property.—

963 (7) The Legislature finds that the procurement of
964 mortgagee consent to amendments that do not affect the rights or
965 interests of mortgagees is an unreasonable and substantial
966 logistical and financial burden on the unit owners and that
967 there is a compelling state interest in enabling the members of
968 an association to approve amendments to the association's
969 cooperative documents through legal means. Accordingly, and
970 notwithstanding any provision to the contrary contained in this
971 subsection:

972 (a) As to any mortgage recorded on or after July 1, 2012,
973 any provision in the association's cooperative documents that
974 requires the consent or joinder of some or all mortgagees of
975 units or any other portion of the association's common areas to
976 amend the association's cooperative documents or for any other
977 matter is enforceable only as to amendments to the association's

978 cooperative documents that adversely affect the priority of the
979 mortgagee's lien or the mortgagee's rights to foreclose its lien
980 or that otherwise materially affect the rights and interests of
981 the mortgagees.

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

985 (c) In securing consent or joinder, the association is
986 entitled to rely upon the public records to identify the holders
987 of outstanding mortgages. The association may use the address
988 provided in the original recorded mortgage document, unless
989 there is a different address for the holder of the mortgage in a
990 recorded assignment or modification of the mortgage, which
991 recorded assignment or modification must reference the official
992 records book and page on which the original mortgage was
993 recorded. Once the association has identified the recorded
994 mortgages of record, the association shall, in writing, request
995 of each unit owner whose unit is encumbered by a mortgage of
996 record any information the owner has in his or her possession
997 regarding the name and address of the person to whom mortgage
998 payments are currently being made. Notice shall be sent to such
999 person if the address provided in the original recorded mortgage
1000 document is different from the name and address of the mortgagee
1001 or assignee of the mortgage as shown by the public record. The
1002 association is deemed to have complied with this requirement by
1003 making the written request of the unit owners required under
1004 this paragraph. Any notices required to be sent to the

1005 mortgagees under this paragraph shall be sent to all available
 1006 addresses provided to the association.

1007 (d) Any notice to the mortgagees required under paragraph
 1008 (c) may be sent by a method that establishes proof of delivery,
 1009 and any mortgagee who fails to respond within 60 days after the
 1010 date of mailing is deemed to have consented to the amendment.

1011 (e) For those amendments requiring mortgagee consent on or
 1012 after July 1, 2012, in the event mortgagee consent is provided
 1013 other than by properly recorded joinder, such consent shall be
 1014 evidenced by affidavit of the association recorded in the public
 1015 records of the county in which the declaration is recorded.

1016 (f) Any amendment adopted without the required consent of
 1017 a mortgagee is voidable only by a mortgagee who was entitled to
 1018 notice and an opportunity to consent. An action to void an
 1019 amendment is subject to the statute of limitations beginning 5
 1020 years after the date of discovery as to the amendments described
 1021 in paragraph (a) and 5 years after the date of recordation of
 1022 the certificate of amendment for all other amendments. This
 1023 paragraph applies to all mortgages, regardless of the date of
 1024 recordation of the mortgage.

1025 Section 14. Paragraphs (c), (d), and (f) of subsection (1)
 1026 of section 719.106, Florida Statutes, are amended to read:

1027 719.106 Bylaws; cooperative ownership.—

1028 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
 1029 documents shall provide for the following, and if they do not,
 1030 they shall be deemed to include the following:

1031 (c) Board of administration meetings.—Meetings of the
 1032 board of administration at which a quorum of the members is

1033 present shall be open to all unit owners. Any unit owner may
 1034 tape record or videotape meetings of the board of
 1035 administration. The right to attend such meetings includes the
 1036 right to speak at such meetings with reference to all designated
 1037 agenda items. The division shall adopt reasonable rules
 1038 governing the tape recording and videotaping of the meeting. The
 1039 association may adopt reasonable written rules governing the
 1040 frequency, duration, and manner of unit owner statements.
 1041 Adequate notice of all meetings shall be posted in a conspicuous
 1042 place upon the cooperative property at least 48 continuous hours
 1043 preceding the meeting, except in an emergency. Any item not
 1044 included on the notice may be taken up on an emergency basis by
 1045 at least a majority plus one of the members of the board. Such
 1046 emergency action shall be noticed and ratified at the next
 1047 regular meeting of the board. However, written notice of any
 1048 meeting at which nonemergency special assessments, or at which
 1049 amendment to rules regarding unit use, will be considered shall
 1050 be mailed, delivered, or electronically transmitted to the unit
 1051 owners and posted conspicuously on the cooperative property not
 1052 less than 14 days prior to the meeting. Evidence of compliance
 1053 with this 14-day notice shall be made by an affidavit executed
 1054 by the person providing the notice and filed among the official
 1055 records of the association. Upon notice to the unit owners, the
 1056 board shall by duly adopted rule designate a specific location
 1057 on the cooperative property upon which all notices of board
 1058 meetings shall be posted. In lieu of or in addition to the
 1059 physical posting of notice of any meeting of the board of
 1060 administration on the cooperative property, the association may,

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1061 by reasonable rule, adopt a procedure for conspicuously posting
1062 and repeatedly broadcasting the notice and the agenda on a
1063 closed-circuit cable television system serving the cooperative
1064 association. However, if broadcast notice is used in lieu of a
1065 notice posted physically on the cooperative property, the notice
1066 and agenda must be broadcast at least four times every broadcast
1067 hour of each day that a posted notice is otherwise required
1068 under this section. When broadcast notice is provided, the
1069 notice and agenda must be broadcast in a manner and for a
1070 sufficient continuous length of time so as to allow an average
1071 reader to observe the notice and read and comprehend the entire
1072 content of the notice and the agenda. Notice of any meeting in
1073 which regular assessments against unit owners are to be
1074 considered for any reason shall specifically contain a statement
1075 that assessments will be considered and the nature of any such
1076 assessments. Meetings of a committee to take final action on
1077 behalf of the board or to make recommendations to the board
1078 regarding the association budget are subject to the provisions
1079 of this paragraph. Meetings of a committee that does not take
1080 final action on behalf of the board or make recommendations to
1081 the board regarding the association budget are subject to the
1082 provisions of this section, unless those meetings are exempted
1083 from this section by the bylaws of the association.
1084 Notwithstanding any other law to the contrary, the requirement
1085 that board meetings and committee meetings be open to the unit
1086 owners does not apply ~~is inapplicable~~ to board or committee
1087 meetings held for the purpose of discussing personnel matters or
1088 meetings between the board or a committee and the association's

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1089 attorney, with respect to proposed or pending litigation, if
1090 ~~when~~ the meeting is held for the purpose of seeking or rendering
1091 legal advice.

1092 (d) Shareholder meetings.—There shall be an annual meeting
1093 of the shareholders. All members of the board of administration
1094 shall be elected at the annual meeting unless the bylaws provide
1095 for staggered election terms or for their election at another
1096 meeting. Any unit owner desiring to be a candidate for board
1097 membership must comply with subparagraph 1. The bylaws must
1098 provide the method for calling meetings, including annual
1099 meetings. Written notice, which must incorporate an
1100 identification of agenda items, shall be given to each unit
1101 owner at least 14 days before the annual meeting and posted in a
1102 conspicuous place on the cooperative property at least 14
1103 continuous days preceding the annual meeting. Upon notice to the
1104 unit owners, the board must by duly adopted rule designate a
1105 specific location on the cooperative property upon which all
1106 notice of unit owner meetings are posted. In lieu of or in
1107 addition to the physical posting of the meeting notice, the
1108 association may, by reasonable rule, adopt a procedure for
1109 conspicuously posting and repeatedly broadcasting the notice and
1110 the agenda on a closed-circuit cable television system serving
1111 the cooperative association. However, if broadcast notice is
1112 used in lieu of a posted notice, the notice and agenda must be
1113 broadcast at least four times every broadcast hour of each day
1114 that a posted notice is otherwise required under this section.
1115 If broadcast notice is provided, the notice and agenda must be
1116 broadcast in a manner and for a sufficient continuous length of

1117 | time to allow an average reader to observe the notice and read
 1118 | and comprehend the entire content of the notice and the agenda.
 1119 | Unless a unit owner waives in writing the right to receive
 1120 | notice of the annual meeting, the notice of the annual meeting
 1121 | must be sent by mail, hand delivered, or electronically
 1122 | transmitted to each unit owner. An officer of the association
 1123 | must provide an affidavit or United States Postal Service
 1124 | certificate of mailing, to be included in the official records
 1125 | of the association, affirming that notices of the association
 1126 | meeting were mailed, hand delivered, or electronically
 1127 | transmitted, in accordance with this provision, to each unit
 1128 | owner at the address last furnished to the association.

