

By Senator Bogdanoff

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1                                   A bill to be entitled  
2           An act relating to residential properties; amending s.  
3           399.02, F.S.; exempting certain elevators from  
4           specific code update requirements; amending s.  
5           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          revising recordkeeping requirements of a condominium  
12          association board; requiring challenges to an election  
13          to commence within a certain time period; providing  
14          requirements for challenging the failure of a board to  
15          duly notice and hold the required board meeting or to  
16          file the required petition for a recall; providing  
17          requirements for recalled board members to challenge  
18          the recall; providing duties of the division regarding  
19          recall petitions; amending s. 718.113, F.S.; providing  
20          requirements for a condominium association board  
21          relating to the installation of hurricane shutters,  
22          impact glass, code-compliant windows or doors, and  
23          other types of code-compliant hurricane protection  
24          under certain circumstances; amending s. 718.115,  
25          F.S.; conforming provisions to changes made by the  
26          act; amending s. 718.116, F.S.; revising liability of  
27          certain condominium unit owners acquiring title;  
28          amending s. 718.303, F.S.; revising provisions  
29          relating to imposing remedies against a noncompliant

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

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59 requiring notice regarding proposed amendments to  
60 mortgagees; providing criteria for notification;  
61 providing for voiding certain amendments; amending s.  
62 719.106, F.S.; requiring challenges to an election to  
63 commence within a certain time period; specifying  
64 certification or educational requirements for a newly  
65 elected or appointed cooperative board director;  
66 providing requirements for challenging the failure of  
67 a board to duly notice and hold the required board  
68 meeting or to file the required petition for a recall;  
69 providing requirements for recalled board members to  
70 challenge the recall; providing duties of the division  
71 regarding recall petitions; amending s. 719.303, F.S.;  
72 revising provisions relating to imposing remedies  
73 against a noncompliant or delinquent cooperative unit  
74 owner or member; revising voting requirements under  
75 certain conditions; amending s. 720.303, F.S.;  
76 revising the types of records that are not accessible  
77 to homeowners' association members and parcel owners;  
78 providing requirements for challenging the failure of  
79 a board to duly notice and hold the required board  
80 meeting or to file the required petition for a recall;  
81 providing requirements for recalled board members to  
82 challenge the recall; providing duties of the division  
83 regarding recall petitions; amending s. 720.305, F.S.;  
84 revising provisions relating to imposing remedies  
85 against a noncompliant or delinquent homeowners'  
86 association member and parcel owner; revising voting  
87 requirements under certain conditions; amending s.

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88 720.306, F.S.; revising provisions relating to the  
89 amendment of homeowners' association declarations;  
90 providing legislative findings and a finding of  
91 compelling state interest; providing criteria for  
92 consent or joinder to an amendment; requiring notice  
93 to mortgagees regarding proposed amendments; providing  
94 criteria for notification; providing for voiding  
95 certain amendments; requiring challenges to an  
96 election to commence within a certain time period;  
97 specifying certification or educational requirements  
98 for a newly elected or appointed homeowners'  
99 association board director; amending s. 720.3085,  
100 F.S.; revising liability of certain parcel owners  
101 acquiring title; providing an effective date.

102  
103 Be It Enacted by the Legislature of the State of Florida:

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

107 399.02 General requirements.—

108 (9) Updates to the Safety Code for Existing Elevators and  
109 Escalators, ASME A17.1 and A17.3, which require Phase II  
110 Firefighters' Service on elevators may not be enforced ~~until~~  
111 ~~July 1, 2015, or~~ until the elevator is replaced or requires  
112 major modification, ~~whichever occurs first,~~ on elevators in  
113 condominiums or multifamily residential buildings, including  
114 those that are part of a continuing care facility licensed under  
115 chapter 651, or similar retirement community with apartments,  
116 having a certificate of occupancy by the local building

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117 authority that was issued before July 1, 2008. This exception  
118 does not prevent an elevator owner from requesting a variance  
119 from the applicable codes ~~before or after July 1, 2015~~. This  
120 subsection does not prohibit the division from granting  
121 variances pursuant to s. 120.542 and subsection (8). The  
122 division shall adopt rules to administer this subsection.

123 Section 2. Subsection (5) is added to section 468.433,  
124 Florida Statutes, to read:

125 468.433 Licensure by examination.—

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

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

131 718.112 Bylaws.—

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

135 (d) *Unit owner meetings*.—

136 1. An annual meeting of the unit owners shall be held at  
137 the location provided in the association bylaws and, if the  
138 bylaws are silent as to the location, the meeting shall be held  
139 within 45 miles of the condominium property. However, such  
140 distance requirement does not apply to an association governing  
141 a timeshare condominium.

142 2. Unless the bylaws provide otherwise, a vacancy on the  
143 board caused by the expiration of a director's term shall be  
144 filled by electing a new board member, and the election must be  
145 by secret ballot. An election is not required if the number of

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

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

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

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



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233 association affirming that the notice was mailed or hand  
234 delivered in accordance with this provision.

235 4. The members of the board shall be elected by written  
236 ballot or voting machine. Proxies may not be used in electing  
237 the board in general elections or elections to fill vacancies  
238 caused by recall, resignation, or otherwise, unless otherwise  
239 provided in this chapter.

240 a. At least 60 days before a scheduled election, the  
241 association shall mail, deliver, or electronically transmit, by  
242 separate association mailing or included in another association  
243 mailing, delivery, or transmission, including regularly  
244 published newsletters, to each unit owner entitled to a vote, a  
245 first notice of the date of the election. Any unit owner or  
246 other eligible person desiring to be a candidate for the board  
247 must give written notice of his or her intent to be a candidate  
248 to the association at least 40 days before a scheduled election.  
249 Together with the written notice and agenda as set forth in  
250 subparagraph 3., the association shall mail, deliver, or  
251 electronically transmit a second notice of the election to all  
252 unit owners entitled to vote, together with a ballot that lists  
253 all candidates. Upon request of a candidate, an information  
254 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
255 furnished by the candidate at least 35 days before the election,  
256 must be included with the mailing, delivery, or transmission of  
257 the ballot, with the costs of mailing, delivery, or electronic  
258 transmission and copying to be borne by the association. The  
259 association is not liable for the contents of the information  
260 sheets prepared by the candidates. In order to reduce costs, the  
261 association may print or duplicate the information sheets on

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

279       b. Within 90 days after being elected or appointed to the  
280 board, each newly elected or appointed director shall certify in  
281 writing to the secretary of the association that he or she has  
282 read the association's declaration of condominium, articles of  
283 incorporation, bylaws, and current written policies; that he or  
284 she will work to uphold such documents and policies to the best  
285 of his or her ability; and that he or she will faithfully  
286 discharge his or her fiduciary responsibility to the  
287 association's members. In lieu of this written certification,  
288 within 90 days after being elected or appointed to the board,  
289 the newly elected or appointed director may submit a certificate  
290 of having satisfactorily completed the educational curriculum

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291 administered by a division-approved condominium education  
292 provider within 1 year before or 90 days after the date of  
293 election or appointment. The written certification or  
294 educational certificate is valid and does not have to be  
295 resubmitted as long as the director serves on the board without  
296 interruption. A director who fails to timely file the written  
297 certification or educational certificate is suspended from  
298 service on the board until he or she complies with this sub-  
299 subparagraph. The board may temporarily fill the vacancy during  
300 the period of suspension. The secretary shall cause the  
301 association to retain a director's written certification or  
302 educational certificate for inspection by the members for 5  
303 years after a director's election or the duration of the  
304 director's uninterrupted tenure, whichever is longer. Failure to  
305 have such written certification or educational certificate on  
306 file does not affect the validity of any board action.

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

309 5. Any approval by unit owners called for by this chapter  
310 or the applicable declaration or bylaws, including, but not  
311 limited to, the approval requirement in s. 718.111(8), must be  
312 made at a duly noticed meeting of unit owners and is subject to  
313 all requirements of this chapter or the applicable condominium  
314 documents relating to unit owner decisionmaking, except that  
315 unit owners may take action by written agreement, without  
316 meetings, on matters for which action by written agreement  
317 without meetings is expressly allowed by the applicable bylaws  
318 or declaration or any law that provides for such action.

319 6. Unit owners may waive notice of specific meetings if

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320 allowed by the applicable bylaws or declaration or any law. If  
321 authorized by the bylaws, notice of meetings of the board of  
322 administration, unit owner meetings, except unit owner meetings  
323 called to recall board members under paragraph (j), and  
324 committee meetings may be given by electronic transmission to  
325 unit owners who consent to receive notice by electronic  
326 transmission.

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

331 8. A unit owner may tape record or videotape a meeting of  
332 the unit owners subject to reasonable rules adopted by the  
333 division.

334 9. Unless otherwise provided in the bylaws, any vacancy  
335 occurring on the board before the expiration of a term may be  
336 filled by the affirmative vote of the majority of the remaining  
337 directors, even if the remaining directors constitute less than  
338 a quorum, or by the sole remaining director. In the alternative,  
339 a board may hold an election to fill the vacancy, in which case  
340 the election procedures must conform to sub-subparagraph 4.a.  
341 unless the association governs 10 units or fewer and has opted  
342 out of the statutory election process, in which case the bylaws  
343 of the association control. Unless otherwise provided in the  
344 bylaws, a board member appointed or elected under this section  
345 shall fill the vacancy for the unexpired term of the seat being  
346 filled. Filling vacancies created by recall is governed by  
347 paragraph (j) and rules adopted by the division.

