

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

Committee/Subcommittee hearing bill: Careers & Competition
Subcommittee

Representative Moraitis offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (12) and (13) of section 718.111,
Florida Statutes, are amended to read:

718.111 The association.—

(12) OFFICIAL RECORDS.—

(a) From the inception of the association, the association
shall maintain each of the following items, if applicable, which
constitutes the official records of the association:

1. A copy of the plans, permits, warranties, and other
items provided by the developer pursuant to s. 718.301(4).

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16 2. A photocopy of the recorded declaration of condominium
17 of each condominium operated by the association and each
18 amendment to each declaration.

19 3. A photocopy of the recorded bylaws of the association
20 and each amendment to the bylaws.

21 4. A certified copy of the articles of incorporation of
22 the association, or other documents creating the association,
23 and each amendment thereto.

24 5. A copy of the current rules of the association.

25 6. A book or books that contain the minutes of all
26 meetings of the association, the board of administration, and
27 the unit owners, which minutes must be retained for at least 7
28 years.

29 7. A current roster of all unit owners and their mailing
30 addresses, unit identifications, and voting certifications, and,
31 if known, telephone numbers. The association shall also maintain
32 the electronic mailing addresses and facsimile numbers of unit
33 owners consenting to receive notice by electronic transmission.
34 The electronic mailing addresses and facsimile numbers are not
35 accessible to unit owners if consent to receive notice by
36 electronic transmission is not provided in accordance with
37 subparagraph (c)5. However, the association is not liable for an
38 inadvertent disclosure of the electronic mail address or
39 facsimile number for receiving electronic transmission of
40 notices.

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41 8. All current insurance policies of the association and
42 condominiums operated by the association.

43 9. A current copy of any management agreement, lease, or
44 other contract to which the association is a party or under
45 which the association or the unit owners have an obligation or
46 responsibility.

47 10. Bills of sale or transfer for all property owned by
48 the association.

49 11. Accounting records for the association and separate
50 accounting records for each condominium that the association
51 operates. All accounting records must be maintained for at least
52 7 years. Any person who knowingly or intentionally defaces or
53 destroys such records, or who knowingly or intentionally fails
54 to create or maintain such records, with the intent of causing
55 harm to the association or one or more of its members, is
56 personally subject to a civil penalty pursuant to s.
57 718.501(1) (d). The accounting records must include, but are not
58 limited to:

59 a. Accurate, itemized, and detailed records of all
60 receipts and expenditures.

61 b. A current account and a monthly, bimonthly, or
62 quarterly statement of the account for each unit designating the
63 name of the unit owner, the due date and amount of each
64 assessment, the amount paid on the account, and the balance due.

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65 c. All audits, reviews, accounting statements, and
66 financial reports of the association or condominium.

67 d. All contracts for work to be performed. Bids for work
68 to be performed are also considered official records and must be
69 maintained by the association for 1 year.

70 12. Ballots, sign-in sheets, voting proxies, and all other
71 papers and electronic records relating to voting by unit owners,
72 which must be maintained for 1 year from the date of the
73 election, vote, or meeting to which the document relates,
74 notwithstanding paragraph (b).

75 13. All rental records if the association is acting as
76 agent for the rental of condominium units.

77 14. A copy of the current question and answer sheet as
78 described in s. 718.504.

79 15. All other written records of the association not
80 specifically included in the foregoing which are related to the
81 operation of the association.

82 16. A copy of the inspection report as described in s.
83 718.301(4) (p).

84 (b) The official records of the association must be
85 maintained within the state for at least 7 years. The records of
86 the association shall be made available to a unit owner within
87 45 miles of the condominium property or within the county in
88 which the condominium property is located within 10 ~~5~~ working
89 days after receipt of a written request by the board or its

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90 designee. However, such distance requirement does not apply to
91 an association governing a timeshare condominium. This paragraph
92 may be complied with by having a copy of the official records of
93 the association available for inspection or copying on the
94 condominium property or association property, or the association
95 may offer the option of making the records available to a unit
96 owner electronically via the Internet or by allowing the records
97 to be viewed in electronic format on a computer screen and
98 printed upon request. The association is not responsible for the
99 use or misuse of the information provided to an association
100 member or his or her authorized representative pursuant to the
101 compliance requirements of this chapter unless the association
102 has an affirmative duty not to disclose such information
103 pursuant to this chapter.

104 (c) The official records of the association are open to
105 inspection by any association member or the authorized
106 representative of such member at all reasonable times. The right
107 to inspect the records includes the right to make or obtain
108 copies, at the reasonable expense, if any, of the member. The
109 association may adopt reasonable rules regarding the frequency,
110 time, location, notice, and manner of record inspections and
111 copying. The failure of an association to provide the records
112 within 10 working days after receipt of a written request
113 creates a rebuttable presumption that the association willfully
114 failed to comply with this paragraph. A unit owner who is denied

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115 access to official records is entitled to the actual damages or
116 minimum damages for the association's willful failure to comply.
117 Minimum damages are \$50 per calendar day for up to 10 days,
118 beginning on the 11th working day after receipt of the written
119 request. The failure to permit inspection entitles any person
120 prevailing in an enforcement action to recover reasonable
121 attorney fees from the person in control of the records who,
122 directly or indirectly, knowingly denied access to the records.
123 Any person who knowingly or intentionally defaces or destroys
124 accounting records that are required by this chapter to be
125 maintained during the period for which such records are required
126 to be maintained, or who knowingly or intentionally fails to
127 create or maintain accounting records that are required to be
128 created or maintained, with the intent of causing harm to the
129 association or one or more of its members, is personally subject
130 to a civil penalty pursuant to s. 718.501(1)(d). The association
131 shall maintain an adequate number of copies of the declaration,
132 articles of incorporation, bylaws, and rules, and all amendments
133 to each of the foregoing, as well as the question and answer
134 sheet as described in s. 718.504 and year-end financial
135 information required under this section, on the condominium
136 property to ensure their availability to unit owners and
137 prospective purchasers, and may charge its actual costs for
138 preparing and furnishing these documents to those requesting the
139 documents. An association shall allow a member or his or her

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140 authorized representative to use a portable device, including a
141 smartphone, tablet, portable scanner, or any other technology
142 capable of scanning or taking photographs, to make an electronic
143 copy of the official records in lieu of the association's
144 providing the member or his or her authorized representative
145 with a copy of such records. The association may not charge a
146 member or his or her authorized representative for the use of a
147 portable device. Notwithstanding this paragraph, the following
148 records are not accessible to unit owners:

149 1. Any record protected by the lawyer-client privilege as
150 described in s. 90.502 and any record protected by the work-
151 product privilege, including a record prepared by an association
152 attorney or prepared at the attorney's express direction, which
153 reflects a mental impression, conclusion, litigation strategy,
154 or legal theory of the attorney or the association, and which
155 was prepared exclusively for civil or criminal litigation or for
156 adversarial administrative proceedings, or which was prepared in
157 anticipation of such litigation or proceedings until the
158 conclusion of the litigation or proceedings.

159 2. Information obtained by an association in connection
160 with the approval of the lease, sale, or other transfer of a
161 unit.

162 3. Personnel records of association or management company
163 employees, including, but not limited to, disciplinary, payroll,
164 health, and insurance records. For purposes of this

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subparagraph, the term "personnel records" does not include written employment agreements with an association employee or management company, or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of unit owners.

5. Social security numbers, driver license numbers, credit card numbers, e-mail addresses, telephone numbers, facsimile numbers, emergency contact information, addresses of a unit owner other than as provided to fulfill the association's notice requirements, and other personal identifying information of any person, excluding the person's name, unit designation, mailing address, property address, and any address, e-mail address, or facsimile number provided to the association to fulfill the association's notice requirements. Notwithstanding the restrictions in this subparagraph, an association may print and distribute to parcel owners a directory containing the name, parcel address, and all telephone numbers of each parcel owner. However, an owner may exclude his or her telephone numbers from the directory by so requesting in writing to the association. An owner may consent in writing to the disclosure of other contact information described in this subparagraph. The association is not liable for the inadvertent disclosure of information that is protected under this subparagraph if the information is included in an official record of the association and is voluntarily provided by an owner and not requested by the association.

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190 6. Electronic security measures that are used by the
191 association to safeguard data, including passwords.

192 7. The software and operating system used by the
193 association which allow the manipulation of data, even if the
194 owner owns a copy of the same software used by the association.
195 The data is part of the official records of the association.

196 (d) The association shall prepare a question and answer
197 sheet as described in s. 718.504, and shall update it annually.

198 (e)1. The association or its authorized agent is not
199 required to provide a prospective purchaser or lienholder with
200 information about the condominium or the association other than
201 information or documents required by this chapter to be made
202 available or disclosed. The association or its authorized agent
203 may charge a reasonable fee to the prospective purchaser,
204 lienholder, or the current unit owner for providing good faith
205 responses to requests for information by or on behalf of a
206 prospective purchaser or lienholder, other than that required by
207 law, if the fee does not exceed \$150 plus the reasonable cost of
208 photocopying and any attorney's fees incurred by the association
209 in connection with the response.

210 2. An association and its authorized agent are not liable
211 for providing such information in good faith pursuant to a
212 written request if the person providing the information includes
213 a written statement in substantially the following form: "The

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214 responses herein are made in good faith and to the best of my
215 ability as to their accuracy."

216 (f) An outgoing board or committee member must relinquish
217 all official records and property of the association in his or
218 her possession or under his or her control to the incoming board
219 within 5 days after the election. The division shall impose a
220 civil penalty as set forth in s. 718.501(1)(d)6. against an
221 outgoing board or committee member who willfully and knowingly
222 fails to relinquish such records and property.