1129 | 1. The board of administration shall be elected by written
 1130 | ballot or voting machine. A proxy may not be used in electing
 1131 | the board of administration in general elections or elections to
 1132 | fill vacancies caused by recall, resignation, or otherwise
 1133 | unless otherwise provided in this chapter.

1134 | a. At least 60 days before a scheduled election, the
 1135 | association shall mail, deliver, or transmit, whether by
 1136 | separate association mailing, delivery, or electronic
 1137 | transmission or included in another association mailing,
 1138 | delivery, or electronic transmission, including regularly
 1139 | published newsletters, to each unit owner entitled to vote, a
 1140 | first notice of the date of the election. Any unit owner or
 1141 | other eligible person desiring to be a candidate for the board
 1142 | of administration must give written notice to the association at
 1143 | least 40 days before a scheduled election. Together with the
 1144 | written notice and agenda as set forth in this section, the

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1145 association shall mail, deliver, or electronically transmit a
1146 second notice of election to all unit owners entitled to vote,
1147 together with a ballot that ~~which~~ lists all candidates. Upon
1148 request of a candidate, the association shall include an
1149 information sheet, no larger than 8 1/2 inches by 11 inches,
1150 which must be furnished by the candidate at least 35 days before
1151 the election, to be included with the mailing, delivery, or
1152 electronic transmission of the ballot, with the costs of
1153 mailing, delivery, or transmission and copying to be borne by
1154 the association. The association is not liable for the contents
1155 of the information sheets provided by the candidates. In order
1156 to reduce costs, the association may print or duplicate the
1157 information sheets on both sides of the paper. The division
1158 shall by rule establish voting procedures consistent with this
1159 subparagraph, including rules establishing procedures for giving
1160 notice by electronic transmission and rules providing for the
1161 secrecy of ballots. Elections shall be decided by a plurality of
1162 those ballots cast. There is no quorum requirement. However, at
1163 least 20 percent of the eligible voters must cast a ballot in
1164 order to have a valid election. A unit owner may not permit any
1165 other person to vote his or her ballot, and any such ballots
1166 improperly cast are invalid. A unit owner who needs assistance
1167 in casting the ballot for the reasons stated in s. 101.051 may
1168 obtain assistance in casting the ballot. Any unit owner
1169 violating this provision may be fined by the association in
1170 accordance with s. 719.303. The regular election must occur on
1171 the date of the annual meeting. This subparagraph does not apply
1172 to timeshare cooperatives. Notwithstanding this subparagraph, an

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

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1173 election and balloting are not required unless more candidates
1174 file a notice of intent to run or are nominated than vacancies
1175 exist on the board. Any challenge to the election process must
1176 be commenced within 60 days after the election results are
1177 announced.

1178 b. Within 90 days after being elected or appointed to the
1179 board, each new director shall certify in writing to the
1180 secretary of the association that he or she has read the
1181 association's bylaws, articles of incorporation, proprietary
1182 lease, and current written policies; that he or she will work to
1183 uphold such documents and policies to the best of his or her
1184 ability; and that he or she will faithfully discharge his or her
1185 fiduciary responsibility to the association's members. Within 90
1186 days after being elected or appointed to the board, in lieu of
1187 this written certification, the newly elected or appointed
1188 director may submit a certificate of having satisfactorily
1189 completed the educational curriculum administered by an
1190 education provider as approved by the division pursuant to the
1191 requirements established in chapter 718 within 1 year before or
1192 90 days after the date of election or appointment. The
1193 educational certificate is valid and does not have to be
1194 resubmitted as long as the director serves on the board without
1195 interruption. A director who fails to timely file the written
1196 certification or educational certificate is suspended from
1197 service on the board until he or she complies with this sub-
1198 subparagraph. The board may temporarily fill the vacancy during
1199 the period of suspension. The secretary shall cause the
1200 association to retain a director's written certification or

1201 educational certificate for inspection by the members for 5
 1202 years after a director's election or the duration of the
 1203 director's uninterrupted tenure, whichever is longer. Failure to
 1204 have such written certification or educational certificate on
 1205 file does not affect the validity of any board action.

1206 2. Any approval by unit owners called for by this chapter,
 1207 or the applicable cooperative documents, must be made at a duly
 1208 noticed meeting of unit owners and is subject to this chapter or
 1209 the applicable cooperative documents relating to unit owner
 1210 decisionmaking, except that unit owners may take action by
 1211 written agreement, without meetings, on matters for which action
 1212 by written agreement without meetings is expressly allowed by
 1213 the applicable cooperative documents or law which provides for
 1214 the unit owner action.

1215 3. Unit owners may waive notice of specific meetings if
 1216 allowed by the applicable cooperative documents or law. If
 1217 authorized by the bylaws, notice of meetings of the board of
 1218 administration, shareholder meetings, except shareholder
 1219 meetings called to recall board members under paragraph (f), and
 1220 committee meetings may be given by electronic transmission to
 1221 unit owners who consent to receive notice by electronic
 1222 transmission.

1223 4. Unit owners have the right to participate in meetings
 1224 of unit owners with reference to all designated agenda items.
 1225 However, the association may adopt reasonable rules governing
 1226 the frequency, duration, and manner of unit owner participation.

1227 5. Any unit owner may tape record or videotape meetings of
 1228 the unit owners subject to reasonable rules adopted by the

1229 | division.

1230 | 6. Unless otherwise provided in the bylaws, a vacancy
 1231 | occurring on the board before the expiration of a term may be
 1232 | filled by the affirmative vote of the majority of the remaining
 1233 | directors, even if the remaining directors constitute less than
 1234 | a quorum, or by the sole remaining director. In the alternative,
 1235 | a board may hold an election to fill the vacancy, in which case
 1236 | the election procedures must conform to the requirements of
 1237 | subparagraph 1. unless the association has opted out of the
 1238 | statutory election process, in which case the bylaws of the
 1239 | association control. Unless otherwise provided in the bylaws, a
 1240 | board member appointed or elected under this subparagraph shall
 1241 | fill the vacancy for the unexpired term of the seat being
 1242 | filled. Filling vacancies created by recall is governed by
 1243 | paragraph (f) and rules adopted by the division.

1244 |
 1245 | Notwithstanding subparagraphs (b)2. and (d)1., an association
 1246 | may, by the affirmative vote of a majority of the total voting
 1247 | interests, provide for a different voting and election procedure
 1248 | in its bylaws, which vote may be by a proxy specifically
 1249 | delineating the different voting and election procedures. The
 1250 | different voting and election procedures may provide for
 1251 | elections to be conducted by limited or general proxy.

1252 | (f) Recall of board members.—Subject to ~~the provisions of~~
 1253 | s. 719.301, any member of the board of administration may be
 1254 | recalled and removed from office with or without cause by the
 1255 | vote or agreement in writing by a majority of all the voting
 1256 | interests. A special meeting of the voting interests to recall

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1257 any member of the board of administration may be called by 10
1258 percent of the unit owners giving notice of the meeting as
1259 required for a meeting of unit owners, and the notice shall
1260 state the purpose of the meeting. Electronic transmission may
1261 not be used as a method of giving notice of a meeting called in
1262 whole or in part for this purpose.