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

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349 limited proxies, require the use of general or limited proxies,  
350 or require the use of a written ballot or voting machine for any  
351 agenda item or election at any meeting of a timeshare  
352 condominium association.

353

354 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
355 association of 10 or fewer units may, by affirmative vote of a  
356 majority of the total voting interests, provide for different  
357 voting and election procedures in its bylaws, which may be by a  
358 proxy specifically delineating the different voting and election  
359 procedures. The different voting and election procedures may  
360 provide for elections to be conducted by limited or general  
361 proxy.

362 (j) *Recall of board members.*—Subject to ~~the provisions of~~  
363 s. 718.301, any member of the board of administration may be  
364 recalled and removed from office with or without cause by the  
365 vote or agreement in writing by a majority of all the voting  
366 interests. A special meeting of the unit owners to recall a  
367 member or members of the board of administration may be called  
368 by 10 percent of the voting interests giving notice of the  
369 meeting as required for a meeting of unit owners, and the notice  
370 shall state the purpose of the meeting. Electronic transmission  
371 may not be used as a method of giving notice of a meeting called  
372 in whole or in part for this purpose.

373 1. If the recall is approved by a majority of all voting  
374 interests by a vote at a meeting, the recall will be effective  
375 as provided in this paragraph herein. The board shall duly  
376 notice and hold a board meeting within 5 full business days  
377 after ~~of~~ the adjournment of the unit owner meeting to recall one

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378 or more board members. At the meeting, the board shall either  
379 certify the recall, in which case such member or members shall  
380 be recalled effective immediately and shall turn over to the  
381 board within 5 full business days any and all records and  
382 property of the association in their possession, or shall  
383 proceed as set forth in subparagraph 3.

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

398 3. If the board determines not to certify the written  
399 agreement to recall a member or members of the board, or does  
400 not certify the recall by a vote at a meeting, the board shall,  
401 within 5 full business days after the meeting, file with the  
402 division a petition for arbitration pursuant to the procedures  
403 in s. 718.1255. For the purposes of this section, the unit  
404 owners who voted at the meeting or who executed the agreement in  
405 writing shall constitute one party under the petition for  
406 arbitration. If the arbitrator certifies the recall as to any

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407 member or members of the board, the recall will be effective  
408 upon mailing of the final order of arbitration to the  
409 association. If the association fails to comply with the order  
410 of the arbitrator, the division may take action pursuant to s.  
411 718.501. Any member or members so recalled shall deliver to the  
412 board any and all records of the association in their possession  
413 within 5 full business days after ~~of~~ the effective date of the  
414 recall.

415 4. If the board fails to duly notice and hold a board  
416 meeting within 5 full business days after ~~of~~ service of an  
417 agreement in writing or within 5 full business days after ~~of~~ the  
418 adjournment of the unit owner recall meeting, the recall shall  
419 be deemed effective and the board members so recalled shall  
420 immediately turn over to the board any and all records and  
421 property of the association.

422 5. If the board fails to duly notice and hold the required  
423 meeting or fails to file the required petition, the unit owner  
424 representative may file a petition pursuant to s. 718.1255  
425 challenging the board's failure to act. The petition must be  
426 filed within 60 days after the expiration of the applicable 5-  
427 full-business-day period. The review of a petition under this  
428 subparagraph is limited to the sufficiency of service on the  
429 board and the facial validity of the written agreement or  
430 ballots filed.

431 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
432 recall or removal and less than a majority of the board members  
433 are removed, the vacancy may be filled by the affirmative vote  
434 of a majority of the remaining directors, notwithstanding any  
435 provision to the contrary contained in this subsection. If

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436 vacancies occur on the board as a result of a recall and a  
437 majority or more of the board members are removed, the vacancies  
438 shall be filled in accordance with procedural rules to be  
439 adopted by the division, which rules need not be consistent with  
440 this subsection. The rules must provide procedures governing the  
441 conduct of the recall election as well as the operation of the  
442 association during the period after a recall but prior to the  
443 recall election.

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

449 8. The division may not accept for filing a recall  
450 petition, whether filed pursuant to subparagraph 1.,  
451 subparagraph 2., subparagraph 5., or subparagraph 7. and  
452 regardless of whether the recall was certified, when there are  
453 60 or fewer days until the scheduled reelection of the board  
454 member sought to be recalled or when 60 or fewer days have  
455 elapsed since the election of the board member sought to be  
456 recalled.

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

459 718.113 Maintenance; limitation upon improvement; display  
460 of flag; hurricane shutters and protection; display of religious  
461 decorations.—

462 (5) Each board of administration shall adopt hurricane  
463 shutter specifications for each building within each condominium  
464 operated by the association which shall include color, style,



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465 and other factors deemed relevant by the board. All  
466 specifications adopted by the board must comply with the  
467 applicable building code.

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

487 (b) The association is responsible for the maintenance,  
488 repair, and replacement of the hurricane shutters, impact glass,  
489 code-compliant windows or doors, or other types of code-  
490 compliant hurricane protection authorized by this subsection if  
491 such property ~~hurricane shutters or other hurricane protection~~  
492 is the responsibility of the association pursuant to the  
493 declaration of condominium. If the hurricane shutters, impact

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494 glass, code-compliant windows or doors, or other types of code-  
495 compliant hurricane protection ~~authorized by this subsection~~ are  
496 the responsibility of the unit owners pursuant to the  
497 declaration of condominium, the maintenance, repair, and  
498 replacement of such items are the responsibility of the unit  
499 owner.

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

512 (d) Notwithstanding any other provision in the condominium  
513 documents, if approval is required by the documents, a board may  
514 not refuse to approve the installation or replacement of  
515 hurricane shutters, impact glass, code-compliant windows or  
516 doors, or other types of code-compliant hurricane protection by  
517 a unit owner conforming to the specifications adopted by the  
518 board.

519 Section 5. Paragraph (e) of subsection (1) of section  
520 718.115, Florida Statutes, is amended to read:

521 718.115 Common expenses and common surplus.—

522 (1)

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523 (e) The expense of installation, replacement, operation,  
524 repair, and maintenance of hurricane shutters, impact glass,  
525 code-compliant windows or doors, or other types of code-  
526 compliant hurricane protection by the board pursuant to s.  
527 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~  
528 ~~defined herein~~ and shall be collected as provided in this  
529 section if the association is responsible for the maintenance,  
530 repair, and replacement of the hurricane shutters, impact glass,  
531 code-compliant windows or doors, or other types of code-  
532 compliant hurricane protection pursuant to the declaration of  
533 condominium. However, if the maintenance, repair, and  
534 replacement of the hurricane shutters, impact glass, code-  
535 compliant windows or doors, or other types of code-compliant  
536 hurricane protection are ~~is~~ the responsibility of the unit  
537 owners pursuant to the declaration of condominium, the cost of  
538 the installation of the hurricane shutters, impact glass, code-  
539 compliant windows or doors, or other types of code-compliant  
540 hurricane protection is ~~shall~~ not be a common expense and, ~~but~~  
541 shall be charged individually to the unit owners based on the  
542 cost of installation of the hurricane shutters, impact glass,  
543 code-compliant windows or doors, or other types of code-  
544 compliant hurricane protection appurtenant to the unit.  
545 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless  
546 of whether or not the declaration requires the association or  
547 unit owners to maintain, repair, or replace hurricane shutters,  
548 impact glass, code-compliant windows or doors, or other types of  
549 code-compliant hurricane protection, a unit owner who has  
550 previously installed hurricane shutters in accordance with s.  
551 718.113(5) that comply with the current applicable building code

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552 shall receive a credit when the shutters are installed; a unit  
553 owner who has previously installed impact glass or code-  
554 compliant windows or doors that comply with the current  
555 applicable building code shall receive a credit when the impact  
556 glass or code-compliant windows or doors are installed; and a  
557 unit owner who has installed, other types of code-compliant  
558 hurricane protection that comply with the current applicable  
559 building code shall receive a credit when the same type of other  
560 code-compliant hurricane protection is installed, and the ~~or~~  
561 ~~laminated glass architecturally designed to function as~~  
562 ~~hurricane protection, which hurricane shutters or other~~  
563 ~~hurricane protection or laminated glass comply with the current~~  
564 ~~applicable building code, shall receive a credit shall be equal~~  
565 to the pro rata portion of the assessed installation cost  
566 assigned to each unit. However, such unit owner remains ~~shall~~  
567 ~~remain~~ responsible for the pro rata share of expenses for  
568 hurricane shutters, impact glass, code-compliant windows or  
569 doors, or other types of code-compliant hurricane protection  
570 installed on common elements and association property by the  
571 board pursuant to s. 718.113(5), and remains ~~shall remain~~  
572 responsible for a pro rata share of the expense of the  
573 replacement, operation, repair, and maintenance of such  
574 shutters, impact glass, code-compliant windows or doors, or  
575 other types of code-compliant hurricane protection.

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

578 718.116 Assessments; liability; lien and priority;  
579 interest; collection.-

580 (1) (a) A unit owner, regardless of how the unit owner has

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581 acquired his or her title has been acquired, including, but not  
582 limited to, by purchase at a foreclosure sale ~~or by deed in lieu~~  
583 ~~of foreclosure,~~ is liable for all assessments that which come  
584 due while he or she is the unit owner. Additionally, a unit  
585 owner is jointly and severally liable with the previous owner  
586 for all unpaid assessments, late fees, interest, costs, and  
587 reasonable attorney fees incurred by the association in an  
588 attempt to collect all such amounts ~~is jointly and severally~~  
589 ~~liable with the previous owner for all unpaid assessments~~ that  
590 came due up to the time of transfer of title. This liability is  
591 without prejudice to any right the owner may have to recover  
592 from the previous owner the amounts paid by the owner.