223 (13) FINANCIAL REPORTING.—Within 90 days after the end of
224 the fiscal year, or annually on a date provided in the bylaws,
225 the association shall prepare and complete, or contract for the
226 preparation and completion of, a financial report for the
227 preceding fiscal year. Within 21 days after the final financial
228 report is completed by the association or received from the
229 third party, but not later than 120 days after the end of the
230 fiscal year or other date as provided in the bylaws, the
231 association shall mail to each unit owner at the address last
232 furnished to the association by the unit owner, or hand deliver
233 to each unit owner, a copy of the financial report or a notice
234 that a copy of the financial report will be mailed or hand
235 delivered to the unit owner, without charge, upon receipt of a
236 written request from the unit owner. The division shall adopt
237 rules setting forth uniform accounting principles and standards
238 to be used by all associations and addressing the financial

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reporting requirements for multicondominium associations. The rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. This disclosure is not applicable to reserves funded via the pooling method. In adopting such rules, the division shall consider the number of members and annual revenues of an association. Financial reports shall be prepared as follows:

(a) An association that meets the criteria of this paragraph shall prepare a complete set of financial statements in accordance with generally accepted accounting principles. The financial statements must be based upon the association's total annual revenues, as follows:

1. An association with total annual revenues of \$150,000 or more, but less than \$300,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least \$300,000, but less than \$500,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of \$500,000 or more shall prepare audited financial statements.

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263 (b)1. An association with total annual revenues of less
264 than \$150,000 shall prepare a report of cash receipts and
265 expenditures.

266 ~~2. An association that operates fewer than 50 units,~~
267 ~~regardless of the association's annual revenues, shall prepare a~~
268 ~~report of cash receipts and expenditures in lieu of financial~~
269 ~~statements required by paragraph (a).~~

270 2.3. A report of cash receipts and disbursements must
271 disclose the amount of receipts by accounts and receipt
272 classifications and the amount of expenses by accounts and
273 expense classifications, including, but not limited to, the
274 following, as applicable: costs for security, professional and
275 management fees and expenses, taxes, costs for recreation
276 facilities, expenses for refuse collection and utility services,
277 expenses for lawn care, costs for building maintenance and
278 repair, insurance costs, administration and salary expenses, and
279 reserves accumulated and expended for capital expenditures,
280 deferred maintenance, and any other category for which the
281 association maintains reserves.

282 (c) An association may prepare, without a meeting of or
283 approval by the unit owners:

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

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287 2. Reviewed or audited financial statements, if the
288 association is required to prepare compiled financial
289 statements; or

290 3. Audited financial statements if the association is
291 required to prepare reviewed financial statements.

292 (d) If approved by a majority of the voting interests
293 present at a properly called meeting of the association, an
294 association may prepare:

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

297 2. A report of cash receipts and expenditures or a
298 compiled financial statement in lieu of a reviewed or audited
299 financial statement; or

300 3. A report of cash receipts and expenditures, a compiled
301 financial statement, or a reviewed financial statement in lieu
302 of an audited financial statement.

303
304 Such meeting and approval must occur before the end of the
305 fiscal year and is effective only for the fiscal year in which
306 the vote is taken, except that the approval may also be
307 effective for the following fiscal year. If the developer has
308 not turned over control of the association, all unit owners,
309 including the developer, may vote on issues related to the
310 preparation of the association's financial reports, from the
311 date of incorporation of the association through the end of the

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312 second fiscal year after the fiscal year in which the
313 certificate of a surveyor and mapper is recorded pursuant to s.
314 718.104(4) (e) or an instrument that transfers title to a unit in
315 the condominium which is not accompanied by a recorded
316 assignment of developer rights in favor of the grantee of such
317 unit is recorded, whichever occurs first. Thereafter, all unit
318 owners except the developer may vote on such issues until
319 control is turned over to the association by the developer. Any
320 audit or review prepared under this section shall be paid for by
321 the developer if done before turnover of control of the
322 association. ~~An association may not waive the financial~~
323 ~~reporting requirements of this section for more than 3~~
324 ~~consecutive years.~~

325 Section 2. Paragraphs (c) and (l) of subsection (2) of
326 section 718.112, Florida Statutes, are amended to read:

327 718.112 Bylaws.—

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

331 (c) Board of administration meetings.—Meetings of the
332 board of administration at which a quorum of the members is
333 present are open to all unit owners. Members of the board of
334 administration may use e-mail as a means of communication but
335 may not cast a vote on an association matter via e-mail. A unit
336 owner may tape record or videotape the meetings. The right to

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attend such meetings includes the right to speak at such meetings with reference to all designated agenda items. The division shall adopt reasonable rules governing the tape recording and videotaping of the meeting. The association may adopt written reasonable rules governing the frequency, duration, and manner of unit owner statements.

1. Adequate notice of all board meetings, which must specifically identify all agenda items, must be posted conspicuously on the condominium property at least 48 continuous hours before the meeting except in an emergency. If 20 percent of the voting interests petition the board to address an item of business, the board, within 60 days after receipt of the petition, shall place the item on the agenda at its next regular board meeting or at a special meeting called for that purpose.

An item not included on the notice may be taken up on an emergency basis by a vote of at least a majority plus one of the board members. Such emergency action must be noticed and ratified at the next regular board meeting. Notice of any

meeting in which a regular or special assessment against unit owners is to be considered must specifically state that assessments will be considered and provide the estimated amount and a description of the purposes for such assessments. However,

Written notice of a meeting at which a nonemergency special assessment or an amendment to rules regarding unit use will be considered must be mailed, delivered, or electronically

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transmitted to the unit owners and posted conspicuously on the condominium property at least 14 days before the meeting. Evidence of compliance with this 14-day notice requirement must be made by an affidavit executed by the person providing the notice and filed with the official records of the association. Upon notice to the unit owners, the board shall, by duly adopted rule, designate a specific location on the condominium or association property where all notices of board meetings must be posted. If there is no condominium property or association property where notices can be posted, notices shall be mailed, delivered, or electronically transmitted to each unit owner at least 14 days before the meeting. In lieu of or in addition to the physical posting of the notice on the condominium property, the association may, by reasonable rule, adopt a procedure for conspicuously posting and repeatedly broadcasting the notice and the agenda on a closed-circuit cable television system serving the condominium association. However, if broadcast notice is used in lieu of a notice physically posted on condominium property, the notice and agenda must be broadcast at least four times every broadcast hour of each day that a posted notice is otherwise required under this section. If broadcast notice is provided, the notice and agenda must be broadcast in a manner and for a sufficient continuous length of time so as to allow an average reader to observe the notice and read and comprehend the entire content of the notice and the agenda. In addition to any

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387 of the authorized means of providing notice of a meeting of the
388 board, the association may, by rule, adopt a procedure for
389 conspicuously posting the meeting notice and the agenda on a
390 website serving the condominium association for at least the
391 minimum period of time for which a notice of a meeting is also
392 required to be physically posted on the condominium property.
393 Any rule adopted shall, in addition to other matters, include a
394 requirement that the association send an electronic notice
395 providing a hypertext link to the website where the notice is
396 posted. ~~Notice of any meeting in which regular or special~~
397 ~~assessments against unit owners are to be considered must~~
398 ~~specifically state that assessments will be considered and~~
399 ~~provide the nature, estimated cost, and description of the~~
400 ~~purposes for such assessments.~~

401 2. Meetings of a committee to take final action on behalf
402 of the board or make recommendations to the board regarding the
403 association budget are subject to this paragraph. Meetings of a
404 committee that does not take final action on behalf of the board
405 or make recommendations to the board regarding the association
406 budget are subject to this section, unless those meetings are
407 exempted from this section by the bylaws of the association.

408 3. Notwithstanding any other law, the requirement that
409 board meetings and committee meetings be open to the unit owners
410 does not apply to:

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411 a. Meetings between the board or a committee and the
412 association's attorney, with respect to proposed or pending
413 litigation, if the meeting is held for the purpose of seeking or
414 rendering legal advice; or

415 b. Board meetings held for the purpose of discussing
416 personnel matters.

417 (1) Certificate of compliance.—A provision that a
418 certificate of compliance from a licensed electrical contractor
419 or electrician may be accepted by the association's board as
420 evidence of compliance ~~of the condominium units~~ with the
421 applicable fire and life safety code must be included.
422 Notwithstanding chapter 633, s. 509.215, s. 553.895(1), or ~~of~~
423 any other code, statute, ordinance, administrative rule, or
424 regulation, or any interpretation of the foregoing, an
425 association, ~~residential condominium,~~ or unit owner is not
426 obligated to retrofit the common elements, association property,
427 or units of a residential condominium with a fire sprinkler
428 system or other engineered lifesafety system in a building that
429 is 75 feet or less in height. There is no obligation to retrofit
430 for a building greater than 75 feet in height, calculated from
431 the lowest level of fire department vehicle access to the floor
432 of the highest occupiable story ~~has been certified for occupancy~~
433 ~~by the applicable governmental entity~~ if the unit owners have
434 voted to forego such retrofitting by the affirmative vote of a
435 majority of all voting interests in the affected condominium.

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436 There is no requirement that owners in condominiums of 75 feet
437 or less conduct an opt-out vote and such condominiums are exempt
438 from fire sprinkler or other engineered lifesafety retrofitting.
439 The preceding sentence is intended to clarify existing law. The
440 local authority having jurisdiction may not require completion
441 of retrofitting with a fire sprinkler system or other engineered
442 lifesafety system before January 1, 2022 ~~2020~~. By December 31,
443 2018 ~~2016~~, an a residential condominium association that
444 operates a residential condominium that is not in compliance
445 with the requirements for a fire sprinkler system or other
446 engineered lifesafety system and has not voted to forego
447 retrofitting of such a system must initiate an application for a
448 building permit for the required installation with the local
449 government having jurisdiction demonstrating that the
450 association will become compliant by December 31, 2021 ~~2019~~.