1263 1. If the recall is approved by a majority of all voting
1264 interests by a vote at a meeting, the recall shall be effective
1265 as provided in this paragraph ~~herein~~. The board shall duly
1266 notice and hold a board meeting within 5 full business days
1267 after ~~of~~ the adjournment of the unit owner meeting to recall one
1268 or more board members. At the meeting, the board shall either
1269 certify the recall, in which case such member or members shall
1270 be recalled effective immediately and shall turn over to the
1271 board within 5 full business days any and all records and
1272 property of the association in their possession, or shall
1273 proceed as set forth in subparagraph 3.

1274 2. If the proposed recall is by an agreement in writing by
1275 a majority of all voting interests, the agreement in writing or
1276 a copy thereof shall be served on the association by certified
1277 mail or by personal service in the manner authorized by chapter
1278 48 and the Florida Rules of Civil Procedure. The board of
1279 administration shall duly notice and hold a meeting of the board
1280 within 5 full business days after receipt of the agreement in
1281 writing. At the meeting, the board shall either certify the
1282 written agreement to recall members of the board, in which case
1283 such members shall be recalled effective immediately and shall
1284 turn over to the board, within 5 full business days, any and all

1285 records and property of the association in their possession, or
 1286 proceed as described in subparagraph 3.

1287 3. If the board determines not to certify the written
 1288 agreement to recall members of the board, or does not certify
 1289 the recall by a vote at a meeting, the board shall, within 5
 1290 full business days after the board meeting, file with the
 1291 division a petition for binding arbitration pursuant to the
 1292 procedures of s. 719.1255. For purposes of this paragraph, the
 1293 unit owners who voted at the meeting or who executed the
 1294 agreement in writing shall constitute one party under the
 1295 petition for arbitration. If the arbitrator certifies the recall
 1296 as to any member of the board, the recall shall be effective
 1297 upon mailing of the final order of arbitration to the
 1298 association. If the association fails to comply with the order
 1299 of the arbitrator, the division may take action pursuant to s.
 1300 719.501. Any member so recalled shall deliver to the board any
 1301 and all records and property of the association in the member's
 1302 possession within 5 full business days after ~~of~~ the effective
 1303 date of the recall.

1304 4. If the board fails to duly notice and hold a board
 1305 meeting within 5 full business days after ~~of~~ service of an
 1306 agreement in writing or within 5 full business days after ~~of~~ the
 1307 adjournment of the unit owner recall meeting, the recall shall
 1308 be deemed effective and the board members so recalled shall
 1309 immediately turn over to the board any and all records and
 1310 property of the association.

1311 5. If the board fails to duly notice and hold the required
 1312 meeting or fails to file the required petition, the unit owner

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1313 representative may file a petition pursuant to s. 719.1255
1314 challenging the board's failure to act. The petition must be
1315 filed within 60 days after the expiration of the applicable 5-
1316 full-business-day period. The review of a petition under this
1317 subparagraph is limited to the sufficiency of service on the
1318 board and the facial validity of the written agreement or
1319 ballots filed.

1320 ~~6.5.~~ If a vacancy occurs on the board as a result of a
1321 recall and less than a majority of the board members are
1322 removed, the vacancy may be filled by the affirmative vote of a
1323 majority of the remaining directors, notwithstanding any
1324 provision to the contrary contained in this chapter. If
1325 vacancies occur on the board as a result of a recall and a
1326 majority or more of the board members are removed, the vacancies
1327 shall be filled in accordance with procedural rules to be
1328 adopted by the division, which rules need not be consistent with
1329 this chapter. The rules must provide procedures governing the
1330 conduct of the recall election as well as the operation of the
1331 association during the period after a recall but prior to the
1332 recall election.

1333 7. A board member who has been recalled may file a
1334 petition pursuant to s. 719.1255 challenging the validity of a
1335 recall. The petition must be filed within 60 days after the
1336 recall is deemed certified. The association and the unit owner
1337 representative shall be named as the respondents.

1338 8. The division may not accept for filing a recall
1339 petition, whether filed pursuant to subparagraph 1.,
1340 subparagraph 2., subparagraph 5., or subparagraph 7. and

1341 regardless of whether the recall was certified, when there are
 1342 60 or fewer days until the scheduled reelection of the board
 1343 member sought to be recalled or when 60 or fewer days have not
 1344 elapsed since the election of the board member sought to be
 1345 recalled.

1346 Section 15. Section 719.108, Florida Statutes, is amended
 1347 to read:

1348 719.108 Rents and assessments; liability; lien and
 1349 priority; interest; collection; cooperative ownership.—

1350 (1) A unit owner, regardless of how title is acquired,
 1351 including, without limitation, a purchaser at a judicial sale,
 1352 is shall be liable for all rents and assessments coming due
 1353 while the unit owner owns the unit is in exclusive possession of
 1354 a unit. Additionally, a In a voluntary transfer, the unit owner
 1355 is in exclusive possession shall be jointly and severally liable
 1356 with the previous unit owner for all unpaid rents and
 1357 assessments, late fees, interest, costs, and reasonable attorney
 1358 fees incurred in an attempt to collect all such amounts that
 1359 came due against the previous unit owner for his or her share of
 1360 the common expenses up to the time of the transfer of title.
 1361 This liability is, without prejudice to the rights of the
 1362 present unit owner in exclusive possession to recover from the
 1363 previous unit owner any the amounts paid by the present unit
 1364 owner in exclusive possession therefor.

1365 (2) The liability for rents and assessments may not be
 1366 avoided by waiver of the use or enjoyment of any common areas or
 1367 by abandonment of the unit for which the rents and assessments
 1368 are made.

1369 (3) Notwithstanding any other provision of this section,
 1370 the liability of a first mortgagee or its successor or assignees
 1371 who acquire title to a unit by foreclosure or by deed in lieu of
 1372 foreclosure for the unpaid assessments that became due before
 1373 the mortgagee's acquisition of title is limited to the lesser
 1374 of:

1375 (a) The unit's unpaid common expenses and regular periodic
 1376 or special assessments which accrued or came due during the 12
 1377 months immediately preceding the acquisition of title and for
 1378 which payment in full has not been received by the association;
 1379 or

1380 (b) One percent of the original mortgage debt. This
 1381 paragraph applies only if the first mortgagee joined the
 1382 association as a defendant in the foreclosure action. Joinder of
 1383 the association is not required if, on the date the complaint is
 1384 filed, the association was dissolved or did not maintain an
 1385 office or agent for service of process at a location that was
 1386 known to or reasonably discoverable by the mortgagee.

1387 (4) The person acquiring title shall pay the amount owed
 1388 to the association within 30 days after transfer of title.
 1389 Failure to pay the full amount when due entitles the association
 1390 to record a claim of lien against the parcel and proceed in the
 1391 same manner as provided in this section for the collection of
 1392 unpaid assessments.

1393 (5)~~(3)~~ Rents and assessments, and installments on them,
 1394 not paid when due bear interest at the rate provided in the
 1395 cooperative documents from the date due until paid. This rate
 1396 may not exceed the rate allowed by law and, if a rate is not

1397 provided in the cooperative documents, accrues at 18 percent per
 1398 annum. If the cooperative documents or bylaws so provide, the
 1399 association may charge an administrative late fee in addition to
 1400 such interest, not to exceed the greater of \$25 or 5 percent of
 1401 each installment of the assessment for each delinquent
 1402 installment that the payment is late. Any payment received by an
 1403 association must be applied first to any interest accrued by the
 1404 association, then to any administrative late fee, then to any
 1405 costs and reasonable attorney ~~attorney's~~ fees incurred in
 1406 collection, and then to the delinquent assessment. The foregoing
 1407 applies notwithstanding any restrictive endorsement,
 1408 designation, or instruction placed on or accompanying a payment.
 1409 A late fee is not subject to chapter 687 or s. 719.303(4).