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

598 a. The unit's unpaid common expenses and regular periodic  
599 assessments which accrued or came due during the 12 months  
600 immediately preceding the acquisition of title and for which  
601 payment in full has not been received by the association; or

602 b. One percent of the original mortgage debt.

603

604 The limitations on first mortgagee liability provided by  
605 ~~provisions of this subparagraph paragraph~~ apply only if the  
606 first mortgagee joined the association as a defendant in the  
607 foreclosure action. Joinder of the association is not required  
608 if, on the date the complaint is filed, the association was  
609 dissolved or did not maintain an office or agent for service of

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610 process at a location that ~~which~~ was known to or reasonably  
611 discoverable by the mortgagee.

612 2. An association, or its successor or assignee, that  
613 acquires title to a unit through the foreclosure of its lien for  
614 assessments is not liable for any unpaid assessments, late fees,  
615 interest, or reasonable attorney ~~attorney's~~ fees and costs that  
616 came due before the association's acquisition of title in favor  
617 of any other association, as defined in s. 718.103(2) or s.  
618 720.301(9), which holds a ~~superior~~ lien interest on the unit.  
619 This subparagraph is intended to clarify existing law.

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

622 718.303 Obligations of owners and occupants; remedies.—

623 (3) The association may levy reasonable fines for the  
624 failure of the owner of the unit or its occupant, licensee, or  
625 invitee to comply with any provision of the declaration, the  
626 association bylaws, or reasonable rules of the association. A  
627 fine may not become a lien against a unit. A fine may be levied  
628 on the basis of each day of a continuing violation, with a  
629 single notice and opportunity for hearing. However, the fine may  
630 not exceed \$100 per violation, or \$1,000 in the aggregate.

631 (a) An association may suspend, for a reasonable period of  
632 time, the right of a unit owner, or a unit owner's tenant,  
633 guest, or invitee, to use the common elements, common  
634 facilities, or any other association property for failure to  
635 comply with any provision of the declaration, the association  
636 bylaws, or reasonable rules of the association. This paragraph  
637 does not apply to limited common elements intended to be used  
638 only by that unit, common elements needed to access the unit,

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639 utility services provided to the unit, parking spaces, or  
640 elevators.

641 (5) An association may suspend the voting rights of a unit  
642 or member due to nonpayment of any monetary obligation due ~~to~~  
643 the association which is more than 90 days delinquent.  
644 Notwithstanding an association's declaration, articles of  
645 incorporation, or bylaws, the requirements to establish a  
646 quorum, conduct an election, or obtain membership approval on  
647 actions under this chapter or pursuant to the declaration,  
648 articles of incorporation, or bylaws shall be reduced by the  
649 number of suspended voting interests or consent rights. A voting  
650 ~~interest or consent right allocated to a unit or member which~~  
651 ~~has been suspended by the association may not be counted towards~~  
652 ~~the total number of voting interests necessary to constitute a~~  
653 ~~quorum, the number of voting interests required to conduct an~~  
654 ~~election, or the number of voting interests required to approve~~  
655 ~~an action under this chapter or pursuant to the declaration,~~  
656 ~~articles of incorporation, or bylaws.~~ The suspension ends upon  
657 full payment of all obligations currently due or overdue the  
658 association. The notice and hearing requirements under  
659 subsection (3) do not apply to a suspension imposed under this  
660 subsection.

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

663 718.403 Phase condominiums.—

664 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a  
665 developer may develop a condominium in phases, if the original  
666 declaration of condominium submitting the initial phase to  
667 condominium ownership or an amendment to the declaration which

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668 has been approved by all of the unit owners and unit mortgagees  
669 provides for and describes in detail all anticipated phases; the  
670 impact, if any, which the completion of subsequent phases would  
671 have upon the initial phase; and the time period (which may not  
672 exceed 7 years from the date of recording the declaration of  
673 condominium, unless extended as provided in this subsection)  
674 within which all phases must be added to the condominium and  
675 comply with the requirements of this section and at the end of  
676 which the right to add additional phases expires.

677 (a) All phases must be added to the condominium within 7  
678 years after the date of recording the original declaration of  
679 condominium submitting the initial phase to condominium  
680 ownership unless an amendment extending the 7-year period is  
681 approved by the unit owners.

682 (b) An amendment to extend the 7-year period requires the  
683 approval of the owners necessary to amend the declaration of  
684 condominium consistent with s. 718.110(1)(a). An extension of  
685 the 7-year period may be submitted for approval only during the  
686 last 3 years of the 7-year period.

687 (c) An amendment must describe the time period within which  
688 all phases must be added to the condominium and such time period  
689 may not exceed 10 years after the date of recording the original  
690 declaration of condominium submitting the initial phase to  
691 condominium ownership.

692 (d) Notwithstanding s. 718.110, an amendment extending the  
693 7-year period is not an amendment subject to s. 718.110(4).

694 Section 9. Section 718.406, Florida Statutes, is created to  
695 read:

696 718.406 Condominiums created within condominium parcels.-



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697 (1) Unless otherwise expressed in the declaration of  
698 condominium, if a condominium is created within a condominium  
699 parcel, the term:

700 (a) "Primary condominium" means any condominium that is not  
701 a secondary condominium and contains one or more subdivided  
702 units.

703 (b) "Primary condominium association" means any entity that  
704 operates a primary condominium.

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

708 (d) "Secondary condominium" means one or more condominium  
709 parcels that have been submitted to condominium ownership  
710 pursuant to a secondary condominium declaration.

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

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

716 (g) "Subdivided unit" means a condominium parcel in a  
717 primary condominium that has been submitted to condominium  
718 ownership pursuant to a secondary condominium declaration.

719 (2) Unless otherwise provided in the primary condominium  
720 declaration, if a condominium parcel is a subdivided unit, the  
721 secondary condominium association governing the secondary  
722 condominium containing the subdivided unit shall act on behalf  
723 of the unit owners of units in the subdivided unit and shall  
724 exercise all rights of the unit owners of units in the  
725 subdivided unit in the primary condominium association other

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726 than the right of possession of such unit. The designated  
727 representative of the secondary condominium association shall  
728 cast the vote of the subdivided unit in the primary condominium  
729 association and, if no person is designated by the secondary  
730 condominium association to cast such vote, the vote shall be  
731 cast by the president of the secondary condominium association  
732 or the designee of the president.

733 (3) Unless otherwise provided in the primary condominium  
734 declaration, if a condominium parcel in the primary condominium  
735 is being submitted for condominium ownership, then the consent  
736 of the primary condominium association responsible for the  
737 operation of the condominium containing such condominium parcel  
738 is not required to create the secondary condominium on such  
739 condominium parcel.

740 (4) If the primary condominium declaration requires the  
741 consent of the primary condominium association to create a  
742 secondary condominium in a condominium parcel within the primary  
743 condominium, then, unless otherwise provided in the primary  
744 condominium declaration, only the approval of a majority of the  
745 board of administration of the primary condominium association  
746 is required for such consent. Unless otherwise provided in the  
747 primary condominium declaration, neither consent of the unit  
748 owners of, nor the lienholders on, any condominium parcels in  
749 the primary condominium that are not subdivided units are  
750 required to approve the secondary condominium declaration.  
751 Approval is required for the execution of a secondary  
752 condominium declaration by the owner of the subdivided unit and  
753 any lienholder on the subdivided unit.

754 (5) An owner of a condominium parcel in a subdivided unit

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755 is subject to both the primary condominium declaration and the  
756 secondary condominium declaration.

757 (6) The primary condominium association may provide  
758 insurance required by s. 718.111(11) for common elements and  
759 other improvements within the secondary condominium if the  
760 primary condominium declaration permits the primary condominium  
761 association to provide such insurance for the benefit of the  
762 condominium property included in the subdivided unit, in lieu of  
763 such insurance being provided by the secondary condominium  
764 association.

765 (7) Unless otherwise provided in the primary condominium  
766 declaration, the board of administration of the primary  
767 condominium association may adopt hurricane shutter or hurricane  
768 protection specifications for each building within which  
769 subdivided units are located and govern any subdivided units in  
770 the primary condominium.

771 (8) Any unit owner of, or holder of a first mortgage on, a  
772 unit in a secondary condominium may register such unit owner's  
773 or mortgagee's interest in the secondary condominium with the  
774 primary condominium association by written notice to the primary  
775 condominium association. Once registered, the primary  
776 condominium association must provide written notice to such unit  
777 owner and his or her mortgagee at least 30 days before  
778 instituting any foreclosure action against the subdivided unit  
779 in which the unit owner or his and her mortgagee holds an  
780 interest for failure to pay any assessments or other amounts due  
781 the primary condominium association. A foreclosure action  
782 against a subdivided unit is not effective without an affidavit  
783 indicating that written notice of the foreclosure was timely

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784 sent to the names and addresses of unit owners and first  
785 mortgagees registered with the primary condominium association  
786 pursuant to this subsection. The registered unit owner or  
787 mortgagee has a right to pay the proportionate amount of the  
788 delinquent assessment attributable to the unit in which the  
789 registered unit owner or mortgagee holds an interest. Upon such  
790 payment, the primary condominium association shall release the  
791 lien of the primary condominium association of record against  
792 such unit. Alternatively, such registered unit owner or  
793 mortgagee may pay the amount of all delinquent assessments  
794 attributed to the subdivided unit and seek reimbursement for all  
795 such amounts paid and all costs incurred from the secondary  
796 condominium association, including, without limitation, the  
797 costs of collection other than the share allocable to the unit  
798 on behalf of which such payment was made.