451 1. A vote to forego required retrofitting may be obtained
452 by limited proxy or by a ballot personally cast at a duly called
453 membership meeting, or by execution of a written consent by the
454 member, or by electronic voting, and is effective upon recording
455 a certificate executed by an officer or agent of the association
456 attesting to such vote in the public records of the county where
457 the condominium is located. When an opt-out vote is to be
458 conducted at a meeting, the association shall mail or ~~hand~~
459 deliver to each unit owner written notice at least 14 days
460 before the membership meeting in which the vote to forego

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461 retrofitting of the required fire sprinkler system or other
462 engineered lifesafety system is to take place. Within 30 days
463 after the association's opt-out vote, notice of the results of
464 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
465 owners. Evidence of compliance with this notice requirement must
466 be made by affidavit executed by the person providing the notice
467 and filed among the official records of the association. Failure
468 to provide timely notice to unit owners does not invalidate an
469 otherwise valid opt-out vote if notice of the results is
470 provided to the owners. ~~After notice is provided to each owner,~~
471 ~~a copy must be provided by the current owner to a new owner~~
472 ~~before closing and by a unit owner to a renter before signing a~~
473 ~~lease.~~

474 2. If there has been a previous vote to forego
475 retrofitting, a vote to require retrofitting may be obtained at
476 a special meeting of the unit owners called by a petition of at
477 least 10 percent of the voting interests or by a majority of the
478 board of directors. ~~Such a vote may only be called once every 3~~
479 ~~years.~~ Notice shall be provided as required for any regularly
480 called meeting of the unit owners, and must state the purpose of
481 the meeting. ~~Electronic transmission may not be used to provide~~
482 ~~notice of a meeting called in whole or in part for this purpose.~~

483 3. As part of the information collected annually from
484 condominiums, the division shall require condominium
485 associations to report the membership vote and recording of a

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486 certificate under this subsection and, if retrofitting has been
487 undertaken, the per-unit cost of such work. The division shall
488 annually report to the Division of State Fire Marshal of the
489 Department of Financial Services the number of condominiums that
490 have elected to forego retrofitting. Compliance with this
491 administrative reporting requirement does not affect the
492 validity of an opt-out vote.

493 4. Notwithstanding s. 553.509, a residential association
494 may not be obligated to, and may forego the retrofitting of, any
495 improvements required by s. 553.509(2) upon an affirmative vote
496 of a majority of the voting interests in the affected
497 condominium.

498 Section 3. Subsection (2) of section 718.113, Florida
499 Statutes, is amended to read:

500 718.113 Maintenance; limitation upon improvement; display
501 of flag; hurricane shutters and protection; display of religious
502 decorations.—

503 (2) (a) Except as otherwise provided in this section, there
504 shall be no material alteration or substantial additions to the
505 common elements or to real property which is association
506 property, except in a manner provided in the declaration as
507 originally recorded or as amended under the procedures provided
508 therein. If the declaration as originally recorded or as amended
509 under the procedures provided therein does not specify the
510 procedure for approval of material alterations or substantial

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511 additions, 75 percent of the total voting interests of the
512 association must approve the alterations or additions before the
513 material alterations or substantial additions are commenced.

514 This paragraph is intended to clarify existing law and applies
515 to associations existing on ~~October 1, 2008.~~ the effective date
516 of this act.

517 (b) There shall not be any material alteration of, or
518 substantial addition to, the common elements of any condominium
519 operated by a multicondominium association unless approved in
520 the manner provided in the declaration of the affected
521 condominium or condominiums as originally recorded or as amended
522 under the procedures provided therein. If a declaration as
523 originally recorded or as amended under the procedures provided
524 therein does not specify a procedure for approving such an
525 alteration or addition, the approval of 75 percent of the total
526 voting interests of each affected condominium is required before
527 the material alterations or substantial additions are commenced.

528 This subsection does not prohibit a provision in any
529 declaration, articles of incorporation, or bylaws as originally
530 recorded or as amended under the procedures provided therein
531 requiring the approval of unit owners in any condominium
532 operated by the same association or requiring board approval
533 before a material alteration or substantial addition to the
534 common elements is permitted. This paragraph is intended to

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clarify existing law and applies to associations existing on the effective date of this act.

(c) There shall not be any material alteration or substantial addition made to association real property operated by a multicondominium association, except as provided in the declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein. If the declaration, articles of incorporation, or bylaws as originally recorded or as amended under the procedures provided therein do not specify the procedure for approving an alteration or addition to association real property, the approval of 75 percent of the total voting interests of the association is required before the material alterations or substantial additions are commenced. This paragraph is intended to clarify existing law and applies to associations existing on the effective date of this act.

Section 4. Section 718.707, Florida Statutes, is amended to read:

718.707 Time limitation for classification as bulk assignee or bulk buyer.—A person acquiring condominium parcels may not be classified as a bulk assignee or bulk buyer unless the condominium parcels were acquired on or after July 1, 2010, ~~but before July 1, 2018~~. The date of such acquisition shall be determined by the date of recording a deed or other instrument of conveyance for such parcels in the public records of the

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560 county in which the condominium is located, or by the date of
561 issuing a certificate of title in a foreclosure proceeding with
562 respect to such condominium parcels.

563 Section 5. Paragraphs (a) and (b) of subsection (2) and
564 paragraphs (b) and (c) of subsection (4) of section 719.104,
565 Florida Statutes, are amended to read:

566 719.104 Cooperatives; access to units; records; financial
567 reports; assessments; purchase of leases.—

568 (2) OFFICIAL RECORDS.—

569 (a) From the inception of the association, the association
570 shall maintain a copy of each of the following, where
571 applicable, which shall constitute the official records of the
572 association:

573 1. The plans, permits, warranties, and other items
574 provided by the developer pursuant to s. 719.301(4).

575 2. A photocopy of the cooperative documents.

576 3. A copy of the current rules of the association.

577 4. A book or books containing the minutes of all meetings
578 of the association, of the board of directors, and of the unit
579 owners, which minutes shall be retained for a period of not less
580 than 7 years.

581 5. A current roster of all unit owners and their mailing
582 addresses, unit identifications, voting certifications, and, if
583 known, telephone numbers. The association shall also maintain
584 the electronic mailing addresses and the numbers designated by

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unit owners for receiving notice sent by electronic transmission of those unit owners consenting to receive notice by electronic transmission. The electronic mailing addresses and numbers provided by unit owners to receive notice by electronic transmission shall be removed from association records when consent to receive notice by electronic transmission is revoked. However, the association is not liable for an erroneous disclosure of the electronic mail address or the number for receiving electronic transmission of notices.

6. All current insurance policies of the association.

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

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

9. Accounting records for the association and separate accounting records for each unit it operates, according to good accounting practices. All accounting records shall be maintained for a period of not less than 7 years. The accounting records shall include, but not be limited to:

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

b. A current account and a monthly, bimonthly, or quarterly statement of the account for each unit designating the

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name of the unit owner, the due date and amount of each assessment, the amount paid upon the account, and the balance due.

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

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

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

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

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

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

(b) The official records of the association must be maintained within the state for at least 7 years. The records of the association shall be made available to a unit owner within 45 miles of the cooperative property or within the county in which the cooperative property is located within 10 ~~5~~ working days after receipt of written request by the board or its

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designee. This paragraph may be complied with by having a copy of the official records of the association available for inspection or copying on the cooperative property or the association may offer the option of making the records available to a unit owner electronically via the Internet or by allowing the records to be viewed in an electronic format on a computer screen and printed upon request. The association is not responsible for the use or misuse of the information provided to an association member or his or her authorized representative pursuant to the compliance requirements of this chapter unless the association has an affirmative duty not to disclose such information pursuant to this chapter.

(4) FINANCIAL REPORT.—

(b) Except as provided in paragraph (c), an association whose total annual revenues meet the criteria of this paragraph shall prepare or cause to be prepared a complete set of financial statements according to the generally accepted accounting principles adopted by the Board of Accountancy. The financial statements shall be as follows:

1. An association with total annual revenues between \$150,000 and \$299,999 shall prepare a compiled financial statement.

2. An association with total annual revenues between \$300,000 and \$499,999 shall prepare a reviewed financial statement.

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660 3. An association with total annual revenues of \$500,000
661 or more shall prepare an audited financial statement.

662 4. The requirement to have the financial statement
663 compiled, reviewed, or audited does not apply to an association
664 if a majority of the voting interests of the association present
665 at a duly called meeting of the association have voted to waive
666 this requirement for the fiscal year. In an association in which
667 turnover of control by the developer has not occurred, the
668 developer may vote to waive the audit requirement for the first
669 2 years of operation of the association, after which time waiver
670 of an applicable audit requirement shall be by a majority of
671 voting interests other than the developer. The meeting shall be
672 held prior to the end of the fiscal year, and the waiver shall
673 be effective for only one fiscal year. ~~An association may not~~
674 ~~waive the financial reporting requirements of this section for~~
675 ~~more than 3 consecutive years.~~

676 (c)1. An association with total annual revenues of less
677 than \$150,000 shall prepare a report of cash receipts and
678 expenditures.

679 ~~2. An association in a community of fewer than 50 units,~~
680 ~~regardless of the association's annual revenues, shall prepare a~~
681 ~~report of cash receipts and expenditures in lieu of the~~
682 ~~financial statements required by paragraph (b), unless the~~
683 ~~declaration or other recorded governing documents provide~~
684 ~~otherwise.~~

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3. A report of cash receipts and expenditures must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves, if maintained by the association.

Section 6. Subsection (5) of section 719.1055, Florida Statutes, is amended to read:

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

(5) The bylaws must include a provision whereby a certificate of compliance from a licensed electrical contractor or electrician may be accepted by the association's board as evidence of compliance ~~of the cooperative units~~ with the applicable fire and life safety code.