1410 (6) ~~(4)~~ The association has a lien on each cooperative
 1411 parcel for any unpaid rents and assessments, plus interest, and
 1412 any authorized administrative late fees. If authorized by the
 1413 cooperative documents, the lien also secures reasonable attorney
 1414 ~~attorney's~~ fees incurred by the association incident to the
 1415 collection of the rents and assessments or enforcement of such
 1416 lien. The lien is effective from and after recording a claim of
 1417 lien in the public records in the county in which the
 1418 cooperative parcel is located which states the description of
 1419 the cooperative parcel, the name of the unit owner, the amount
 1420 due, and the due dates. The lien expires if a claim of lien is
 1421 not filed within 1 year after the date the assessment was due,
 1422 and the lien does not continue for longer than 1 year after the
 1423 claim of lien has been recorded unless, within that time, an
 1424 action to enforce the lien is commenced. Except as otherwise

1425 provided in this chapter, a lien may not be filed by the
 1426 association against a cooperative parcel until 30 days after the
 1427 date on which a notice of intent to file a lien has been
 1428 delivered to the owner.

1429 (a) The notice must be sent to the unit owner at the
 1430 address of the unit by first-class United States mail and:

1431 1. If the most recent address of the unit owner on the
 1432 records of the association is the address of the unit, the
 1433 notice must be sent by registered or certified mail, return
 1434 receipt requested, to the unit owner at the address of the unit.

1435 2. If the most recent address of the unit owner on the
 1436 records of the association is in the United States, but is not
 1437 the address of the unit, the notice must be sent by registered
 1438 or certified mail, return receipt requested, to the unit owner
 1439 at his or her most recent address.

1440 3. If the most recent address of the unit owner on the
 1441 records of the association is not in the United States, the
 1442 notice must be sent by first-class United States mail to the
 1443 unit owner at his or her most recent address.

1444 (b) A notice that is sent pursuant to this subsection is
 1445 deemed delivered upon mailing.

1446 (7)~~(5)~~ Liens for rents and assessments may be foreclosed
 1447 by suit brought in the name of the association, in like manner
 1448 as a foreclosure of a mortgage on real property. In any
 1449 foreclosure, the unit owner shall pay a reasonable rental for
 1450 the cooperative parcel, if so provided in the cooperative
 1451 documents, and the plaintiff in the foreclosure is entitled to
 1452 the appointment of a receiver to collect the rent. The

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1453 association has the power, unless prohibited by the cooperative
1454 documents, to bid on the cooperative parcel at the foreclosure
1455 sale and to acquire and hold, lease, mortgage, or convey it.
1456 Suit to recover a money judgment for unpaid rents and
1457 assessments may be maintained without waiving the lien securing
1458 them.

1459 (8)~~(6)~~ Within 15 days after request by a unit owner or
1460 mortgagee, the association shall provide a certificate stating
1461 all assessments and other moneys owed to the association by the
1462 unit owner with respect to the cooperative parcel. Any person
1463 other than the unit owner who relies upon such certificate shall
1464 be protected thereby. Notwithstanding any limitation on transfer
1465 fees contained in s. 719.106(1)(i), the association or its
1466 authorized agent may charge a reasonable fee for the preparation
1467 of the certificate.

1468 (9)~~(7)~~ The remedies provided in this section do not
1469 exclude other remedies provided by the cooperative documents and
1470 permitted by law.

1471 (10)~~(8)~~(a) A ~~No~~ unit owner may not be excused from the
1472 payment of his or her share of the rents or assessments of a
1473 cooperative unless all unit owners are likewise proportionately
1474 excused from payment, except as provided in subsection (8) ~~(6)~~
1475 and in the following cases:

1476 1. If the cooperative documents so provide, a developer or
1477 other person owning cooperative units offered for sale may be
1478 excused from the payment of the share of the common expenses,
1479 assessments, and rents related to those units for a stated
1480 period of time. The period must terminate no later than the

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1481 first day of the fourth calendar month following the month in
1482 which the right of exclusive possession is first granted to a
1483 unit owner. However, the developer must pay the portion of
1484 common expenses incurred during that period which exceed the
1485 amount assessed against other unit owners.

1486 2. A developer, or other person with an ownership interest
1487 in cooperative units or having an obligation to pay common
1488 expenses, may be excused from the payment of his or her share of
1489 the common expenses which would have been assessed against those
1490 units during the period of time that he or she shall have
1491 guaranteed to each purchaser in the purchase contract or in the
1492 cooperative documents, or by agreement between the developer and
1493 a majority of the unit owners other than the developer, that the
1494 assessment for common expenses of the cooperative imposed upon
1495 the unit owners would not increase over a stated dollar amount
1496 and shall have obligated himself or herself to pay any amount of
1497 common expenses incurred during that period and not produced by
1498 the assessments at the guaranteed level receivable from other
1499 unit owners.

1500 (b) If the purchase contract, cooperative documents, or
1501 agreement between the developer and a majority of unit owners
1502 other than the developer provides for the developer or another
1503 person to be excused from the payment of assessments pursuant to
1504 paragraph (a), ~~no~~ funds receivable from unit owners payable to
1505 the association or collected by the developer on behalf of the
1506 association, other than regular periodic assessments for common
1507 expenses as provided in the cooperative documents and disclosed
1508 in the estimated operating budget pursuant to s. 719.503(1)(b)6.

1509 or s. 719.504(20)(b), may not be used for payment of common
 1510 expenses prior to the expiration of the period during which the
 1511 developer or other person is so excused. This restriction
 1512 applies to funds including, but not limited to, capital
 1513 contributions or startup funds collected from unit purchasers at
 1514 closing.

1515 (11)~~(9)~~ The specific purposes of any special assessment,
 1516 including any contingent special assessment levied in
 1517 conjunction with the purchase of an insurance policy authorized
 1518 by s. 719.104(3), approved in accordance with the cooperative
 1519 documents shall be set forth in a written notice of such
 1520 assessment sent or delivered to each unit owner. The funds
 1521 collected pursuant to a special assessment may ~~shall~~ be used
 1522 only for the specific purpose or purposes set forth in such
 1523 notice or returned to the unit owners. However, upon completion
 1524 of such specific purposes, any excess funds shall be considered
 1525 common surplus and may, at the discretion of the board, either
 1526 be returned to the unit owners or applied as a credit toward
 1527 future assessments.

1528 (12)~~(10)~~(a) If the unit is occupied by a tenant and the
 1529 unit owner is delinquent in paying any monetary obligation due
 1530 to the association, the association may make a written demand
 1531 that the tenant pay to the association the subsequent rental
 1532 payments and continue to make such payments until all monetary
 1533 obligations of the unit owner related to the unit have been paid
 1534 in full to the association. The tenant must pay the monetary
 1535 obligations to the association until the association releases
 1536 the tenant or the tenant discontinues tenancy in the unit.

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1537 1. The association must provide the tenant a notice, by
 1538 hand delivery or United States mail, in substantially the
 1539 following form:

1540
 1541 Pursuant to section 719.108(12) ~~719.108(10)~~, Florida
 1542 Statutes, we demand that you make your rent payments
 1543 directly to the cooperative association and continue doing
 1544 so until the association notifies you otherwise.

1545
 1546 Payment due the cooperative association may be in the same
 1547 form as you paid your landlord and must be sent by United
 1548 States mail or hand delivery to ...(full address)...,
 1549 payable to ...(name)....