799 (9) In the event of a conflict between the primary  
800 condominium declaration and the secondary condominium  
801 declaration, the primary condominium declaration controls.

802 (10) All common expenses due the primary condominium  
803 association with respect to a subdivided unit are a common  
804 expense of the secondary condominium association and shall be  
805 collected by the secondary condominium association from its  
806 members and paid to the primary condominium association.

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

809 718.5011 Ombudsman; appointment; administration.—

810 (2) The Governor shall appoint the ombudsman. The ombudsman  
811 must be an attorney admitted to practice before the Florida  
812 Supreme Court and shall serve at the pleasure of the Governor. A

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813 vacancy in the office shall be filled in the same manner as the  
814 original appointment. An officer or full-time employee of the  
815 ombudsman's office may not actively engage in any other business  
816 or profession that directly or indirectly relates to or  
817 conflicts with his or her work in the ombudsman's office; serve  
818 as the representative of any political party, executive  
819 committee, or other governing body of a political party; serve  
820 as an executive, officer, or employee of a political party;  
821 receive remuneration for activities on behalf of any candidate  
822 for public office; or engage in soliciting votes or other  
823 activities on behalf of a candidate for public office. The  
824 ombudsman or any employee of his or her office may not become a  
825 candidate for election to public office unless he or she first  
826 resigns from his or her office or employment.

827 Section 11. Section 718.707, Florida Statutes, is amended  
828 to read:

829 718.707 Time limitation for classification as bulk assignee  
830 or bulk buyer.—A person acquiring condominium parcels may not be  
831 classified as a bulk assignee or bulk buyer unless the  
832 condominium parcels were acquired on or after July 1, 2010, but  
833 before July 1, 2015 ~~2012~~. The date of such acquisition shall be  
834 determined by the date of recording a deed or other instrument  
835 of conveyance for such parcels in the public records of the  
836 county in which the condominium is located, or by the date of  
837 issuing a certificate of title in a foreclosure proceeding with  
838 respect to such condominium parcels.

839 Section 12. Paragraph (c) of subsection (2) of section  
840 719.104, Florida Statutes, is amended to read:

841 719.104 Cooperatives; access to units; records; financial

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842 reports; assessments; purchase of leases.—

843 (2) OFFICIAL RECORDS.—

844 (c) The official records of the association shall be open  
845 to inspection by any association member or the authorized  
846 representative of such member at all reasonable times. Failure  
847 to permit inspection of the association records as provided in  
848 this subsection ~~herein~~ entitles any person prevailing in an  
849 enforcement action to recover reasonable attorney ~~attorney's~~  
850 fees from the person in control of the records who, directly or  
851 indirectly, knowingly denies access to the records for  
852 inspection. The right to inspect the records includes the right  
853 to make or obtain copies, at the reasonable expense, if any, of  
854 the association member. The association may adopt reasonable  
855 rules regarding the frequency, time, location, notice, and  
856 manner of record inspections and copying. The failure of an  
857 association to provide the records within 10 working days after  
858 receipt of a written request creates a rebuttable presumption  
859 that the association willfully failed to comply with this  
860 paragraph. A unit owner who is denied access to official records  
861 is entitled to the actual damages or minimum damages for the  
862 association's willful failure to comply with this paragraph. The  
863 minimum damages shall be \$50 per calendar day up to 10 days, the  
864 calculation to begin on the 11th day after receipt of the  
865 written request. The association shall maintain an adequate  
866 number of copies of the declaration, articles of incorporation,  
867 bylaws, and rules, and all amendments to each of the foregoing,  
868 as well as the question and answer sheet provided for in s.  
869 719.504, on the cooperative property to ensure their  
870 availability to unit owners and prospective purchasers, and may

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871 charge its actual costs for preparing and furnishing these  
872 documents to those requesting the same. Notwithstanding ~~the~~  
873 ~~provisions of~~ this paragraph, the following records shall not be  
874 accessible to unit owners:

875 1. Any record protected by the lawyer-client privilege as  
876 provided in s. 90.502; protected by the work-product privilege,  
877 including any record ~~A record that was~~ prepared by an  
878 association attorney or prepared at the attorney's express  
879 direction; reflecting ~~that reflects~~ a mental impression,  
880 conclusion, litigation strategy, or legal theory of the attorney  
881 or the association; or ~~that was~~ prepared exclusively for civil  
882 or criminal litigation or for adversarial administrative  
883 proceedings or in anticipation of imminent civil or criminal  
884 litigation or imminent adversarial administrative proceedings,  
885 until the conclusion of the litigation or adversarial  
886 administrative proceedings.

887 2. Information obtained by an association in connection  
888 with the approval of the lease, sale, or other transfer of a  
889 unit.

890 3. Medical records of unit owners.

891 4. Personnel records of association employees, including,  
892 but not limited to, disciplinary, payroll, health, and insurance  
893 records. For purposes of this subparagraph, the term "personnel  
894 records" does not include written employment agreements with an  
895 association employee or budgetary or financial records that  
896 indicate the compensation paid to an association employee.

897 5. Social security numbers, driver license numbers, credit  
898 card numbers, e-mail addresses, telephone numbers, emergency  
899 contact information, any addresses of a unit owner other than

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900 addresses provided to fulfill the association's notice  
901 requirements, and other personal identifying information of any  
902 person, excluding the person's name, unit designation, mailing  
903 address, and property address.

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

906 7. The software and operating system used by the  
907 association which allows manipulation of data, even if the owner  
908 owns a copy of the same software used by the association. The  
909 data is part of the official records of the association.

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

912 719.1055 Amendment of cooperative documents; alteration and  
913 acquisition of property.—

914 (7) The Legislature finds that the procurement of mortgagee  
915 consent to amendments that do not affect the rights or interests  
916 of mortgagees is an unreasonable and substantial logistical and  
917 financial burden on the unit owners and that there is a  
918 compelling state interest in enabling the members of an  
919 association to approve amendments to the association's  
920 cooperative documents through legal means. Accordingly, and  
921 notwithstanding any provision to the contrary contained in this  
922 subsection:

923 (a) As to any mortgage recorded on or after July 1, 2012,  
924 any provision in the association's cooperative documents that  
925 requires the consent or joinder of some or all mortgagees of  
926 units or any other portion of the association's common areas to  
927 amend the association's cooperative documents or for any other  
928 matter is enforceable only as to amendments to the association's



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929 cooperative documents that adversely affect the priority of the  
930 mortgagee's lien or the mortgagee's rights to foreclose its lien  
931 or that otherwise materially affect the rights and interests of  
932 the mortgagees.

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

936 (c) In securing consent or joinder, the association is  
937 entitled to rely upon the public records to identify the holders  
938 of outstanding mortgages. The association may use the address  
939 provided in the original recorded mortgage document, unless  
940 there is a different address for the holder of the mortgage in a  
941 recorded assignment or modification of the mortgage, which  
942 recorded assignment or modification must reference the official  
943 records book and page on which the original mortgage was  
944 recorded. Once the association has identified the recorded  
945 mortgages of record, the association shall, in writing, request  
946 of each unit owner whose unit is encumbered by a mortgage of  
947 record any information the owner has in his or her possession  
948 regarding the name and address of the person to whom mortgage  
949 payments are currently being made. Notice shall be sent to such  
950 person if the address provided in the original recorded mortgage  
951 document is different from the name and address of the mortgagee  
952 or assignee of the mortgage as shown by the public record. The  
953 association is deemed to have complied with this requirement by  
954 making the written request of the unit owners required under  
955 this paragraph. Any notices required to be sent to the  
956 mortgagees under this paragraph shall be sent to all available  
957 addresses provided to the association.

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

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

967       (f) Any amendment adopted without the required consent of a  
 968 mortgagee is voidable only by a mortgagee who was entitled to  
 969 notice and an opportunity to consent. An action to void an  
 970 amendment is subject to the statute of limitations beginning 5  
 971 years after the date of discovery as to the amendments described  
 972 in paragraph (a) and 5 years after the date of recordation of  
 973 the certificate of amendment for all other amendments. This  
 974 paragraph applies to all mortgages, regardless of the date of  
 975 recordation of the mortgage.

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

978       719.106 Bylaws; cooperative ownership.—

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

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

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987 membership must comply with subparagraph 1. The bylaws must  
988 provide the method for calling meetings, including annual  
989 meetings. Written notice, which must incorporate an  
990 identification of agenda items, shall be given to each unit  
991 owner at least 14 days before the annual meeting and posted in a  
992 conspicuous place on the cooperative property at least 14  
993 continuous days preceding the annual meeting. Upon notice to the  
994 unit owners, the board must by duly adopted rule designate a  
995 specific location on the cooperative property upon which all  
996 notice of unit owner meetings are posted. In lieu of or in  
997 addition to the physical posting of the meeting notice, the  
998 association may, by reasonable rule, adopt a procedure for  
999 conspicuously posting and repeatedly broadcasting the notice and  
1000 the agenda on a closed-circuit cable television system serving  
1001 the cooperative association. However, if broadcast notice is  
1002 used in lieu of a posted notice, the notice and agenda must be  
1003 broadcast at least four times every broadcast hour of each day  
1004 that a posted notice is otherwise required under this section.  
1005 If broadcast notice is provided, the notice and agenda must be  
1006 broadcast in a manner and for a sufficient continuous length of  
1007 time to allow an average reader to observe the notice and read  
1008 and comprehend the entire content of the notice and the agenda.  
1009 Unless a unit owner waives in writing the right to receive  
1010 notice of the annual meeting, the notice of the annual meeting  
1011 must be sent by mail, hand delivered, or electronically  
1012 transmitted to each unit owner. An officer of the association  
1013 must provide an affidavit or United States Postal Service  
1014 certificate of mailing, to be included in the official records  
1015 of the association, affirming that notices of the association

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1016 meeting were mailed, hand delivered, or electronically  
1017 transmitted, in accordance with this provision, to each unit  
1018 owner at the address last furnished to the association.