(a)1. Notwithstanding chapter 633, s. 509.215, s. 553.895(1), or any other code, statute, ordinance, administrative rule, or regulation, or any interpretation of the foregoing, an association ~~a cooperative~~ or unit owner is not obligated to retrofit the common elements or units of a residential cooperative with a fire sprinkler system or other

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710 engineered lifesafety system in a building that is 75 feet or
711 less in height. There is no obligation to retrofit for a
712 building greater than 75 feet in height, calculated from the
713 lowest level of fire department vehicle access to the floor of
714 the highest occupiable story ~~has been certified for occupancy by~~
715 ~~the applicable governmental entity~~ if the unit owners have voted
716 to forego such retrofitting by the affirmative vote of a
717 majority of all voting interests in the affected cooperative.
718 There is no requirement that owners in cooperatives of 75 feet
719 or less conduct an opt-out vote and such cooperatives are exempt
720 from fire sprinkler or other engineered life safety
721 retrofitting. The preceding sentence is intended to clarify
722 existing law. The local authority having jurisdiction may not
723 require completion of retrofitting with a fire sprinkler system
724 or other engineered life safety system before January 1, 2022
725 ~~the end of 2019~~. By December 31, 2018 ~~2016~~, a cooperative that
726 is not in compliance with the requirements for a fire sprinkler
727 system or other engineered lifesafety system and has not voted
728 to forego retrofitting of such a system must initiate an
729 application for a building permit for the required installation
730 with the local government having jurisdiction demonstrating that
731 the cooperative will become compliant by December 31, 2021 ~~2019~~.

732 2. A vote to forego required retrofitting may be obtained
733 by limited proxy or by a ballot personally cast at a duly called
734 membership meeting, or by execution of a written consent by the

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735 member, or by electronic voting, and is effective upon recording
736 a certificate executed by an officer or agent of the association
737 attesting to such vote in the public records of the county where
738 the cooperative is located. When the opt-out vote is to be
739 conducted at a meeting, the cooperative shall mail or ~~hand~~
740 deliver to each unit owner written notice at least 14 days
741 before the membership meeting in which the vote to forego
742 retrofitting of the required fire sprinkler system or other
743 engineered lifesafety system is to take place. Within 30 days
744 after the cooperative's opt-out vote, notice of the results of
745 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
746 owners. Evidence of compliance with this notice requirement must
747 be made by affidavit executed by the person providing the notice
748 and filed among the official records of the cooperative. Failure
749 to provide timely notice to unit owners does not invalidate an
750 otherwise valid opt-out vote if notice of the results is
751 provided to the owners. ~~After notice is provided to each owner,~~
752 ~~a copy must be provided by the current owner to a new owner~~
753 ~~before closing and by a unit owner to a renter before signing a~~
754 ~~lease.~~

755 (b) If there has been a previous vote to forego
756 retrofitting, a vote to require retrofitting may be obtained at
757 a special meeting of the unit owners called by a petition of
758 least 10 percent of the voting interests or by a majority of the
759 board of directors. ~~Such vote may only be called once every 3~~

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~~years.~~ Notice must be provided as required for any regularly called meeting of the unit owners, and the notice must state the purpose of the meeting. ~~Electronic transmission may not be used to provide notice of a meeting called in whole or in part for this purpose.~~

(c) As part of the information collected annually from cooperatives, the division shall require associations to report the membership vote and recording of a certificate under this subsection and, if retrofitting has been undertaken, the per-unit cost of such work. The division shall annually report to the Division of State Fire Marshal of the Department of Financial Services the number of cooperatives that have elected to forego retrofitting. Compliance with this administrative reporting requirement does not affect the validity of an opt-out vote.

Section 7. Subsection (1) of section 719.106, Florida Statutes, is amended to read:

719.106 Bylaws; cooperative ownership.—

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

(a) Administration.—

1. The form of administration of the association shall be described, indicating the titles of the officers and board of administration and specifying the powers, duties, manner of

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785 selection and removal, and compensation, if any, of officers and
786 board members. In the absence of such a provision, the board of
787 administration shall be composed of five members, except in the
788 case of cooperatives having five or fewer units, in which case
789 in not-for-profit corporations, the board shall consist of not
790 fewer than three members. In a residential cooperative
791 association of more than 10 units, co-owners of a unit may not
792 serve as members of the board of directors at the same time
793 unless they own more than one unit or unless there are not
794 enough eligible candidates to fill the vacancies on the board at
795 the time of the vacancy. In the absence of provisions to the
796 contrary, the board of administration shall have a president, a
797 secretary, and a treasurer, who shall perform the duties of
798 those offices customarily performed by officers of corporations.
799 Unless prohibited in the bylaws, the board of administration may
800 appoint other officers and grant them those duties it deems
801 appropriate. Unless otherwise provided in the bylaws, the
802 officers shall serve without compensation and at the pleasure of
803 the board. Unless otherwise provided in the bylaws, the members
804 of the board shall serve without compensation.

805 2. A person who has been suspended or removed by the
806 division under this chapter, or who is delinquent in the payment
807 of any monetary obligation due to the association, is not
808 eligible to be a candidate for board membership and may not be
809 listed on the ballot. A director or officer charged by

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information or indictment with a felony theft or embezzlement offense involving the association's funds or property is suspended from office. The board shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. A member who has such criminal charges pending may not be appointed or elected to a position as a director or officer. A person who has been convicted of any felony in this state or in any United States District Court, or who has been convicted of any offense in another jurisdiction which would be considered a felony if committed in this state, is not eligible for board membership unless such felon's civil rights have been restored for at least 5 years as of the date such person seeks election to the board. The validity of an action by the board is not affected if it is later determined that a board member is ineligible for board membership due to having been convicted of a felony.

3. When a unit owner files a written inquiry by certified mail with the board of administration, the board shall respond in writing to the unit owner within 30 days of receipt of the inquiry. The board's response shall either give a substantive

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835 response to the inquirer, notify the inquirer that a legal
836 opinion has been requested, or notify the inquirer that advice
837 has been requested from the division. If the board requests
838 advice from the division, the board shall, within 10 days of its
839 receipt of the advice, provide in writing a substantive response
840 to the inquirer. If a legal opinion is requested, the board
841 shall, within 60 days after the receipt of the inquiry, provide
842 in writing a substantive response to the inquirer. The failure
843 to provide a substantive response to the inquirer as provided
844 herein precludes the board from recovering attorney's fees and
845 costs in any subsequent litigation, administrative proceeding,
846 or arbitration arising out of the inquiry. The association may,
847 through its board of administration, adopt reasonable rules and
848 regulations regarding the frequency and manner of responding to
849 the unit owners' inquiries, one of which may be that the
850 association is obligated to respond to only one written inquiry
851 per unit in any given 30-day period. In such case, any
852 additional inquiry or inquiries must be responded to in the
853 subsequent 30-day period, or periods, as applicable.

854 (b) Quorum; voting requirements; proxies.—

855 1. Unless otherwise provided in the bylaws, the percentage
856 of voting interests required to constitute a quorum at a meeting
857 of the members shall be a majority of voting interests, and
858 decisions shall be made by owners of a majority of the voting
859 interests. Unless otherwise provided in this chapter, or in the

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860 articles of incorporation, bylaws, or other cooperative
861 documents, and except as provided in subparagraph (d)1.,
862 decisions shall be made by owners of a majority of the voting
863 interests represented at a meeting at which a quorum is present.

864 2. Except as specifically otherwise provided herein, after
865 January 1, 1992, unit owners may not vote by general proxy, but
866 may vote by limited proxies substantially conforming to a
867 limited proxy form adopted by the division. Limited proxies and
868 general proxies may be used to establish a quorum. Limited
869 proxies shall be used for votes taken to waive or reduce
870 reserves in accordance with subparagraph (j)2., for votes taken
871 to waive the financial reporting requirements of s.

872 719.104(4)(b), for votes taken to amend the articles of
873 incorporation or bylaws pursuant to this section, and for any
874 other matter for which this chapter requires or permits a vote
875 of the unit owners. Except as provided in paragraph (d), after
876 January 1, 1992, no proxy, limited or general, shall be used in
877 the election of board members. General proxies may be used for
878 other matters for which limited proxies are not required, and
879 may also be used in voting for nonsubstantive changes to items
880 for which a limited proxy is required and given. Notwithstanding
881 the provisions of this section, unit owners may vote in person
882 at unit owner meetings. Nothing contained herein shall limit the
883 use of general proxies or require the use of limited proxies or

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884 require the use of limited proxies for any agenda item or
885 election at any meeting of a timeshare cooperative.

886 3. Any proxy given shall be effective only for the
887 specific meeting for which originally given and any lawfully
888 adjourned meetings thereof. In no event shall any proxy be valid
889 for a period longer than 90 days after the date of the first
890 meeting for which it was given. Every proxy shall be revocable
891 at any time at the pleasure of the unit owner executing it.

892 4. A member of the board of administration or a committee
893 may submit in writing his or her agreement or disagreement with
894 any action taken at a meeting that the member did not attend.
895 This agreement or disagreement may not be used as a vote for or
896 against the action taken and may not be used for the purposes of
897 creating a quorum.

898 5. When some or all of the board or committee members meet
899 by telephone conference, those board or committee members
900 attending by telephone conference may be counted toward
901 obtaining a quorum and may vote by telephone. A telephone
902 speaker shall be utilized so that the conversation of those
903 board or committee members attending by telephone may be heard
904 by the board or committee members attending in person, as well
905 as by unit owners present at a meeting.