1550
 1551 Your obligation to pay your rent to the association begins
 1552 immediately, unless you have already paid rent to your
 1553 landlord for the current period before receiving this
 1554 notice. In that case, you must provide the association
 1555 written proof of your payment within 14 days after
 1556 receiving this notice and your obligation to pay rent to
 1557 the association would then begin with the next rental
 1558 period.

1559
 1560 Pursuant to section 719.108(12) ~~719.108(10)~~, Florida
 1561 Statutes, your payment of rent to the association gives you
 1562 complete immunity from any claim for the rent by your
 1563 landlord.

1564

1565 2. The association must mail written notice to the unit
 1566 owner of the association's demand that the tenant make payments
 1567 to the association.

1568 3. The association shall, upon request, provide the tenant
 1569 with written receipts for payments made.

1570 4. A tenant is immune from any claim by the landlord or
 1571 unit owner related to the rent timely paid to the association
 1572 after the association has made written demand.

1573 (b) If the tenant paid rent to the landlord or unit owner
 1574 for a given rental period before receiving the demand from the
 1575 association and provides written evidence to the association of
 1576 having paid the rent within 14 days after receiving the demand,
 1577 the tenant shall begin making rental payments to the association
 1578 for the following rental period and shall continue making rental
 1579 payments to the association to be credited against the monetary
 1580 obligations of the unit owner until the association releases the
 1581 tenant or the tenant discontinues tenancy in the unit.

1582 (c) The liability of the tenant may not exceed the amount
 1583 due from the tenant to the tenant's landlord. The tenant's
 1584 landlord shall provide the tenant a credit against rents due to
 1585 the landlord in the amount of moneys paid to the association.

1586 (d) The association may issue notice under s. 83.56 and
 1587 sue for eviction under ss. 83.59-83.625 as if the association
 1588 were a landlord under part II of chapter 83 if the tenant fails
 1589 to pay a required payment to the association after written
 1590 demand has been made to the tenant. However, the association is
 1591 not otherwise considered a landlord under chapter 83 and
 1592 specifically has no obligations under s. 83.51.

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1593 (e) The tenant does not, by virtue of payment of monetary
 1594 obligations to the association, have any of the rights of a unit
 1595 owner to vote in any election or to examine the books and
 1596 records of the association.

1597 (f) A court may supersede the effect of this subsection by
 1598 appointing a receiver.

1599 Section 16. Paragraph (a) of subsection (3) and subsection
 1600 (5) of section 719.303, Florida Statutes, are amended to read:

1601 719.303 Obligations of owners.—

1602 (3) The association may levy reasonable fines for failure
 1603 of the unit owner or the unit's occupant, licensee, or invitee
 1604 to comply with any provision of the cooperative documents or
 1605 reasonable rules of the association. A fine may not become a
 1606 lien against a unit. A fine may be levied on the basis of each
 1607 day of a continuing violation, with a single notice and
 1608 opportunity for hearing. However, the fine may not exceed \$100
 1609 per violation, or \$1,000 in the aggregate.

1610 (a) An association may suspend, for a reasonable period of
 1611 time, the right of a unit owner, or a unit owner's tenant,
 1612 guest, or invitee, to use the common elements, common
 1613 facilities, or any other association property for failure to
 1614 comply with any provision of the cooperative documents or
 1615 reasonable rules of the association. This paragraph does not
 1616 apply to limited common elements intended to be used only by
 1617 that unit, common elements needed to access the unit, utility
 1618 services provided to the unit, parking spaces, or elevators.

1619 (5) An association may suspend the voting rights of a unit
 1620 or member due to nonpayment of any monetary obligation due to

1621 the association which is more than 90 days delinquent.
 1622 Notwithstanding an association's cooperative documents, the
 1623 requirements to establish a quorum, conduct an election, or
 1624 obtain membership approval on actions under this chapter or
 1625 pursuant to the association's cooperative documents shall be
 1626 reduced by the number of suspended voting interests or consent
 1627 rights. ~~A voting interest or consent right allocated to a unit~~
 1628 ~~or member which has been suspended by the association may not be~~
 1629 ~~counted towards the total number of voting interests for any~~
 1630 ~~purpose, including, but not limited to, the number of voting~~
 1631 ~~interests necessary to constitute a quorum, the number of voting~~
 1632 ~~interests required to conduct an election, or the number of~~
 1633 ~~voting interests required to approve an action under this~~
 1634 ~~chapter or pursuant to the cooperative documents, articles of~~
 1635 ~~incorporation, or bylaws.~~ The suspension ends upon full payment
 1636 of all obligations currently due or overdue the association. The
 1637 notice and hearing requirements under subsection (3) do not
 1638 apply to a suspension imposed under this subsection.

1639 Section 17. Paragraph (c) of subsection (5) and subsection
 1640 (10) of section 720.303, Florida Statutes, are amended to read:

1641 720.303 Association powers and duties; meetings of board;
 1642 official records; budgets; financial reporting; association
 1643 funds; recalls.—

1644 (5) INSPECTION AND COPYING OF RECORDS.—The official
 1645 records shall be maintained within the state and must be open to
 1646 inspection and available for photocopying by members or their
 1647 authorized agents at reasonable times and places within 10
 1648 business days after receipt of a written request for access.

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1649 This subsection may be complied with by having a copy of the
1650 official records available for inspection or copying in the
1651 community. If the association has a photocopy machine available
1652 where the records are maintained, it must provide parcel owners
1653 with copies on request during the inspection if the entire
1654 request is limited to no more than 25 pages.

1655 (c) The association may adopt reasonable written rules
1656 governing the frequency, time, location, notice, records to be
1657 inspected, and manner of inspections, but may not require a
1658 parcel owner to demonstrate any proper purpose for the
1659 inspection, state any reason for the inspection, or limit a
1660 parcel owner's right to inspect records to less than one 8-hour
1661 business day per month. The association may impose fees to cover
1662 the costs of providing copies of the official records,
1663 including, without limitation, the costs of copying. The
1664 association may charge up to 50 cents per page for copies made
1665 on the association's photocopier. If the association does not
1666 have a photocopy machine available where the records are kept,
1667 or if the records requested to be copied exceed 25 pages in
1668 length, the association may have copies made by an outside
1669 vendor or association management company personnel and may
1670 charge the actual cost of copying, including any reasonable
1671 costs involving personnel fees and charges at an hourly rate for
1672 vendor or employee time to cover administrative costs to the
1673 vendor or association. The association shall maintain an
1674 adequate number of copies of the recorded governing documents,
1675 to ensure their availability to members and prospective members.
1676 Notwithstanding this paragraph, the following records are not

1677 | accessible to members or parcel owners:

1678 | 1. Any record protected by the lawyer-client privilege as
 1679 | described in s. 90.502 and any record protected by the work-
 1680 | product privilege, including, but not limited to, a record
 1681 | prepared by an association attorney or prepared at the
 1682 | attorney's express direction which reflects a mental impression,
 1683 | conclusion, litigation strategy, or legal theory of the attorney
 1684 | or the association and which was prepared exclusively for civil
 1685 | or criminal litigation or for adversarial administrative
 1686 | proceedings or which was prepared in anticipation of such
 1687 | litigation or proceedings until the conclusion of the litigation
 1688 | or proceedings.

1689 | 2. Information obtained by an association in connection
 1690 | with the approval of the lease, sale, or other transfer of a
 1691 | parcel.

1692 | 3. Personnel records of association or management company
 1693 | ~~the association's~~ employees, including, but not limited to,
 1694 | disciplinary, payroll, health, and insurance records. For
 1695 | purposes of this subparagraph, the term "personnel records" does
 1696 | not include written employment agreements with an association or
 1697 | management company employee or budgetary or financial records
 1698 | that indicate the compensation paid to an association or
 1699 | management company employee.

1700 | 4. Medical records of parcel owners or community
 1701 | residents.