1019 1. The board of administration shall be elected by written  
1020 ballot or voting machine. A proxy may not be used in electing  
1021 the board of administration in general elections or elections to  
1022 fill vacancies caused by recall, resignation, or otherwise  
1023 unless otherwise provided in this chapter.

1024 a. At least 60 days before a scheduled election, the  
1025 association shall mail, deliver, or transmit, whether by  
1026 separate association mailing, delivery, or electronic  
1027 transmission or included in another association mailing,  
1028 delivery, or electronic transmission, including regularly  
1029 published newsletters, to each unit owner entitled to vote, a  
1030 first notice of the date of the election. Any unit owner or  
1031 other eligible person desiring to be a candidate for the board  
1032 of administration must give written notice to the association at  
1033 least 40 days before a scheduled election. Together with the  
1034 written notice and agenda as set forth in this section, the  
1035 association shall mail, deliver, or electronically transmit a  
1036 second notice of election to all unit owners entitled to vote,  
1037 together with a ballot that ~~which~~ lists all candidates. Upon  
1038 request of a candidate, the association shall include an  
1039 information sheet, no larger than 8 1/2 inches by 11 inches,  
1040 which must be furnished by the candidate at least 35 days before  
1041 the election, to be included with the mailing, delivery, or  
1042 electronic transmission of the ballot, with the costs of  
1043 mailing, delivery, or transmission and copying to be borne by  
1044 the association. The association is not liable for the contents

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1045 of the information sheets provided by the candidates. In order  
1046 to reduce costs, the association may print or duplicate the  
1047 information sheets on both sides of the paper. The division  
1048 shall by rule establish voting procedures consistent with this  
1049 subparagraph, including rules establishing procedures for giving  
1050 notice by electronic transmission and rules providing for the  
1051 secrecy of ballots. Elections shall be decided by a plurality of  
1052 those ballots cast. There is no quorum requirement. However, at  
1053 least 20 percent of the eligible voters must cast a ballot in  
1054 order to have a valid election. A unit owner may not permit any  
1055 other person to vote his or her ballot, and any such ballots  
1056 improperly cast are invalid. A unit owner who needs assistance  
1057 in casting the ballot for the reasons stated in s. 101.051 may  
1058 obtain assistance in casting the ballot. Any unit owner  
1059 violating this provision may be fined by the association in  
1060 accordance with s. 719.303. The regular election must occur on  
1061 the date of the annual meeting. This subparagraph does not apply  
1062 to timeshare cooperatives. Notwithstanding this subparagraph, an  
1063 election and balloting are not required unless more candidates  
1064 file a notice of intent to run or are nominated than vacancies  
1065 exist on the board. Any challenge to the election process must  
1066 be commenced within 60 days after the election results are  
1067 announced.

1068 b. Within 90 days after being elected or appointed to the  
1069 board, each new director shall certify in writing to the  
1070 secretary of the association that he or she has read the  
1071 association's bylaws, articles of incorporation, proprietary  
1072 lease, and current written policies; that he or she will work to  
1073 uphold such documents and policies to the best of his or her

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1074 ability; and that he or she will faithfully discharge his or her  
1075 fiduciary responsibility to the association's members. Within 90  
1076 days after being elected or appointed to the board, in lieu of  
1077 this written certification, the newly elected or appointed  
1078 director may submit a certificate of having satisfactorily  
1079 completed the educational curriculum administered by an  
1080 education provider as approved by the division pursuant to the  
1081 requirements established in chapter 718 within 1 year before or  
1082 90 days after the date of election or appointment. The  
1083 educational certificate is valid and does not have to be  
1084 resubmitted as long as the director serves on the board without  
1085 interruption. A director who fails to timely file the written  
1086 certification or educational certificate is suspended from  
1087 service on the board until he or she complies with this sub-  
1088 subparagraph. The board may temporarily fill the vacancy during  
1089 the period of suspension. The secretary shall cause the  
1090 association to retain a director's written certification or  
1091 educational certificate for inspection by the members for 5  
1092 years after a director's election or the duration of the  
1093 director's uninterrupted tenure, whichever is longer. Failure to  
1094 have such written certification or educational certificate on  
1095 file does not affect the validity of any board action.

1096 2. Any approval by unit owners called for by this chapter,  
1097 or the applicable cooperative documents, must be made at a duly  
1098 noticed meeting of unit owners and is subject to this chapter or  
1099 the applicable cooperative documents relating to unit owner  
1100 decisionmaking, except that unit owners may take action by  
1101 written agreement, without meetings, on matters for which action  
1102 by written agreement without meetings is expressly allowed by

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1103 the applicable cooperative documents or law which provides for  
1104 the unit owner action.

1105 3. Unit owners may waive notice of specific meetings if  
1106 allowed by the applicable cooperative documents or law. If  
1107 authorized by the bylaws, notice of meetings of the board of  
1108 administration, shareholder meetings, except shareholder  
1109 meetings called to recall board members under paragraph (f), and  
1110 committee meetings may be given by electronic transmission to  
1111 unit owners who consent to receive notice by electronic  
1112 transmission.

1113 4. Unit owners have the right to participate in meetings of  
1114 unit owners with reference to all designated agenda items.  
1115 However, the association may adopt reasonable rules governing  
1116 the frequency, duration, and manner of unit owner participation.

1117 5. Any unit owner may tape record or videotape meetings of  
1118 the unit owners subject to reasonable rules adopted by the  
1119 division.

1120 6. Unless otherwise provided in the bylaws, a vacancy  
1121 occurring on the board before the expiration of a term may be  
1122 filled by the affirmative vote of the majority of the remaining  
1123 directors, even if the remaining directors constitute less than  
1124 a quorum, or by the sole remaining director. In the alternative,  
1125 a board may hold an election to fill the vacancy, in which case  
1126 the election procedures must conform to the requirements of  
1127 subparagraph 1. unless the association has opted out of the  
1128 statutory election process, in which case the bylaws of the  
1129 association control. Unless otherwise provided in the bylaws, a  
1130 board member appointed or elected under this subparagraph shall  
1131 fill the vacancy for the unexpired term of the seat being

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1132 filled. Filling vacancies created by recall is governed by  
1133 paragraph (f) and rules adopted by the division.

1134  
1135 Notwithstanding subparagraphs (b)2. and (d)1., an association  
1136 may, by the affirmative vote of a majority of the total voting  
1137 interests, provide for a different voting and election procedure  
1138 in its bylaws, which vote may be by a proxy specifically  
1139 delineating the different voting and election procedures. The  
1140 different voting and election procedures may provide for  
1141 elections to be conducted by limited or general proxy.

1142 (f) *Recall of board members.*—Subject to ~~the provisions of~~  
1143 s. 719.301, any member of the board of administration may be  
1144 recalled and removed from office with or without cause by the  
1145 vote or agreement in writing by a majority of all the voting  
1146 interests. A special meeting of the voting interests to recall  
1147 any member of the board of administration may be called by 10  
1148 percent of the unit owners giving notice of the meeting as  
1149 required for a meeting of unit owners, and the notice shall  
1150 state the purpose of the meeting. Electronic transmission may  
1151 not be used as a method of giving notice of a meeting called in  
1152 whole or in part for this purpose.

1153 1. If the recall is approved by a majority of all voting  
1154 interests by a vote at a meeting, the recall shall be effective  
1155 as provided in this paragraph herein. The board shall duly  
1156 notice and hold a board meeting within 5 full business days  
1157 after ~~of~~ the adjournment of the unit owner meeting to recall one  
1158 or more board members. At the meeting, the board shall either  
1159 certify the recall, in which case such member or members shall  
1160 be recalled effective immediately and shall turn over to the



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1161 board within 5 full business days any and all records and  
1162 property of the association in their possession, or shall  
1163 proceed as set forth in subparagraph 3.

1164 2. If the proposed recall is by an agreement in writing by  
1165 a majority of all voting interests, the agreement in writing or  
1166 a copy thereof shall be served on the association by certified  
1167 mail or by personal service in the manner authorized by chapter  
1168 48 and the Florida Rules of Civil Procedure. The board of  
1169 administration shall duly notice and hold a meeting of the board  
1170 within 5 full business days after receipt of the agreement in  
1171 writing. At the meeting, the board shall either certify the  
1172 written agreement to recall members of the board, in which case  
1173 such members shall be recalled effective immediately and shall  
1174 turn over to the board, within 5 full business days, any and all  
1175 records and property of the association in their possession, or  
1176 proceed as described in subparagraph 3.