906 (c) Board of administration meetings. Members of the board
907 of administration may use e-mail as a means of communication but
908 may not cast a vote on an association matter via e-mail.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 653 (2017)

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909 Meetings of the board of administration at which a quorum of the
910 members is present shall be open to all unit owners. Any unit
911 owner may tape record or videotape meetings of the board of
912 administration. The right to attend such meetings includes the
913 right to speak at such meetings with reference to all designated
914 agenda items. The division shall adopt reasonable rules
915 governing the tape recording and videotaping of the meeting. The
916 association may adopt reasonable written rules governing the
917 frequency, duration, and manner of unit owner statements.
918 Adequate notice of all meetings shall be posted in a conspicuous
919 place upon the cooperative property at least 48 continuous hours
920 preceding the meeting, except in an emergency. Any item not
921 included on the notice may be taken up on an emergency basis by
922 at least a majority plus one of the members of the board. Such
923 emergency action shall be noticed and ratified at the next
924 regular meeting of the board. Notice of any meeting in which
925 regular or special assessments against unit owners are to be
926 considered must specifically state that assessments will be
927 considered and provide the estimated amount and description of
928 the purposes for such assessments. ~~However,~~ Written notice of
929 any meeting at which nonemergency special assessments, or at
930 which amendment to rules regarding unit use, will be considered
931 shall be mailed, delivered, or electronically transmitted to the
932 unit owners and posted conspicuously on the cooperative property
933 not less than 14 days before the meeting. Evidence of compliance

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934 with this 14-day notice shall be made by an affidavit executed
935 by the person providing the notice and filed among the official
936 records of the association. Upon notice to the unit owners, the
937 board shall by duly adopted rule designate a specific location
938 on the cooperative property upon which all notices of board
939 meetings shall be posted. In lieu of or in addition to the
940 physical posting of notice of any meeting of the board of
941 administration on the cooperative property, the association may,
942 by reasonable rule, adopt a procedure for conspicuously posting
943 and repeatedly broadcasting the notice and the agenda on a
944 closed-circuit cable television system serving the cooperative
945 association. However, if broadcast notice is used in lieu of a
946 notice posted physically on the cooperative property, the notice
947 and agenda must be broadcast at least four times every broadcast
948 hour of each day that a posted notice is otherwise required
949 under this section. When broadcast notice is provided, the
950 notice and agenda must be broadcast in a manner and for a
951 sufficient continuous length of time so as to allow an average
952 reader to observe the notice and read and comprehend the entire
953 content of the notice and the agenda. In addition to any of the
954 authorized means of providing notice of a meeting of the board,
955 the association may, by rule, adopt a procedure for
956 conspicuously posting the meeting notice and the agenda on a
957 website serving the cooperative association for at least the
958 minimum period of time for which a notice of a meeting is also

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959 required to be physically posted on the cooperative property.
960 Any rule adopted shall, in addition to other matters, include a
961 requirement that the association send an electronic notice
962 providing a hypertext link to the website where the notice is
963 posted. ~~Notice of any meeting in which regular assessments~~
964 ~~against unit owners are to be considered for any reason shall~~
965 ~~specifically contain a statement that assessments will be~~
966 ~~considered and the nature of any such assessments.~~ Meetings of a
967 committee to take final action on behalf of the board or to make
968 recommendations to the board regarding the association budget
969 are subject to the provisions of this paragraph. Meetings of a
970 committee that does not take final action on behalf of the board
971 or make recommendations to the board regarding the association
972 budget are subject to the provisions of this section, unless
973 those meetings are exempted from this section by the bylaws of
974 the association. Notwithstanding any other law to the contrary,
975 the requirement that board meetings and committee meetings be
976 open to the unit owners does not apply to board or committee
977 meetings held for the purpose of discussing personnel matters or
978 meetings between the board or a committee and the association's
979 attorney, with respect to proposed or pending litigation, if the
980 meeting is held for the purpose of seeking or rendering legal
981 advice.

982 (d) Shareholder meetings.—There shall be an annual meeting
983 of the shareholders. All members of the board of administration

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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
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.

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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
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

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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 lists all candidates. Upon request
1038 of a candidate, the association shall include an information
1039 sheet, no larger than 8 1/2 inches by 11 inches, which must be
1040 furnished by the candidate at least 35 days before the election,
1041 to be included with the mailing, delivery, or electronic
1042 transmission of the ballot, with the costs of mailing, delivery,
1043 or transmission and copying to be borne by the association. The
1044 association is not liable for the contents of the information
1045 sheets provided by the candidates. In order to reduce costs, the
1046 association may print or duplicate the information sheets on
1047 both sides of the paper. The division shall by rule establish
1048 voting procedures consistent with this subparagraph, including
1049 rules establishing procedures for giving notice by electronic
1050 transmission and rules providing for the secrecy of ballots.
1051 Elections shall be decided by a plurality of those ballots cast.
1052 There is no quorum requirement. However, at least 20 percent of
1053 the eligible voters must cast a ballot in order to have a valid
1054 election. A unit owner may not permit any other person to vote
1055 his or her ballot, and any such ballots improperly cast are
1056 invalid. A unit owner who needs assistance in casting the ballot
1057 for the reasons stated in s. 101.051 may obtain assistance in
1058 casting the ballot. Any unit owner violating this provision may

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1059 be fined by the association in accordance with s. 719.303. The
1060 regular election must occur on the date of the annual meeting.
1061 This subparagraph does not apply to timeshare cooperatives.
1062 Notwithstanding this subparagraph, an election and balloting are
1063 not required unless more candidates file a notice of intent to
1064 run or are nominated than vacancies exist on the board. Any
1065 challenge to the election process must be commenced within 60
1066 days after the election results are announced.

1067 b. Within 90 days after being elected or appointed to the
1068 board, each new director shall certify in writing to the
1069 secretary of the association that he or she has read the
1070 association's bylaws, articles of incorporation, proprietary
1071 lease, and current written policies; that he or she will work to
1072 uphold such documents and policies to the best of his or her
1073 ability; and that he or she will faithfully discharge his or her
1074 fiduciary responsibility to the association's members. Within 90
1075 days after being elected or appointed to the board, in lieu of
1076 this written certification, the newly elected or appointed
1077 director may submit a certificate of having satisfactorily
1078 completed the educational curriculum administered by an
1079 education provider as approved by the division pursuant to the
1080 requirements established in chapter 718 within 1 year before or
1081 90 days after the date of election or appointment. The
1082 educational certificate is valid and does not have to be
1083 resubmitted as long as the director serves on the board without

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1084 interruption. A director who fails to timely file the written
1085 certification or educational certificate is suspended from
1086 service on the board until he or she complies with this sub-
1087 subparagraph. The board may temporarily fill the vacancy during
1088 the period of suspension. The secretary of the association shall
1089 cause the association to retain a director's written
1090 certification or educational certificate for inspection by the
1091 members for 5 years after a director's election or the duration
1092 of the director's uninterrupted tenure, whichever is longer.
1093 Failure to have such written certification or educational
1094 certificate on file does not affect the validity of any board
1095 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
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. Notice
1107 of meetings of the board of administration, shareholder
1108 meetings, except shareholder meetings called to recall board

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1109 members under paragraph (f), and committee meetings may be given
1110 by electronic transmission to unit owners who consent to receive
1111 notice by electronic transmission.

1112 4. Unit owners have the right to participate in meetings
1113 of unit owners with reference to all designated agenda items.
1114 However, the association may adopt reasonable rules governing
1115 the frequency, duration, and manner of unit owner participation.

1116 5. Any unit owner may tape record or videotape meetings of
1117 the unit owners subject to reasonable rules adopted by the
1118 division.

1119 6. Unless otherwise provided in the bylaws, a vacancy
1120 occurring on the board before the expiration of a term may be
1121 filled by the affirmative vote of the majority of the remaining
1122 directors, even if the remaining directors constitute less than
1123 a quorum, or by the sole remaining director. In the alternative,
1124 a board may hold an election to fill the vacancy, in which case
1125 the election procedures must conform to the requirements of
1126 subparagraph 1. unless the association has opted out of the
1127 statutory election process, in which case the bylaws of the
1128 association control. Unless otherwise provided in the bylaws, a
1129 board member appointed or elected under this subparagraph shall
1130 fill the vacancy for the unexpired term of the seat being
1131 filled. Filling vacancies created by recall is governed by
1132 paragraph (f) and rules adopted by the division.

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1133 Notwithstanding subparagraphs (b)2. and (d)1., an association
1134 may, by the affirmative vote of a majority of the total voting
1135 interests, provide for a different voting and election procedure
1136 in its bylaws, which vote may be by a proxy specifically
1137 delineating the different voting and election procedures. The
1138 different voting and election procedures may provide for
1139 elections to be conducted by limited or general proxy.

1140 (e) Budget procedures.—

1141 1. The board of administration shall mail, hand deliver,
1142 or electronically transmit to each unit owner at the address
1143 last furnished to the association, a meeting notice and copies
1144 of the proposed annual budget of common expenses to the unit
1145 owners not less than 14 days prior to the meeting at which the
1146 budget will be considered. Evidence of compliance with this 14-
1147 day notice must be made by an affidavit executed by an officer
1148 of the association or the manager or other person providing
1149 notice of the meeting and filed among the official records of
1150 the association. The meeting must be open to the unit owners.

1151 2. If an adopted budget requires assessment against the
1152 unit owners in any fiscal or calendar year which exceeds 115
1153 percent of the assessments for the preceding year, the board
1154 upon written application of 10 percent of the voting interests
1155 to the board, shall call a special meeting of the unit owners
1156 within 30 days, upon not less than 10 days' written notice to
1157 each unit owner. At the special meeting, unit owners shall

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1158 consider and enact a budget. Unless the bylaws require a larger
1159 vote, the adoption of the budget requires a vote of not less
1160 than a majority of all the voting interests.

1161 3. The board of administration may, in any event, propose
1162 a budget to the unit owners at a meeting of members or by
1163 writing, and if the budget or proposed budget is approved by the
1164 unit owners at the meeting or by a majority of all voting
1165 interests in writing, the budget is adopted. If a meeting of the
1166 unit owners has been called and a quorum is not attained or a
1167 substitute budget is not adopted by the unit owners, the budget
1168 adopted by the board of directors goes into effect as scheduled.