1702 | 5. Social security numbers, driver ~~driver's~~ license
 1703 | numbers, credit card numbers, electronic mailing addresses,
 1704 | telephone numbers, facsimile numbers, emergency contact

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1705 information, any addresses for a parcel owner other than as
1706 provided for association notice requirements, and other personal
1707 identifying information of any person, excluding the person's
1708 name, parcel designation, mailing address, and property address.
1709 However, an owner may consent in writing to the disclosure of
1710 protected information described in this subparagraph. The
1711 association is not liable for the disclosure of information that
1712 is protected under this subparagraph if the information is
1713 included in an official record of the association and is
1714 voluntarily provided by an owner and not requested by the
1715 association.

1716 6. Any electronic security measure that is used by the
1717 association to safeguard data, including passwords.

1718 7. The software and operating system used by the
1719 association which allows the manipulation of data, even if the
1720 owner owns a copy of the same software used by the association.
1721 The data is part of the official records of the association.

1722 (10) RECALL OF DIRECTORS.—

1723 (a)1. Regardless of any provision to the contrary
1724 contained in the governing documents, subject to the provisions
1725 of s. 720.307 regarding transition of association control, any
1726 member of the board of directors may be recalled and removed
1727 from office with or without cause by a majority of the total
1728 voting interests.

1729 2. When the governing documents, including the
1730 declaration, articles of incorporation, or bylaws, provide that
1731 only a specific class of members is entitled to elect a board
1732 director or directors, only that class of members may vote to

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1733 recall those board directors so elected.

1734 (b)1. Board directors may be recalled by an agreement in
1735 writing or by written ballot without a membership meeting. The
1736 agreement in writing or the written ballots, or a copy thereof,
1737 shall be served on the association by certified mail or by
1738 personal service in the manner authorized by chapter 48 and the
1739 Florida Rules of Civil Procedure.

1740 2. The board shall duly notice and hold a meeting of the
1741 board within 5 full business days after receipt of the agreement
1742 in writing or written ballots. At the meeting, the board shall
1743 either certify the written ballots or written agreement to
1744 recall a director or directors of the board, in which case such
1745 director or directors shall be recalled effective immediately
1746 and shall turn over to the board within 5 full business days any
1747 and all records and property of the association in their
1748 possession, or proceed as described in paragraph (d).

1749 3. When it is determined by the department pursuant to
1750 binding arbitration proceedings that an initial recall effort
1751 was defective, written recall agreements or written ballots used
1752 in the first recall effort and not found to be defective may be
1753 reused in one subsequent recall effort. However, in no event is
1754 a written agreement or written ballot valid for more than 120
1755 days after it has been signed by the member.

1756 4. Any rescission or revocation of a member's written
1757 recall ballot or agreement must be in writing and, in order to
1758 be effective, must be delivered to the association before the
1759 association is served with the written recall agreements or
1760 ballots.

1761 5. The agreement in writing or ballot shall list at least
 1762 as many possible replacement directors as there are directors
 1763 subject to the recall, when at least a majority of the board is
 1764 sought to be recalled; the person executing the recall
 1765 instrument may vote for as many replacement candidates as there
 1766 are directors subject to the recall.

1767 (c)1. If the declaration, articles of incorporation, or
 1768 bylaws specifically provide, the members may also recall and
 1769 remove a board director or directors by a vote taken at a
 1770 meeting. If so provided in the governing documents, a special
 1771 meeting of the members to recall a director or directors of the
 1772 board of administration may be called by 10 percent of the
 1773 voting interests giving notice of the meeting as required for a
 1774 meeting of members, and the notice shall state the purpose of
 1775 the meeting. Electronic transmission may not be used as a method
 1776 of giving notice of a meeting called in whole or in part for
 1777 this purpose.

1778 2. The board shall duly notice and hold a board meeting
 1779 within 5 full business days after the adjournment of the member
 1780 meeting to recall one or more directors. At the meeting, the
 1781 board shall certify the recall, in which case such member or
 1782 members shall be recalled effective immediately and shall turn
 1783 over to the board within 5 full business days any and all
 1784 records and property of the association in their possession, or
 1785 shall proceed as set forth in subparagraph (d).

1786 (d) If the board determines not to certify the written
 1787 agreement or written ballots to recall a director or directors
 1788 of the board or does not certify the recall by a vote at a

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1789 meeting, the board shall, within 5 full business days after the
1790 meeting, file with the department a petition for binding
1791 arbitration pursuant to the applicable procedures in ss.
1792 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For
1793 the purposes of this section, the members who voted at the
1794 meeting or who executed the agreement in writing shall
1795 constitute one party under the petition for arbitration. If the
1796 arbitrator certifies the recall as to any director or directors
1797 of the board, the recall will be effective upon mailing of the
1798 final order of arbitration to the association. The director or
1799 directors so recalled shall deliver to the board any and all
1800 records of the association in their possession within 5 full
1801 business days after the effective date of the recall.

1802 (e) If a vacancy occurs on the board as a result of a
1803 recall and less than a majority of the board directors are
1804 removed, the vacancy may be filled by the affirmative vote of a
1805 majority of the remaining directors, notwithstanding any
1806 provision to the contrary contained in this subsection or in the
1807 association documents. If vacancies occur on the board as a
1808 result of a recall and a majority or more of the board directors
1809 are removed, the vacancies shall be filled by members voting in
1810 favor of the recall; if removal is at a meeting, any vacancies
1811 shall be filled by the members at the meeting. If the recall
1812 occurred by agreement in writing or by written ballot, members
1813 may vote for replacement directors in the same instrument in
1814 accordance with procedural rules adopted by the division, which
1815 rules need not be consistent with this subsection.

1816 (f) If the board fails to duly notice and hold a board

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1817 meeting within 5 full business days after service of an
1818 agreement in writing or within 5 full business days after the
1819 adjournment of the member recall meeting, the recall shall be
1820 deemed effective and the board directors so recalled shall
1821 immediately turn over to the board all records and property of
1822 the association.

1823 (g) If the board fails to duly notice and hold the
1824 required meeting or fails to file the required petition, the
1825 unit owner representative may file a petition pursuant to s.
1826 718.1255 challenging the board's failure to act. The petition
1827 must be filed within 60 days after the expiration of the
1828 applicable 5-full-business-day period. The review of a petition
1829 under this paragraph is limited to the sufficiency of service on
1830 the board and the facial validity of the written agreement or
1831 ballots filed.

1832 (h)~~(g)~~ If a director who is removed fails to relinquish
1833 his or her office or turn over records as required under this
1834 section, the circuit court in the county where the association
1835 maintains its principal office may, upon the petition of the
1836 association, summarily order the director to relinquish his or
1837 her office and turn over all association records upon
1838 application of the association.

1839 (i)~~(h)~~ The minutes of the board meeting at which the board
1840 decides whether to certify the recall are an official
1841 association record. The minutes must record the date and time of
1842 the meeting, the decision of the board, and the vote count taken
1843 on each board member subject to the recall. In addition, when
1844 the board decides not to certify the recall, as to each vote

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1845 rejected, the minutes must identify the parcel number and the
1846 specific reason for each such rejection.

1847 (j)~~(i)~~ When the recall of more than one board director is
1848 sought, the written agreement, ballot, or vote at a meeting
1849 shall provide for a separate vote for each board director sought
1850 to be recalled.

1851 (k) A board member who has been recalled may file a
1852 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the
1853 rules adopted challenging the validity of the recall. The
1854 petition must be filed within 60 days after the recall is deemed
1855 certified. The association and the unit owner representative
1856 shall be named as respondents.

1857 (l) The division may not accept for filing a recall
1858 petition, whether filed pursuant to paragraph (b), paragraph
1859 (c), paragraph (g), or paragraph (k) and regardless of whether
1860 the recall was certified, when there are 60 or fewer days until
1861 the scheduled reelection of the board member sought to be
1862 recalled or when 60 or fewer days have not elapsed since the
1863 election of the board member sought to be recalled.