1177 3. If the board determines not to certify the written  
1178 agreement to recall members of the board, or does not certify  
1179 the recall by a vote at a meeting, the board shall, within 5  
1180 full business days after the board meeting, file with the  
1181 division a petition for binding arbitration pursuant to the  
1182 procedures of s. 719.1255. For purposes of this paragraph, the  
1183 unit owners who voted at the meeting or who executed the  
1184 agreement in writing shall constitute one party under the  
1185 petition for arbitration. If the arbitrator certifies the recall  
1186 as to any member of the board, the recall shall be effective  
1187 upon mailing of the final order of arbitration to the  
1188 association. If the association fails to comply with the order  
1189 of the arbitrator, the division may take action pursuant to s.

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1190 719.501. Any member so recalled shall deliver to the board any  
1191 and all records and property of the association in the member's  
1192 possession within 5 full business days after ~~of~~ the effective  
1193 date of the recall.

1194 4. If the board fails to duly notice and hold a board  
1195 meeting within 5 full business days after ~~of~~ service of an  
1196 agreement in writing or within 5 full business days after ~~of~~ the  
1197 adjournment of the unit owner recall meeting, the recall shall  
1198 be deemed effective and the board members so recalled shall  
1199 immediately turn over to the board any and all records and  
1200 property of the association.

1201 5. If the board fails to duly notice and hold the required  
1202 meeting or fails to file the required petition, the unit owner  
1203 representative may file a petition pursuant to s. 719.1255  
1204 challenging the board's failure to act. The petition must be  
1205 filed within 60 days after the expiration of the applicable 5-  
1206 full-business-day period. The review of a petition under this  
1207 subparagraph is limited to the sufficiency of service on the  
1208 board and the facial validity of the written agreement or  
1209 ballots filed.

1210 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
1211 recall and less than a majority of the board members are  
1212 removed, the vacancy may be filled by the affirmative vote of a  
1213 majority of the remaining directors, notwithstanding any  
1214 provision to the contrary contained in this chapter. If  
1215 vacancies occur on the board as a result of a recall and a  
1216 majority or more of the board members are removed, the vacancies  
1217 shall be filled in accordance with procedural rules to be  
1218 adopted by the division, which rules need not be consistent with

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1219 this chapter. The rules must provide procedures governing the  
1220 conduct of the recall election as well as the operation of the  
1221 association during the period after a recall but prior to the  
1222 recall election.

1223 7. A board member who has been recalled may file a petition  
1224 pursuant to s. 719.1255 challenging the validity of a recall.  
1225 The petition must be filed within 60 days after the recall is  
1226 deemed certified. The association and the unit owner  
1227 representative shall be named as the respondents.

1228 8. The division may not accept for filing a recall  
1229 petition, whether filed pursuant to subparagraph 1.,  
1230 subparagraph 2., subparagraph 5., or subparagraph 7. and  
1231 regardless of whether the recall was certified, when there are  
1232 60 or fewer days until the scheduled reelection of the board  
1233 member sought to be recalled or when 60 or fewer days have not  
1234 elapsed since the election of the board member sought to be  
1235 recalled.

1236 Section 15. Paragraph (a) of subsection (3) and subsection  
1237 (5) of section 719.303, Florida Statutes, are amended to read:

1238 719.303 Obligations of owners.—

1239 (3) The association may levy reasonable fines for failure  
1240 of the unit owner or the unit's occupant, licensee, or invitee  
1241 to comply with any provision of the cooperative documents or  
1242 reasonable rules of the association. A fine may not become a  
1243 lien against a unit. A fine may be levied on the basis of each  
1244 day of a continuing violation, with a single notice and  
1245 opportunity for hearing. However, the fine may not exceed \$100  
1246 per violation, or \$1,000 in the aggregate.

1247 (a) An association may suspend, for a reasonable period of

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1248 time, the right of a unit owner, or a unit owner's tenant,  
1249 guest, or invitee, to use the common elements, common  
1250 facilities, or any other association property for failure to  
1251 comply with any provision of the cooperative documents or  
1252 reasonable rules of the association. This paragraph does not  
1253 apply to limited common elements intended to be used only by  
1254 that unit, common elements needed to access the unit, utility  
1255 services provided to the unit, parking spaces, or elevators.

1256 (5) An association may suspend the voting rights of a unit  
1257 or member due to nonpayment of any monetary obligation due to  
1258 the association which is more than 90 days delinquent.  
1259 Notwithstanding an association's cooperative documents, the  
1260 requirements to establish a quorum, conduct an election, or  
1261 obtain membership approval on actions under this chapter or  
1262 pursuant to the association's cooperative documents shall be  
1263 reduced by the number of suspended voting interests or consent  
1264 rights. A voting interest or consent right allocated to a unit  
1265 or member which has been suspended by the association may not be  
1266 counted towards the total number of voting interests for any  
1267 purpose, including, but not limited to, the number of voting  
1268 interests necessary to constitute a quorum, the number of voting  
1269 interests required to conduct an election, or the number of  
1270 voting interests required to approve an action under this  
1271 chapter or pursuant to the cooperative documents, articles of  
1272 incorporation, or bylaws. The suspension ends upon full payment  
1273 of all obligations currently due or overdue the association. The  
1274 notice and hearing requirements under subsection (3) do not  
1275 apply to a suspension imposed under this subsection.

1276 Section 16. Paragraph (c) of subsection (5) and subsection

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1277 (10) of section 720.303, Florida Statutes, are amended to read:  
1278 720.303 Association powers and duties; meetings of board;  
1279 official records; budgets; financial reporting; association  
1280 funds; recalls.—

1281 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
1282 shall be maintained within the state and must be open to  
1283 inspection and available for photocopying by members or their  
1284 authorized agents at reasonable times and places within 10  
1285 business days after receipt of a written request for access.  
1286 This subsection may be complied with by having a copy of the  
1287 official records available for inspection or copying in the  
1288 community. If the association has a photocopy machine available  
1289 where the records are maintained, it must provide parcel owners  
1290 with copies on request during the inspection if the entire  
1291 request is limited to no more than 25 pages.

1292 (c) The association may adopt reasonable written rules  
1293 governing the frequency, time, location, notice, records to be  
1294 inspected, and manner of inspections, but may not require a  
1295 parcel owner to demonstrate any proper purpose for the  
1296 inspection, state any reason for the inspection, or limit a  
1297 parcel owner's right to inspect records to less than one 8-hour  
1298 business day per month. The association may impose fees to cover  
1299 the costs of providing copies of the official records,  
1300 including, without limitation, the costs of copying. The  
1301 association may charge up to 50 cents per page for copies made  
1302 on the association's photocopier. If the association does not  
1303 have a photocopy machine available where the records are kept,  
1304 or if the records requested to be copied exceed 25 pages in  
1305 length, the association may have copies made by an outside

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1306 vendor or association management company personnel and may  
1307 charge the actual cost of copying, including any reasonable  
1308 costs involving personnel fees and charges at an hourly rate for  
1309 vendor or employee time to cover administrative costs to the  
1310 vendor or association. The association shall maintain an  
1311 adequate number of copies of the recorded governing documents,  
1312 to ensure their availability to members and prospective members.  
1313 Notwithstanding this paragraph, the following records are not  
1314 accessible to members or parcel owners:

1315 1. Any record protected by the lawyer-client privilege as  
1316 described in s. 90.502 and any record protected by the work-  
1317 product privilege, including, but not limited to, a record  
1318 prepared by an association attorney or prepared at the  
1319 attorney's express direction which reflects a mental impression,  
1320 conclusion, litigation strategy, or legal theory of the attorney  
1321 or the association and which was prepared exclusively for civil  
1322 or criminal litigation or for adversarial administrative  
1323 proceedings or which was prepared in anticipation of such  
1324 litigation or proceedings until the conclusion of the litigation  
1325 or proceedings.

1326 2. Information obtained by an association in connection  
1327 with the approval of the lease, sale, or other transfer of a  
1328 parcel.

1329 3. Personnel records of association or management company  
1330 ~~the association's~~ employees, including, but not limited to,  
1331 disciplinary, payroll, health, and insurance records. For  
1332 purposes of this subparagraph, the term "personnel records" does  
1333 not include written employment agreements with an association or  
1334 management company employee or budgetary or financial records

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1335 that indicate the compensation paid to an association or  
1336 management company employee.

1337 4. Medical records of parcel owners or community residents.

1338 5. Social security numbers, driver ~~driver's~~ license  
1339 numbers, credit card numbers, electronic mailing addresses,  
1340 telephone numbers, facsimile numbers, emergency contact  
1341 information, any addresses for a parcel owner other than as  
1342 provided for association notice requirements, and other personal  
1343 identifying information of any person, excluding the person's  
1344 name, parcel designation, mailing address, and property address.  
1345 However, an owner may consent in writing to the disclosure of  
1346 protected information described in this subparagraph. The  
1347 association is not liable for the disclosure of information that  
1348 is protected under this subparagraph if the information is  
1349 included in an official record of the association and is  
1350 voluntarily provided by an owner and not requested by the  
1351 association.

1352 6. Any electronic security measure that is used by the  
1353 association to safeguard data, including passwords.

1354 7. The software and operating system used by the  
1355 association which allows the manipulation of data, even if the  
1356 owner owns a copy of the same software used by the association.  
1357 The data is part of the official records of the association.

1358 (10) RECALL OF DIRECTORS.—

1359 (a)1. Regardless of any provision to the contrary contained  
1360 in the governing documents, subject to the provisions of s.  
1361 720.307 regarding transition of association control, any member  
1362 of the board of directors may be recalled and removed from  
1363 office with or without cause by a majority of the total voting

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1364 interests.