1169 4. In determining whether assessments exceed 115 percent
1170 of similar assessments for prior years, any authorized
1171 provisions for reasonable reserves for repair or replacement of
1172 cooperative property, anticipated expenses by the association
1173 which are not anticipated to be incurred on a regular or annual
1174 basis, or assessments for betterments to the cooperative
1175 property must be excluded from computation. However, as long as
1176 the developer is in control of the board of administration, the
1177 board may not impose an assessment for any year greater than 115
1178 percent of the prior fiscal or calendar year's assessment
1179 without approval of a majority of all voting interests.

1180 (f) Recall of board members.—Subject to s. 719.301, any
1181 member of the board of administration may be recalled and
1182 removed from office with or without cause by the vote or

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1183 agreement in writing by a majority of all the voting interests.
1184 A special meeting of the voting interests to recall any member
1185 of the board of administration may be called by 10 percent of
1186 the unit owners giving notice of the meeting as required for a
1187 meeting of unit owners, and the notice shall state the purpose
1188 of the meeting. Electronic transmission may not be used as a
1189 method of giving notice of a meeting called in whole or in part
1190 for this purpose.

1191 1. If the recall is approved by a majority of all voting
1192 interests by a vote at a meeting, the recall shall be effective
1193 as provided in this paragraph. The board shall duly notice and
1194 hold a board meeting within 5 full business days after the
1195 adjournment of the unit owner meeting to recall one or more
1196 board members. At the meeting, the board shall either certify
1197 the recall, in which case such member or members shall be
1198 recalled effective immediately and shall turn over to the board
1199 within 5 full business days any and all records and property of
1200 the association in their possession, or shall proceed as set
1201 forth in subparagraph 3.

1202 2. If the proposed recall is by an agreement in writing by
1203 a majority of all voting interests, the agreement in writing or
1204 a copy thereof shall be served on the association by certified
1205 mail or by personal service in the manner authorized by chapter
1206 48 and the Florida Rules of Civil Procedure. The board of
1207 administration shall duly notice and hold a meeting of the board

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1208 within 5 full business days after receipt of the agreement in
1209 writing. At the meeting, the board shall either certify the
1210 written agreement to recall members of the board, in which case
1211 such members shall be recalled effective immediately and shall
1212 turn over to the board, within 5 full business days, any and all
1213 records and property of the association in their possession, or
1214 proceed as described in subparagraph 3.

1215 3. If the board determines not to certify the written
1216 agreement to recall members of the board, or does not certify
1217 the recall by a vote at a meeting, the board shall, within 5
1218 full business days after the board meeting, file with the
1219 division a petition for binding arbitration pursuant to the
1220 procedures of s. 719.1255. For purposes of this paragraph, the
1221 unit owners who voted at the meeting or who executed the
1222 agreement in writing shall constitute one party under the
1223 petition for arbitration. If the arbitrator certifies the recall
1224 as to any member of the board, the recall shall be effective
1225 upon mailing of the final order of arbitration to the
1226 association. If the association fails to comply with the order
1227 of the arbitrator, the division may take action pursuant to s.
1228 719.501. Any member so recalled shall deliver to the board any
1229 and all records and property of the association in the member's
1230 possession within 5 full business days after the effective date
1231 of the recall.

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1232 4. If the board fails to duly notice and hold a board
1233 meeting within 5 full business days after service of an
1234 agreement in writing or within 5 full business days after the
1235 adjournment of the unit owner recall meeting, the recall shall
1236 be deemed effective and the board members so recalled shall
1237 immediately turn over to the board any and all records and
1238 property of the association.

1239 5. If the board fails to duly notice and hold the required
1240 meeting or fails to file the required petition, the unit owner
1241 representative may file a petition pursuant to s. 719.1255
1242 challenging the board's failure to act. The petition must be
1243 filed within 60 days after the expiration of the applicable 5-
1244 full-business-day period. The review of a petition under this
1245 subparagraph is limited to the sufficiency of service on the
1246 board and the facial validity of the written agreement or
1247 ballots filed.

1248 6. If a vacancy occurs on the board as a result of a
1249 recall and less than a majority of the board members are
1250 removed, the vacancy may be filled by the affirmative vote of a
1251 majority of the remaining directors, notwithstanding any
1252 provision to the contrary contained in this chapter. If
1253 vacancies occur on the board as a result of a recall and a
1254 majority or more of the board members are removed, the vacancies
1255 shall be filled in accordance with procedural rules to be
1256 adopted by the division, which rules need not be consistent with

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1257 this chapter. The rules must provide procedures governing the
1258 conduct of the recall election as well as the operation of the
1259 association during the period after a recall but before the
1260 recall election.

1261 7. A board member who has been recalled may file a
1262 petition pursuant to s. 719.1255 challenging the validity of the
1263 recall. The petition must be filed within 60 days after the
1264 recall is deemed certified. The association and the unit owner
1265 representative shall be named as the respondents.

1266 8. The division may not accept for filing a recall
1267 petition, whether filed pursuant to subparagraph 1.,
1268 subparagraph 2., subparagraph 5., or subparagraph 7. and
1269 regardless of whether the recall was certified, when there are
1270 60 or fewer days until the scheduled reelection of the board
1271 member sought to be recalled or when 60 or fewer days have not
1272 elapsed since the election of the board member sought to be
1273 recalled.

1274 (g) Common expenses.—The manner of collecting from the
1275 unit owners their shares of the common expenses shall be stated.
1276 Assessments shall be made against unit owners not less
1277 frequently than quarterly, in an amount no less than is required
1278 to provide funds in advance for payment of all of the
1279 anticipated current operating expense and for all of the unpaid
1280 operating expense previously incurred. Nothing in this paragraph
1281 shall preclude the right of an association to accelerate

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assessments of an owner delinquent in payment of common expenses in actions taken pursuant to s. 719.104(4).

(h) Amendment of bylaws.—The method by which the bylaws may be amended consistent with the provisions of this chapter shall be stated. If the bylaws fail to provide a method of amendment, the bylaws may be amended if the amendment is approved by owners of not less than two-thirds of the voting interests. No bylaw shall be revised or amended by reference to its title or number only. Proposals to amend existing bylaws shall contain the full text of the bylaws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist, the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of bylaw. See bylaw for present text." Nonmaterial errors or omissions in the bylaw process shall not invalidate an otherwise properly promulgated amendment.

(i) Transfer fees.—No charge may be made by the association or any body thereof in connection with the sale, mortgage, lease, sublease, or other transfer of a unit unless the association is required to approve such transfer and a fee

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for such approval is provided for in the cooperative documents. Any such fee may be preset, but in no event shall it exceed \$100 per applicant other than husband/wife or parent/dependent child, which are considered one applicant. However, if the lease or sublease is a renewal of a lease or sublease with the same lessee or sublessee, no charge shall be made. Nothing in this paragraph shall be construed to prohibit an association from requiring as a condition to permitting the letting or renting of a unit, when the association has such authority in the documents, the depositing into an escrow account maintained by the association a security deposit in an amount not to exceed the equivalent of 1 month's rent. The security deposit shall protect against damages to the common areas or cooperative property. Within 15 days after a tenant vacates the premises, the association shall refund the full security deposit or give written notice to the tenant of any claim made against the security. Disputes under this paragraph shall be handled in the same fashion as disputes concerning security deposits under s. 83.49.

(j) Annual budget.—

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

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1331 2. In addition to annual operating expenses, the budget
1332 shall include reserve accounts for capital expenditures and
1333 deferred maintenance. These accounts shall include, but not be
1334 limited to, roof replacement, building painting, and pavement
1335 resurfacing, regardless of the amount of deferred maintenance
1336 expense or replacement cost, and for any other items for which
1337 the deferred maintenance expense or replacement cost exceeds
1338 \$10,000. The amount to be reserved shall be computed by means of
1339 a formula which is based upon estimated remaining useful life
1340 and estimated replacement cost or deferred maintenance expense
1341 of each reserve item. The association may adjust replacement
1342 reserve assessments annually to take into account any changes in
1343 estimates or extension of the useful life of a reserve item
1344 caused by deferred maintenance. This paragraph shall not apply
1345 to any budget in which the members of an association have, at a
1346 duly called meeting of the association, determined for a fiscal
1347 year to provide no reserves or reserves less adequate than
1348 required by this subsection. However, prior to turnover of
1349 control of an association by a developer to unit owners other
1350 than a developer pursuant to s. 719.301, the developer may vote
1351 to waive the reserves or reduce the funding of reserves for the
1352 first 2 years of the operation of the association after which
1353 time reserves may only be waived or reduced upon the vote of a
1354 majority of all nondeveloper voting interests voting in person
1355 or by limited proxy at a duly called meeting of the association.

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1356 If a meeting of the unit owners has been called to determine to
1357 provide no reserves, or reserves less adequate than required,
1358 and such result is not attained or a quorum is not attained, the
1359 reserves as included in the budget shall go into effect.

1360 3. Reserve funds and any interest accruing thereon shall
1361 remain in the reserve account or accounts, and shall be used
1362 only for authorized reserve expenditures unless their use for
1363 other purposes is approved in advance by a vote of the majority
1364 of the voting interests, voting in person or by limited proxy at
1365 a duly called meeting of the association. Prior to turnover of
1366 control of an association by a developer to unit owners other
1367 than the developer under s. 719.301, the developer may not vote
1368 to use reserves for purposes other than that for which they were
1369 intended without the approval of a majority of all nondeveloper
1370 voting interests, voting in person or by limited proxy at a duly
1371 called meeting of the association.

1372 (k) Insurance or fidelity bonds.—The association shall
1373 obtain and maintain adequate insurance or fidelity bonding of
1374 all persons who control or disburse funds of the association.
1375 The insurance policy or fidelity bond must cover the maximum
1376 funds that will be in the custody of the association or its
1377 management agent at any one time. As used in this paragraph, the
1378 term "persons who control or disburse funds of the association"
1379 includes, but is not limited to, those individuals authorized to
1380 sign checks, and the president, secretary, and treasurer of the

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1381 association. The association shall bear the cost of bonding and
1382 insurance.