1864 Section 18. Subsections (2) and (4) of section 720.305,
1865 Florida Statutes, are amended to read:

1866 720.305 Obligations of members; remedies at law or in
1867 equity; levy of fines and suspension of use rights.—

1868 (2) The association may levy reasonable fines of up to
1869 \$100 per violation against any member or any member's tenant,
1870 guest, or invitee for the failure of the owner of the parcel or
1871 its occupant, licensee, or invitee to comply with any provision
1872 of the declaration, the association bylaws, or reasonable rules

1873 of the association. A fine may be levied for each day of a
 1874 continuing violation, with a single notice and opportunity for
 1875 hearing, except that the fine may not exceed \$1,000 in the
 1876 aggregate unless otherwise provided in the governing documents.
 1877 A fine of less than \$1,000 may not become a lien against a
 1878 parcel. In any action to recover a fine, the prevailing party is
 1879 entitled to reasonable attorney ~~attorney's~~ fees and costs from
 1880 the nonprevailing party as determined by the court.

1881 (a) An association may suspend, for a reasonable period of
 1882 time, the right of a member, or a member's tenant, guest, or
 1883 invitee, to use common areas and facilities for the failure of
 1884 the owner of the parcel or its occupant, licensee, or invitee to
 1885 comply with any provision of the declaration, the association
 1886 bylaws, or reasonable rules of the association. This paragraph
 1887 does not apply to that portion of common areas used to provide
 1888 access or utility services to the parcel. A suspension may not
 1889 impair the right of an owner or tenant of a parcel to have
 1890 vehicular and pedestrian ingress to and egress from the parcel,
 1891 including, but not limited to, the right to park.

1892 (b) A fine or suspension may not be imposed without at
 1893 least 14 days' notice to the person sought to be fined or
 1894 suspended and an opportunity for a hearing before a committee of
 1895 at least three members appointed by the board who are not
 1896 officers, directors, or employees of the association, or the
 1897 spouse, parent, child, brother, or sister of an officer,
 1898 director, or employee. If the committee, by majority vote, does
 1899 not approve a proposed fine or suspension, it may not be
 1900 imposed. If the association imposes a fine or suspension, the

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1901 association must provide written notice of such fine or
 1902 suspension by mail or hand delivery to the parcel owner and, if
 1903 applicable, to any tenant, licensee, or invitee of the parcel
 1904 owner.

1905 (4) An association may suspend the voting rights of a
 1906 parcel or member for the nonpayment of any monetary obligation
 1907 due ~~to~~ the association that is more than 90 days delinquent.
 1908 Notwithstanding an association's governing documents, the
 1909 requirements to establish a quorum, conduct an election, or
 1910 obtain membership approval on actions under this chapter or
 1911 pursuant to the association's governing documents shall be
 1912 reduced by the number of suspended voting interests or consent
 1913 rights. A voting interest or consent right allocated to a parcel
 1914 ~~or member which has been suspended by the association may not be~~
 1915 ~~counted towards the total number of voting interests for any~~
 1916 ~~purpose, including, but not limited to, the number of voting~~
 1917 ~~interests necessary to constitute a quorum, the number of voting~~
 1918 ~~interests required to conduct an election, or the number of~~
 1919 ~~voting interests required to approve an action under this~~
 1920 ~~chapter or pursuant to the governing documents. The notice and~~
 1921 ~~hearing requirements under subsection (2) do not apply to a~~
 1922 ~~suspension imposed under this subsection. The suspension ends~~
 1923 ~~upon full payment of all obligations currently due or overdue to~~
 1924 ~~the association.~~

1925 Section 19. Paragraph (d) is added to subsection (1) of
 1926 section 720.306, Florida Statutes, and subsection (9) of that
 1927 section is amended, to read:

1928 720.306 Meetings of members; voting and election

1929 procedures; amendments.—

1930 (1) QUORUM; AMENDMENTS.—

1931 (d) The Legislature finds that the procurement of
 1932 mortgagee consent to amendments that do not affect the rights or
 1933 interests of mortgagees is an unreasonable and substantial
 1934 logistical and financial burden on the parcel owners and that
 1935 there is a compelling state interest in enabling the members of
 1936 an association to approve amendments to the association's
 1937 governing documents through legal means. Accordingly, and
 1938 notwithstanding any provision to the contrary contained in this
 1939 paragraph:

1940 1. As to any mortgage recorded on or after July 1, 2012,
 1941 any provision in the association's governing documents that
 1942 requires the consent or joinder of some or all mortgagees of
 1943 parcels or any other portion of the association's common areas
 1944 to amend the association's governing documents or for any other
 1945 matter is enforceable only as to amendments to the association's
 1946 governing documents that adversely affect the priority of the
 1947 mortgagee's lien or the mortgagee's rights to foreclose its lien
 1948 or that otherwise materially affect the rights and interests of
 1949 the mortgagees.

1950 2. As to mortgages recorded before July 1, 2012, any
 1951 existing provisions in the association's governing documents
 1952 requiring mortgagee consent are enforceable.

1953 3. In securing consent or joinder, the association is
 1954 entitled to rely upon the public records to identify the holders
 1955 of outstanding mortgages. The association may use the address
 1956 provided in the original recorded mortgage document, unless

1957 there is a different address for the holder of the mortgage in a
 1958 recorded assignment or modification of the mortgage, which
 1959 recorded assignment or modification must reference the official
 1960 records book and page on which the original mortgage was
 1961 recorded. Once the association has identified the recorded
 1962 mortgages of record, the association shall, in writing, request
 1963 of each parcel owner whose parcel is encumbered by a mortgage of
 1964 record any information the owner has in his or her possession
 1965 regarding the name and address of the person to whom mortgage
 1966 payments are currently being made. Notice shall be sent to such
 1967 person if the address provided in the original recorded mortgage
 1968 document is different from the name and address of the mortgagee
 1969 or assignee of the mortgage as shown by the public record. The
 1970 association is deemed to have complied with this requirement by
 1971 making the written request of the parcel owners required under
 1972 this subparagraph. Any notices required to be sent to the
 1973 mortgagees under this subparagraph shall be sent to all
 1974 available addresses provided to the association.

1975 4. Any notice to the mortgagees required under
 1976 subparagraph 3. may be sent by a method that establishes proof
 1977 of delivery, and any mortgagee who fails to respond within 60
 1978 days after the date of mailing is deemed to have consented to
 1979 the amendment.

1980 5. For those amendments requiring mortgagee consent on or
 1981 after July 1, 2012, in the event mortgagee consent is provided
 1982 other than by properly recorded joinder, such consent shall be
 1983 evidenced by affidavit of the association recorded in the public
 1984 records of the county in which the declaration is recorded.

1985 6. Any amendment adopted without the required consent of a
 1986 mortgagee is voidable only by a mortgagee who was entitled to
 1987 notice and an opportunity to consent. An action to void an
 1988 amendment is subject to the statute of limitations beginning 5
 1989 years after the date of discovery as to the amendments described
 1990 in subparagraph 1. and 5 years after the date of recordation of
 1991 the certificate of amendment for all other amendments. This
 1992 subparagraph applies to all mortgages, regardless of the date of
 1993 recordation of the mortgage.

1994 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1995 (a) Elections of directors must be conducted in accordance
 1996 with the procedures set forth in the governing documents of the
 1997 association. All members of the association are eligible to
 1998 serve on the board of directors, and a member may nominate
 1999 himself or herself as a candidate for the board at a meeting
 2000 where the election is to be held or, if the election process
 2001 allows voting by absentee ballot, in advance of the balloting.
 2002 Except as otherwise provided in the governing documents, boards
 2003 of directors must be elected by a plurality of the votes cast by
 2004 eligible voters. Any challenge to the election process must be
 2005 commenced within 60 days after the election results are
 2006 announced.