1365         2. When the governing documents, including the declaration,  
1366 articles of incorporation, or bylaws, provide that only a  
1367 specific class of members is entitled to elect a board director  
1368 or directors, only that class of members may vote to recall  
1369 those board directors so elected.

1370         (b)1. Board directors may be recalled by an agreement in  
1371 writing or by written ballot without a membership meeting. The  
1372 agreement in writing or the written ballots, or a copy thereof,  
1373 shall be served on the association by certified mail or by  
1374 personal service in the manner authorized by chapter 48 and the  
1375 Florida Rules of Civil Procedure.

1376         2. The board shall duly notice and hold a meeting of the  
1377 board within 5 full business days after receipt of the agreement  
1378 in writing or written ballots. At the meeting, the board shall  
1379 either certify the written ballots or written agreement to  
1380 recall a director or directors of the board, in which case such  
1381 director or directors shall be recalled effective immediately  
1382 and shall turn over to the board within 5 full business days any  
1383 and all records and property of the association in their  
1384 possession, or proceed as described in paragraph (d).

1385         3. When it is determined by the department pursuant to  
1386 binding arbitration proceedings that an initial recall effort  
1387 was defective, written recall agreements or written ballots used  
1388 in the first recall effort and not found to be defective may be  
1389 reused in one subsequent recall effort. However, in no event is  
1390 a written agreement or written ballot valid for more than 120  
1391 days after it has been signed by the member.

1392         4. Any rescission or revocation of a member's written



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1393 recall ballot or agreement must be in writing and, in order to  
1394 be effective, must be delivered to the association before the  
1395 association is served with the written recall agreements or  
1396 ballots.

1397         5. The agreement in writing or ballot shall list at least  
1398 as many possible replacement directors as there are directors  
1399 subject to the recall, when at least a majority of the board is  
1400 sought to be recalled; the person executing the recall  
1401 instrument may vote for as many replacement candidates as there  
1402 are directors subject to the recall.

1403         (c)1. If the declaration, articles of incorporation, or  
1404 bylaws specifically provide, the members may also recall and  
1405 remove a board director or directors by a vote taken at a  
1406 meeting. If so provided in the governing documents, a special  
1407 meeting of the members to recall a director or directors of the  
1408 board of administration may be called by 10 percent of the  
1409 voting interests giving notice of the meeting as required for a  
1410 meeting of members, and the notice shall state the purpose of  
1411 the meeting. Electronic transmission may not be used as a method  
1412 of giving notice of a meeting called in whole or in part for  
1413 this purpose.

1414         2. The board shall duly notice and hold a board meeting  
1415 within 5 full business days after the adjournment of the member  
1416 meeting to recall one or more directors. At the meeting, the  
1417 board shall certify the recall, in which case such member or  
1418 members shall be recalled effective immediately and shall turn  
1419 over to the board within 5 full business days any and all  
1420 records and property of the association in their possession, or  
1421 shall proceed as set forth in subparagraph (d).

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1422 (d) If the board determines not to certify the written  
1423 agreement or written ballots to recall a director or directors  
1424 of the board or does not certify the recall by a vote at a  
1425 meeting, the board shall, within 5 full business days after the  
1426 meeting, file with the department a petition for binding  
1427 arbitration pursuant to the applicable procedures in ss.  
1428 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For  
1429 the purposes of this section, the members who voted at the  
1430 meeting or who executed the agreement in writing shall  
1431 constitute one party under the petition for arbitration. If the  
1432 arbitrator certifies the recall as to any director or directors  
1433 of the board, the recall will be effective upon mailing of the  
1434 final order of arbitration to the association. The director or  
1435 directors so recalled shall deliver to the board any and all  
1436 records of the association in their possession within 5 full  
1437 business days after the effective date of the recall.

1438 (e) If a vacancy occurs on the board as a result of a  
1439 recall and less than a majority of the board directors are  
1440 removed, the vacancy may be filled by the affirmative vote of a  
1441 majority of the remaining directors, notwithstanding any  
1442 provision to the contrary contained in this subsection or in the  
1443 association documents. If vacancies occur on the board as a  
1444 result of a recall and a majority or more of the board directors  
1445 are removed, the vacancies shall be filled by members voting in  
1446 favor of the recall; if removal is at a meeting, any vacancies  
1447 shall be filled by the members at the meeting. If the recall  
1448 occurred by agreement in writing or by written ballot, members  
1449 may vote for replacement directors in the same instrument in  
1450 accordance with procedural rules adopted by the division, which

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1451 rules need not be consistent with this subsection.

1452 (f) If the board fails to duly notice and hold a board  
1453 meeting within 5 full business days after service of an  
1454 agreement in writing or within 5 full business days after the  
1455 adjournment of the member recall meeting, the recall shall be  
1456 deemed effective and the board directors so recalled shall  
1457 immediately turn over to the board all records and property of  
1458 the association.

1459 (g) If the board fails to duly notice and hold the required  
1460 meeting or fails to file the required petition, the unit owner  
1461 representative may file a petition pursuant to s. 718.1255  
1462 challenging the board's failure to act. The petition must be  
1463 filed within 60 days after the expiration of the applicable 5-  
1464 full-business-day period. The review of a petition under this  
1465 paragraph is limited to the sufficiency of service on the board  
1466 and the facial validity of the written agreement or ballots  
1467 filed.

1468 (h)~~(g)~~ If a director who is removed fails to relinquish his  
1469 or her office or turn over records as required under this  
1470 section, the circuit court in the county where the association  
1471 maintains its principal office may, upon the petition of the  
1472 association, summarily order the director to relinquish his or  
1473 her office and turn over all association records upon  
1474 application of the association.

1475 (i)~~(h)~~ The minutes of the board meeting at which the board  
1476 decides whether to certify the recall are an official  
1477 association record. The minutes must record the date and time of  
1478 the meeting, the decision of the board, and the vote count taken  
1479 on each board member subject to the recall. In addition, when

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1480 the board decides not to certify the recall, as to each vote  
1481 rejected, the minutes must identify the parcel number and the  
1482 specific reason for each such rejection.

1483 (j)~~(i)~~ When the recall of more than one board director is  
1484 sought, the written agreement, ballot, or vote at a meeting  
1485 shall provide for a separate vote for each board director sought  
1486 to be recalled.

1487 (k) A board member who has been recalled may file a  
1488 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the  
1489 rules adopted challenging the validity of the recall. The  
1490 petition must be filed within 60 days after the recall is deemed  
1491 certified. The association and the unit owner representative  
1492 shall be named as respondents.

1493 (l) The division may not accept for filing a recall  
1494 petition, whether filed pursuant to paragraph (b), paragraph  
1495 (c), paragraph (g), or paragraph (k) and regardless of whether  
1496 the recall was certified, when there are 60 or fewer days until  
1497 the scheduled reelection of the board member sought to be  
1498 recalled or when 60 or fewer days have not elapsed since the  
1499 election of the board member sought to be recalled.

1500 Section 17. Subsections (2) and (4) of section 720.305,  
1501 Florida Statutes, are amended to read:

1502 720.305 Obligations of members; remedies at law or in  
1503 equity; levy of fines and suspension of use rights.—

1504 (2) The association may levy reasonable fines of up to \$100  
1505 per violation against any member or any member's tenant, guest,  
1506 or invitee for the failure of the owner of the parcel or its  
1507 occupant, licensee, or invitee to comply with any provision of  
1508 the declaration, the association bylaws, or reasonable rules of

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1509 the association. A fine may be levied for each day of a  
1510 continuing violation, with a single notice and opportunity for  
1511 hearing, except that the fine may not exceed \$1,000 in the  
1512 aggregate unless otherwise provided in the governing documents.  
1513 A fine of less than \$1,000 may not become a lien against a  
1514 parcel. In any action to recover a fine, the prevailing party is  
1515 entitled to reasonable attorney ~~attorney's~~ fees and costs from  
1516 the nonprevailing party as determined by the court.

1517 (a) An association may suspend, for a reasonable period of  
1518 time, the right of a member, or a member's tenant, guest, or  
1519 invitee, to use common areas and facilities for the failure of  
1520 the owner of the parcel or its occupant, licensee, or invitee to  
1521 comply with any provision of the declaration, the association  
1522 bylaws, or reasonable rules of the association. This paragraph  
1523 does not apply to that portion of common areas used to provide  
1524 access or utility services to the parcel. A suspension may not  
1525 impair the right of an owner or tenant of a parcel to have  
1526 vehicular and pedestrian ingress to and egress from the parcel,  
1527 including, but not limited to, the right to park.

1528 (b) A fine or suspension may not be imposed without at  
1529 least 14 days' notice to the person sought to be fined or  
1530 suspended and an opportunity for a hearing before a committee of  
1531 at least three members appointed by the board who are not  
1532 officers, directors, or employees of the association, or the  
1533 spouse, parent, child, brother, or sister of an officer,  
1534 director, or employee. If the committee, by majority vote, does  
1535 not approve a proposed fine or suspension, it may not be  
1536 imposed. If the association imposes a fine or suspension, the  
1537 association must provide written notice of such fine or

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1538 suspension by mail or hand delivery to the parcel owner and, if  
1539 applicable, to any tenant, licensee, or invitee of the parcel  
1540 owner.