1383 (l) Arbitration.—There shall be a provision for mandatory
1384 nonbinding arbitration of internal disputes arising from the
1385 operation of the cooperative in accordance with s. 719.1255.

1386 (m) Director or officer delinquencies.—A director or
1387 officer more than 90 days delinquent in the payment of any
1388 monetary obligation due the association shall be deemed to have
1389 abandoned the office, creating a vacancy in the office to be
1390 filled according to law.

1391 Section 8. Paragraph (b) of subsection (1) of section
1392 719.107, Florida Statutes, is amended to read:

1393 719.107 Common expenses; assessment.—

1394 (1)

1395 (b) If so provided in the bylaws, the cost of a master
1396 antenna television system or duly franchised cable television
1397 service communications services as defined in chapter 202,
1398 information services, or Internet services obtained pursuant to
1399 a bulk contract shall be deemed a common expense, and if not
1400 obtained pursuant to a bulk contract, such cost shall be
1401 considered common expense if it is designated as such in a
1402 written contract between the board of administration and the
1403 company providing the master television antenna system or the
1404 cable television service communications services as defined in

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1405 chapter 202, information services, or Internet services. The
1406 contract shall be for a term of not less than 2 years.

1407 1. Any contract made by the board after April 2, 1992, for
1408 a community antenna system or duly franchised cable television
1409 service may be canceled by a majority of the voting interests
1410 present at the next regular or special meeting of the
1411 association. Any member may make a motion to cancel the
1412 contract, but if no motion is made or if such motion fails to
1413 obtain the required majority at the next regular or special
1414 meeting, whichever is sooner, following the making of the
1415 contract, then such contract shall be deemed ratified for the
1416 term therein expressed.

1417 2. Any such contract shall provide, and shall be deemed to
1418 provide if not expressly set forth, that any hearing impaired or
1419 legally blind unit owner who does not occupy the unit with a
1420 nonhearing impaired or sighted person may discontinue the
1421 service without incurring disconnect fees, penalties, or
1422 subsequent service charges, and as to such units, the owners
1423 shall not be required to pay any common expenses charge related
1424 to such service. If less than all members of an association
1425 share the expenses of cable television, the expense shall be
1426 shared equally by all participating unit owners. The association
1427 may use the provisions of s. 719.108 to enforce payment of the
1428 shares of such costs by the unit owners receiving cable
1429 television.

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1430 Section 9. Paragraphs (a) and (c) of subsection (2) and
1431 subsections (6) and (7) of section 720.303, Florida Statutes,
1432 are amended to read:

1433 720.303 Association powers and duties; meetings of board;
1434 official records; budgets; budget meetings; financial reporting;
1435 association funds; recalls.—

1436 (2) BOARD MEETINGS.—

1437 (a) Members of the board of administration may use e-mail
1438 as a means of communication, but may not cast a vote on an
1439 association matter via e-mail. A meeting of the board of
1440 directors of an association occurs whenever a quorum of the
1441 board gathers to conduct association business. Meetings of the
1442 board must be open to all members, except for meetings between
1443 the board and its attorney with respect to proposed or pending
1444 litigation where the contents of the discussion would otherwise
1445 be governed by the attorney-client privilege. A meeting of the
1446 board must be held at a location that is accessible to a
1447 physically handicapped person if requested by a physically
1448 handicapped person who has a right to attend the meeting. The
1449 provisions of this subsection shall also apply to the meetings
1450 of any committee or other similar body when a final decision
1451 will be made regarding the expenditure of association funds and
1452 to meetings of any body vested with the power to approve or
1453 disapprove architectural decisions with respect to a specific

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1454 parcel of residential property owned by a member of the
1455 community.

1456 (c) The bylaws shall provide the following for giving
1457 notice to parcel owners and members of all board meetings and,
1458 if they do not do so, shall be deemed to include ~~provide~~ the
1459 following:

1460 1. Notices of all board meetings must be posted in a
1461 conspicuous place in the community at least 48 hours in advance
1462 of a meeting, except in an emergency. In the alternative, if
1463 notice is not posted in a conspicuous place in the community,
1464 notice of each board meeting must be mailed or delivered to each
1465 member at least 7 days before the meeting, except in an
1466 emergency. Notwithstanding this general notice requirement, for
1467 communities with more than 100 members, the association bylaws
1468 may provide for a reasonable alternative to posting or mailing
1469 of notice for each board meeting, including publication of
1470 notice, provision of a schedule of board meetings, or the
1471 conspicuous posting and repeated broadcasting of the notice on a
1472 closed-circuit cable television system serving the homeowners'
1473 association. However, if broadcast notice is used in lieu of a
1474 notice posted physically in the community, the notice must be
1475 broadcast at least four times every broadcast hour of each day
1476 that a posted notice is otherwise required. When broadcast
1477 notice is provided, the notice and agenda must be broadcast in a
1478 manner and for a sufficient continuous length of time so as to

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1479 allow an average reader to observe the notice and read and
1480 comprehend the entire content of the notice and the agenda. The
1481 association may provide notice by electronic transmission in a
1482 manner authorized by law for meetings of the board of directors,
1483 committee meetings requiring notice under this section, and
1484 annual and special meetings of the members to any member who has
1485 provided a facsimile number or e-mail address to the association
1486 to be used for such purposes. However, a member must consent in
1487 writing to receiving notice by electronic transmission.

1488 2. An assessment may not be levied at a board meeting
1489 unless the notice of the meeting includes a statement that
1490 assessments will be considered and the nature of the
1491 assessments. Written notice of any meeting at which special
1492 assessments will be considered or at which amendments to rules
1493 regarding parcel use will be considered must be mailed,
1494 delivered, or electronically transmitted to the members and
1495 parcel owners and posted conspicuously on the property or
1496 broadcast on closed-circuit cable television not less than 14
1497 days before the meeting.

1498 3. Directors may not vote by proxy or by secret ballot at
1499 board meetings, except that secret ballots may be used in the
1500 election of officers. This subsection also applies to the
1501 meetings of any committee or other similar body, when a final
1502 decision will be made regarding the expenditure of association
1503 funds, and to any body vested with the power to approve or

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disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the community.

(6) BUDGETS; BUDGET MEETINGS.—

(a) The association shall prepare an annual budget that sets out the annual operating expenses. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges paid for by the association for recreational amenities, whether owned by the association, the developer, or another person. The association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The copy must be provided to the member within the time limits set forth in subsection (5).

(b) In addition to annual operating expenses, the budget must ~~may~~ include reserve accounts for capital expenditures and deferred maintenance ~~for which are obligations of the~~ association under is responsible. If reserve accounts are not established pursuant to paragraph (d), funding of such reserves is limited to the extent that the governing documents for any item that has a deferred maintenance expense or replacement cost that exceeds \$10,000. The amount to be reserved must be computed using a formula based upon estimated remaining useful life and

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1529 estimated replacement cost or deferred maintenance expense of
1530 each reserve item. The association may adjust replacement
1531 reserve limit increases in assessments annually to take into
1532 account any changes in estimates or extension of the useful life
1533 of a reserve item caused by deferred maintenance. This
1534 subsection does not apply to an adopted budget in which the
1535 members of an association have determined, by a majority vote at
1536 a duly called meeting, including reserves. If the budget of the
1537 association, to provide no reserves or less reserves than
1538 required by this subsection includes reserve accounts
1539 established pursuant to paragraph (d), such reserves shall be
1540 determined, maintained, and waived in the manner provided in
1541 this subsection. Once an association provides for reserve
1542 accounts pursuant to paragraph (d), the association shall
1543 thereafter determine, maintain, and waive reserves in compliance
1544 with this subsection. This section does not preclude the
1545 termination of a reserve account established pursuant to this
1546 paragraph upon approval of a majority of the total voting
1547 interests of the association. Upon such approval, the
1548 terminating reserve account shall be removed from the budget.

1549 (c)1. Before turnover of control of an If the budget of
1550 the association pursuant to s. 720.307, the developer may vote
1551 the voting interests allocated to its parcels to waive the
1552 reserves or reduce the funding of reserves through the period
1553 expiring at the end of the second fiscal year after the fiscal

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year in which the governing documents are initially recorded or
an instrument that transfers title to a parcel subject to the
governing documents which is not accompanied by a recorded
assignment of developer rights in favor of the grantee of such
parcel is recorded, whichever occurs first, after which time
reserves may be waived or reduced only upon the vote of a
majority of all nondeveloper voting interests voting in person
or by limited proxy at a duly called meeting of the association.