2007 (b) A person who is delinquent in the payment of any fee,
 2008 fine, or other monetary obligation to the association for more
 2009 than 90 days is not eligible for board membership. A person who
 2010 has been convicted of any felony in this state or in a United
 2011 States District or Territorial Court, or has been convicted of
 2012 any offense in another jurisdiction which would be considered a

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2013 felony if committed in this state, is not eligible for board
2014 membership unless such felon's civil rights have been restored
2015 for at least 5 years as of the date on which such person seeks
2016 election to the board. The validity of any action by the board
2017 is not affected if it is later determined that a member of the
2018 board is ineligible for board membership.

2019 (c) Any election dispute between a member and an
2020 association must be submitted to mandatory binding arbitration
2021 with the division. Such proceedings must be conducted in the
2022 manner provided by s. 718.1255 and the procedural rules adopted
2023 by the division. Unless otherwise provided in the bylaws, any
2024 vacancy occurring on the board before the expiration of a term
2025 may be filled by an affirmative vote of the majority of the
2026 remaining directors, even if the remaining directors constitute
2027 less than a quorum, or by the sole remaining director. In the
2028 alternative, a board may hold an election to fill the vacancy,
2029 in which case the election procedures must conform to the
2030 requirements of the governing documents. Unless otherwise
2031 provided in the bylaws, a board member appointed or elected
2032 under this section is appointed for the unexpired term of the
2033 seat being filled. Filling vacancies created by recall is
2034 governed by s. 720.303(10) and rules adopted by the division.

2035 (d) Within 90 days after being elected or appointed to the
2036 board, each new director shall certify in writing to the
2037 secretary of the association that he or she has read the
2038 association's declaration of covenants' conditions and
2039 restrictions, articles of incorporation, bylaws, and current
2040 written policies; that he or she will work to uphold such

2041 documents and policies to the best of his or her ability; and
 2042 that he or she will faithfully discharge his or her fiduciary
 2043 responsibility to the association's members. Within 90 days
 2044 after being elected or appointed to the board, in lieu of this
 2045 written certification, the newly elected or appointed director
 2046 may submit a certificate of having satisfactorily completed the
 2047 educational curriculum administered by a division-approved
 2048 education provider within 1 year before or 90 days after the
 2049 date of election or appointment. The educational certificate is
 2050 valid and does not have to be resubmitted as long as the
 2051 director serves on the board without interruption. A director
 2052 who fails to timely file the written certification or
 2053 educational certificate is suspended from service on the board
 2054 until he or she complies with this paragraph. The board may
 2055 temporarily fill the vacancy during the period of suspension.
 2056 The secretary shall cause the association to retain a director's
 2057 written certification or educational certificate for inspection
 2058 by the members for 5 years after a director's election or the
 2059 duration of the director's tenure, whichever is longer. Failure
 2060 to have such written certification or educational certificate on
 2061 file does not affect the validity of any board action.

2062 Section 20. Paragraphs (b), (c), and (d) of subsection (2)
 2063 of section 720.3085, Florida Statutes, are amended to read:

2064 720.3085 Payment for assessments; lien claims.—

2065 (2)

2066 (b) A parcel owner, regardless of how the parcel owner has
 2067 acquired title, including, but not limited to, by purchase at a
 2068 foreclosure sale, is liable for all assessments that come due

2069 while he or she is the parcel owner. Additionally, a parcel
 2070 owner is jointly and severally liable with the previous parcel
 2071 owner for all unpaid assessments, late fees, interest, costs,
 2072 and reasonable attorney fees incurred by the association in an
 2073 attempt to collect all such amounts that came due up to the time
 2074 of transfer of title. This liability is without prejudice to any
 2075 right the present parcel owner may have to recover ~~any amounts~~
 2076 ~~paid by the present owner~~ from the previous owner the amounts
 2077 paid by the present owner.

2078 (c) 1. ~~Notwithstanding anything to the contrary contained~~
 2079 ~~in this section,~~ The liability of a first mortgagee, or its
 2080 successors successor or assignees assignee as a subsequent
 2081 ~~holder of the first mortgage~~ who acquire acquires title to a
 2082 parcel by foreclosure or by deed in lieu of foreclosure for the
 2083 unpaid assessments, interest, administrative late fees,
 2084 reasonable costs and attorney fees, and any other fee, cost, or
 2085 expense incurred in the collection process that became due
 2086 before the mortgagee's acquisition of title is limited to, ~~shall~~
 2087 ~~be~~ the lesser of:

2088 a.1. Only the parcel's unpaid common expenses and regular
 2089 periodic or special assessments that accrued or came due during
 2090 the 12 months immediately preceding the acquisition of title and
 2091 for which payment in full has not been received by the
 2092 association; or

2093 b.2. One percent of the original mortgage debt.

2094 2. Subparagraph 1. applies ~~The limitations on first~~
 2095 ~~mortgagee liability provided by this paragraph apply~~ only if the
 2096 first mortgagee ~~filed suit against the parcel owner and~~

2097 ~~initially~~ joined the association as a defendant in the mortgagee
 2098 foreclosure action. Joinder of the association is not required
 2099 if, on the date the complaint is filed, the association was
 2100 dissolved or did not maintain an office or agent for service of
 2101 process at a location that was known to or reasonably
 2102 discoverable by the mortgagee.

2103 3. The first mortgagee or its successors or assignees who
 2104 acquire title to a parcel by foreclosure or by deed in lieu of
 2105 foreclosure are not liable for any interest, administrative late
 2106 fee, reasonable cost or attorney fee, or any other fee, cost, or
 2107 expense that came due prior to its acquisition of title. This
 2108 subparagraph is intended to clarify existing law.

2109 4.~~(d)~~ An association, or its successor or assignee, that
 2110 acquires title to a parcel through the foreclosure of its lien
 2111 for assessments is not liable for any unpaid assessments, late
 2112 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs
 2113 that came due before the association's acquisition of title in
 2114 favor of any other association, as defined in s. 718.103(2) or
 2115 s. 720.301(9), which holds a ~~superior~~ lien interest on the
 2116 parcel. This paragraph is intended to clarify existing law.

2117 (d) The person acquiring title shall pay the amount owed
 2118 to the association within 30 days after transfer of title.
 2119 Failure to pay the full amount when due entitles the association
 2120 to record a claim of lien against the parcel for the amounts
 2121 specified in this subsection and proceed in the same manner as
 2122 provided in this section for the collection of the amount owed
 2123 and any unpaid assessments coming due after the acquisition of
 2124 title and other charges authorized by subsection (3) on any

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2125 unpaid assessments coming due after the acquisition of title.

2126 Section 21. Subsection (3) of section 721.16, Florida
 2127 Statutes, is amended to read:

2128 721.16 Liens for overdue assessments; liens for labor
 2129 performed on, or materials furnished to, a timeshare unit.—

2130 (3) The lien is effective from the date of recording a
 2131 claim of lien in the official records of the county or counties
 2132 in which the timeshare interest is located. The claim of lien
 2133 shall state the name of the timeshare plan and identify the
 2134 timeshare interest for which the lien is effective, state the
 2135 name of the purchaser, state the assessment amount due, and
 2136 state the due dates. Notwithstanding any provision of s.
 2137 718.116(5) or s. 719.108(6) ~~719.108(4)~~ to the contrary, the lien
 2138 is effective until satisfied or until 5 years have expired after
 2139 the date the claim of lien is recorded unless, within that time,
 2140 an action to enforce the lien is commenced pursuant to
 2141 subsection (2). A claim of lien for assessments may include only
 2142 assessments which are due when the claim is recorded. A claim of
 2143 lien shall be signed and acknowledged by an officer or agent of
 2144 the managing entity. Upon full payment, the person making the
 2145 payment is entitled to receive a satisfaction of the lien.

2146 Section 22. This act shall take effect July 1, 2012.