1541 (4) An association may suspend the voting rights of a  
1542 parcel or member for the nonpayment of any monetary obligation  
1543 due ~~to~~ the association that is more than 90 days delinquent.  
1544 Notwithstanding an association's governing documents, the  
1545 requirements to establish a quorum, conduct an election, or  
1546 obtain membership approval on actions under this chapter or  
1547 pursuant to the association's governing documents shall be  
1548 reduced by the number of suspended voting interests or consent  
1549 rights. A voting interest or consent right allocated to a parcel  
1550 or member which has been suspended by the association may not be  
1551 counted towards the total number of voting interests for any  
1552 purpose, including, but not limited to, the number of voting  
1553 interests necessary to constitute a quorum, the number of voting  
1554 interests required to conduct an election, or the number of  
1555 voting interests required to approve an action under this  
1556 chapter or pursuant to the governing documents. The notice and  
1557 hearing requirements under subsection (2) do not apply to a  
1558 suspension imposed under this subsection. The suspension ends  
1559 upon full payment of all obligations currently due or overdue to  
1560 the association.

1561 Section 18. Paragraph (d) is added to subsection (1) of  
1562 section 720.306, Florida Statutes, and subsection (9) of that  
1563 section is amended, to read:

1564 720.306 Meetings of members; voting and election  
1565 procedures; amendments.—

1566 (1) QUORUM; AMENDMENTS.—

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1567       (d) The Legislature finds that the procurement of mortgagee  
1568 consent to amendments that do not affect the rights or interests  
1569 of mortgagees is an unreasonable and substantial logistical and  
1570 financial burden on the parcel owners and that there is a  
1571 compelling state interest in enabling the members of an  
1572 association to approve amendments to the association's governing  
1573 documents through legal means. Accordingly, and notwithstanding  
1574 any provision to the contrary contained in this paragraph:

1575       1. As to any mortgage recorded on or after July 1, 2012,  
1576 any provision in the association's governing documents that  
1577 requires the consent or joinder of some or all mortgagees of  
1578 parcels or any other portion of the association's common areas  
1579 to amend the association's governing documents or for any other  
1580 matter is enforceable only as to amendments to the association's  
1581 governing documents that adversely affect the priority of the  
1582 mortgagee's lien or the mortgagee's rights to foreclose its lien  
1583 or that otherwise materially affect the rights and interests of  
1584 the mortgagees.

1585       2. As to mortgages recorded before July 1, 2012, any  
1586 existing provisions in the association's governing documents  
1587 requiring mortgagee consent are enforceable.

1588       3. In securing consent or joinder, the association is  
1589 entitled to rely upon the public records to identify the holders  
1590 of outstanding mortgages. The association may use the address  
1591 provided in the original recorded mortgage document, unless  
1592 there is a different address for the holder of the mortgage in a  
1593 recorded assignment or modification of the mortgage, which  
1594 recorded assignment or modification must reference the official  
1595 records book and page on which the original mortgage was

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1596 recorded. Once the association has identified the recorded  
1597 mortgages of record, the association shall, in writing, request  
1598 of each parcel owner whose parcel is encumbered by a mortgage of  
1599 record any information the owner has in his or her possession  
1600 regarding the name and address of the person to whom mortgage  
1601 payments are currently being made. Notice shall be sent to such  
1602 person if the address provided in the original recorded mortgage  
1603 document is different from the name and address of the mortgagee  
1604 or assignee of the mortgage as shown by the public record. The  
1605 association is deemed to have complied with this requirement by  
1606 making the written request of the parcel owners required under  
1607 this subparagraph. Any notices required to be sent to the  
1608 mortgagees under this subparagraph shall be sent to all  
1609 available addresses provided to the association.

1610 4. Any notice to the mortgagees required under subparagraph  
1611 3. may be sent by a method that establishes proof of delivery,  
1612 and any mortgagee who fails to respond within 60 days after the  
1613 date of mailing is deemed to have consented to the amendment.

1614 5. For those amendments requiring mortgagee consent on or  
1615 after July 1, 2012, in the event mortgagee consent is provided  
1616 other than by properly recorded joinder, such consent shall be  
1617 evidenced by affidavit of the association recorded in the public  
1618 records of the county in which the declaration is recorded.

1619 6. Any amendment adopted without the required consent of a  
1620 mortgagee is voidable only by a mortgagee who was entitled to  
1621 notice and an opportunity to consent. An action to void an  
1622 amendment is subject to the statute of limitations beginning 5  
1623 years after the date of discovery as to the amendments described  
1624 in subparagraph 1. and 5 years after the date of recordation of



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1625 the certificate of amendment for all other amendments. This  
1626 subparagraph applies to all mortgages, regardless of the date of  
1627 recordation of the mortgage.

1628 (9)~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

1629 (a) Elections of directors must be conducted in accordance  
1630 with the procedures set forth in the governing documents of the  
1631 association. All members of the association are eligible to  
1632 serve on the board of directors, and a member may nominate  
1633 himself or herself as a candidate for the board at a meeting  
1634 where the election is to be held or, if the election process  
1635 allows voting by absentee ballot, in advance of the balloting.  
1636 Except as otherwise provided in the governing documents, boards  
1637 of directors must be elected by a plurality of the votes cast by  
1638 eligible voters. Any challenge to the election process must be  
1639 commenced within 60 days after the election results are  
1640 announced.

1641 (b) A person who is delinquent in the payment of any fee,  
1642 fine, or other monetary obligation to the association for more  
1643 than 90 days is not eligible for board membership. A person who  
1644 has been convicted of any felony in this state or in a United  
1645 States District or Territorial Court, or has been convicted of  
1646 any offense in another jurisdiction which would be considered a  
1647 felony if committed in this state, is not eligible for board  
1648 membership unless such felon's civil rights have been restored  
1649 for at least 5 years as of the date on which such person seeks  
1650 election to the board. The validity of any action by the board  
1651 is not affected if it is later determined that a member of the  
1652 board is ineligible for board membership.

1653 (c) Any election dispute between a member and an

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1654 association must be submitted to mandatory binding arbitration  
1655 with the division. Such proceedings must be conducted in the  
1656 manner provided by s. 718.1255 and the procedural rules adopted  
1657 by the division. Unless otherwise provided in the bylaws, any  
1658 vacancy occurring on the board before the expiration of a term  
1659 may be filled by an affirmative vote of the majority of the  
1660 remaining directors, even if the remaining directors constitute  
1661 less than a quorum, or by the sole remaining director. In the  
1662 alternative, a board may hold an election to fill the vacancy,  
1663 in which case the election procedures must conform to the  
1664 requirements of the governing documents. Unless otherwise  
1665 provided in the bylaws, a board member appointed or elected  
1666 under this section is appointed for the unexpired term of the  
1667 seat being filled. Filling vacancies created by recall is  
1668 governed by s. 720.303(10) and rules adopted by the division.

1669 (d) Within 90 days after being elected or appointed to the  
1670 board, each new director shall certify in writing to the  
1671 secretary of the association that he or she has read the  
1672 association's declaration of covenants' conditions and  
1673 restrictions, articles of incorporation, bylaws, and current  
1674 written policies; that he or she will work to uphold such  
1675 documents and policies to the best of his or her ability; and  
1676 that he or she will faithfully discharge his or her fiduciary  
1677 responsibility to the association's members. Within 90 days  
1678 after being elected or appointed to the board, in lieu of this  
1679 written certification, the newly elected or appointed director  
1680 may submit a certificate of having satisfactorily completed the  
1681 educational curriculum administered by a division-approved  
1682 education provider within 1 year before or 90 days after the

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1683 date of election or appointment. The educational certificate is  
1684 valid and does not have to be resubmitted as long as the  
1685 director serves on the board without interruption. A director  
1686 who fails to timely file the written certification or  
1687 educational certificate is suspended from service on the board  
1688 until he or she complies with this paragraph. The board may  
1689 temporarily fill the vacancy during the period of suspension.  
1690 The secretary shall cause the association to retain a director's  
1691 written certification or educational certificate for inspection  
1692 by the members for 5 years after a director's election or the  
1693 duration of the director's tenure, whichever is longer. Failure  
1694 to have such written certification or educational certificate on  
1695 file does not affect the validity of any board action.

1696 Section 19. Paragraphs (b) and (d) of subsection (2) of  
1697 section 720.3085, Florida Statutes, are amended to read:

1698 720.3085 Payment for assessments; lien claims.—

1699 (2)

1700 (b) A parcel owner, regardless of how the parcel owner has  
1701 acquired title, including, but not limited to, by purchase at a  
1702 foreclosure sale, is jointly and severally liable with the  
1703 previous parcel owner for all unpaid assessments, late fees,  
1704 interest, costs, and reasonable attorney fees incurred by the  
1705 association in an attempt to collect all such amounts that came  
1706 due up to the time of transfer of title. This liability is  
1707 without prejudice to any right the present parcel owner may have  
1708 to recover any amounts paid by the present owner from the  
1709 previous owner.

1710 (d) An association, or its successor or assignee, that  
1711 acquires title to a parcel through the foreclosure of its lien

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1712 for assessments is not liable for any unpaid assessments, late  
1713 fees, interest, or reasonable attorney ~~attorney's~~ fees and costs  
1714 that came due before the association's acquisition of title in  
1715 favor of any other association, as defined in s. 718.103(2) or  
1716 s. 720.301(9), which holds a ~~superior~~ lien interest on the  
1717 parcel. This paragraph is intended to clarify existing law.

1718 Section 20. This act shall take effect July 1, 2012.