~~does not provide for reserve accounts pursuant to paragraph (d)~~
~~and the association is responsible for the repair and~~
~~maintenance of capital improvements that may result in a special~~
~~assessment if reserves are not provided, each financial report~~
~~for the preceding fiscal year required by subsection (7) must~~
~~contain the following statement in conspicuous type:~~

~~THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE~~
~~ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT~~
~~MAY RESULT IN SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE~~
~~FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6), FLORIDA~~
~~STATUTES, UPON OBTAINING THE APPROVAL OF A MAJORITY OF THE TOTAL~~
~~VOTING INTERESTS OF THE ASSOCIATION BY VOTE OF THE MEMBERS AT A~~
~~MEETING OR BY WRITTEN CONSENT.~~

~~2. If the budget of the association does provide for~~
~~funding accounts for deferred expenditures, including, but not~~
~~limited to, funds for capital expenditures and deferred~~
~~maintenance, but such accounts are not created or established~~

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~~pursuant to paragraph (d), each financial report for the
preceding fiscal year required under subsection (7) must also
contain the following statement in conspicuous type:
THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY
DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES
AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED
IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED
TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),
FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE
RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR
ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

~~(d) An association is deemed to have provided for reserve
accounts if reserve accounts have been initially established by
the developer or if the membership of the association
affirmatively elects to provide for reserves. If reserve
accounts are established by the developer, the budget must
designate the components for which the reserve accounts may be
used. If reserve accounts are not initially provided by the
developer, the membership of the association may elect to do so
upon the affirmative approval of a majority of the total voting
interests of the association. Such approval may be obtained by
vote of the members at a duly called meeting of the membership
or by the written consent of a majority of the total voting
interests of the association. The approval action of the
membership must state that reserve accounts shall be provided~~

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~~for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided in paragraph (f).~~

~~(e) The amount to be reserved in any account established shall be computed by means of a formula that is based upon estimated remaining useful life and estimated replacement cost or deferred maintenance expense of each reserve item. The association may adjust replacement reserve assessments annually to take into account any changes in estimates of cost or useful life of a reserve item.~~

~~(f) After one or more reserve accounts are established, the membership of the association, upon a majority vote at a meeting at which a quorum is present, may provide for no reserves or less reserves than required by this section. If a meeting of the parcel unit owners has been called to determine whether to waive or reduce the funding of reserves and such result is not achieved or a quorum is not present, the reserves as included in the budget go into effect. After the turnover, the developer may vote its voting interest to waive or reduce the funding of reserves. Any vote taken pursuant to this~~

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~~subsection to waive or reduce reserves is applicable only to one budget year.~~

(d) Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and may be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a duly called meeting of the association. Before turnover of control of an association by a developer to parcel owners other than the developer pursuant to s. 720.307, the developer-controlled association may not vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all nondeveloper voting interests, voting in person or by limited proxy at a duly called meeting of the association.

(e) The only voting interests that are eligible to vote on questions that involve waiving or reducing the funding of reserves, or using existing reserve funds for purposes other than purposes for which the reserves were intended, are the voting interests of the parcels subject to assessment to fund the reserves in question. Any vote taken pursuant to this subsection to waive or reduce reserves is applicable only to one budget year. Proxy questions relating to waiving or reducing the funding of reserves or using existing reserve funds for purposes other than purposes for which the reserves were intended must contain the following statement in capitalized, bold letters in a font size larger than any other used on the face of the proxy

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1654 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
1655 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN PARCEL OWNER
1656 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
1657 REGARDING THOSE ITEMS.

1658 (f) Funding formulas for reserves required by this section
1659 shall be based on a pooled analysis of two or more of the items
1660 for which reserves are required to be accrued pursuant to this
1661 subsection. The amount of the contribution to the pooled reserve
1662 account as disclosed on the proposed budget may not be less than
1663 that required to ensure that the balance on hand at the
1664 beginning of the period the budget will go into effect plus the
1665 projected annual cash inflows over the remaining estimated
1666 useful life of all of the assets that make up the reserve pool
1667 are equal to or greater than the projected annual cash outflows
1668 over the remaining estimated useful lives of all the assets that
1669 make up the reserve pool based on the current reserve analysis.
1670 The projected annual cash inflows may include estimated earnings
1671 from investment of principal and accounts receivable minus the
1672 allowance for doubtful accounts. The reserve funding formula may
1673 not include any type of balloon payments.

1674 (g) As alternative to the pooled analysis method described
1675 in paragraph (f) and, if approved by a majority vote at a
1676 meeting of the members of the association at which a quorum is
1677 present, the funding formulas for reserves required ~~authorized~~
1678 by this section ~~may must~~ be based on a separate analysis of each

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of the required assets or a pooled analysis of two or more of the required assets.

~~1.~~ If the association maintains separate reserve accounts for each of the required assets, the amount of the contribution to each reserve account is the sum of the following two calculations:

1. a. The total amount necessary, if any, to bring a negative component balance to zero.

2. b. The total estimated deferred maintenance expense or estimated replacement cost of the reserve component less the estimated balance of the reserve component as of the beginning of the period the budget will be in effect. The remainder, if greater than zero, shall be divided by the estimated remaining useful life of the component.

The formula may be adjusted each year for changes in estimates and deferred maintenance performed during the year and may include factors such as inflation and earnings on invested funds. An association may convert its funding formulas from a component method to a pooled method, as described in paragraph (f), at any time if approved by a majority vote at a meeting at which a quorum is present.

~~2. If the association maintains a pooled account of two or more of the required reserve assets, the amount of the contribution to the pooled reserve account as disclosed on the proposed budget may not be less than that required to ensure~~

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~~that the balance on hand at the beginning of the period the budget will go into effect plus the projected annual cash inflows over the remaining estimated useful life of all of the assets that make up the reserve pool are equal to or greater than the projected annual cash outflows over the remaining estimated useful lives of all the assets that make up the reserve pool, based on the current reserve analysis. The projected annual cash inflows may include estimated earnings from investment of principal and accounts receivable minus the allowance for doubtful accounts. The reserve funding formula may not include any type of balloon payments.~~

~~(h) 1. Reserve funds and any interest accruing thereon shall remain in the reserve account or accounts and shall be used only for authorized reserve expenditures unless their use for other purposes is approved in advance by a majority vote at a meeting at which a proposed annual budget of an association will be considered by the board or a quorum is present. Prior to turnover of control of an association by a developer to parcel owners shall be open to all parcel owners, the developer-controlled association shall not vote to use reserves for purposes other than those for which they were intended without the approval of a majority of all nondeveloper voting interests voting in person or by limited proxy at a duly called meeting of the association.~~

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1728 2.a. If a board adopts in any fiscal year an annual budget
1729 which requires assessments against parcel owners which exceed
1730 115 percent of assessments for the preceding fiscal year, the
1731 board shall conduct a special meeting of the parcel owners to
1732 consider a substitute budget if the board receives, within 21
1733 days after adoption of the annual budget, a written request for
1734 a special meeting from at least 10 percent of all voting
1735 interests. The special meeting shall be conducted within 60 days
1736 after adoption of the annual budget. At least 14 days prior to
1737 such special meeting, the board shall hand deliver to each
1738 parcel owner, or mail to each parcel owner at the address last
1739 furnished to the association, a notice of the meeting. An
1740 officer or manager of the association, or other person providing
1741 notice of such meeting shall execute an affidavit evidencing
1742 compliance with this notice requirement, and such affidavit
1743 shall be filed among the official records of the association.
1744 Parcel owners may consider and adopt a substitute budget at the
1745 special meeting. A substitute budget is adopted if approved by a
1746 majority of all voting interests unless the bylaws require
1747 adoption by a greater percentage of voting interests. If there
1748 is not a quorum at the special meeting or a substitute budget is
1749 not adopted, the annual budget previously adopted by the board
1750 shall take effect as scheduled.

1751 b. Any determination of whether assessments exceed 115
1752 percent of assessments for the prior fiscal year shall exclude

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1753 any authorized provision for reasonable reserves for repair or
1754 replacement of the association property, anticipated expenses
1755 of the association which the board does not expect to be
1756 incurred on a regular or annual basis, or assessments for
1757 betterments to the condominium property.

1758 c. If the developer controls the board, assessments shall
1759 not exceed 115 percent of assessments for the prior fiscal year
1760 unless approved by a majority of all voting interests.

1761 (i) The provisions of paragraphs (b)-(h) do not apply to
1762 mandatory reserve accounts required to be established and
1763 maintained by an association at the direction of a county or
1764 municipal government, water or drainage management district,
1765 community development district or other political subdivision
1766 that has the authority to approve and control subdivision
1767 infrastructure which is being entrusted to the care of an
1768 association on condition that the association establish and
1769 maintain one or more mandatory reserve accounts for the deferred
1770 maintenance or replacement of the infrastructure in accordance
1771 with the requirements of that entrusting authority.

1772 (7) FINANCIAL REPORTING.—Within 90 days after the end of
1773 the fiscal year, or annually on the date provided in the bylaws,
1774 the association shall prepare and complete, or contract with a
1775 third party for the preparation and completion of, a financial
1776 report for the preceding fiscal year. Within 21 days after the
1777 final financial report is completed by the association or

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received from the third party, but not later than 120 days after the end of the fiscal year or other date as provided in the bylaws, the association shall, within the time limits set forth in subsection (5), provide each member with a copy of the annual financial report or a written notice that a copy of the financial report is available upon request at no charge to the member. Financial reports shall be prepared as follows:

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

1. An association with total annual revenues of \$150,000 or more, but less than \$300,000, shall prepare compiled financial statements.

2. An association with total annual revenues of at least \$300,000, but less than \$500,000, shall prepare reviewed financial statements.

3. An association with total annual revenues of \$500,000 or more shall prepare audited financial statements.

(b)1. An association with total annual revenues of less than \$150,000 shall prepare a report of cash receipts and expenditures.

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~~2. An association in a community of fewer than 50 parcels, regardless of the association's annual revenues, may prepare a report of cash receipts and expenditures in lieu of financial statements required by paragraph (a) unless the governing documents provide otherwise.~~

3. A report of cash receipts and disbursement must disclose the amount of receipts by accounts and receipt classifications and the amount of expenses by accounts and expense classifications, including, but not limited to, the following, as applicable: costs for security, professional, and management fees and expenses; taxes; costs for recreation facilities; expenses for refuse collection and utility services; expenses for lawn care; costs for building maintenance and repair; insurance costs; administration and salary expenses; and reserves if maintained by the association.

(c) If 20 percent of the parcel owners petition the board for a level of financial reporting higher than that required by this section, the association shall duly notice and hold a meeting of members within 30 days of receipt of the petition for the purpose of voting on raising the level of reporting for that fiscal year. Upon approval of a majority of the total voting interests of the parcel owners, the association shall prepare or cause to be prepared, shall amend the budget or adopt a special assessment to pay for the financial report regardless of any provision to the contrary in the governing documents, and shall

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provide within 90 days of the meeting or the end of the fiscal year, whichever occurs later:

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

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

3. Audited financial statements if the association is otherwise required to prepare reviewed financial statements.

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

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

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

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

Section 10. Paragraph (a) of subsection (9) of section 720.306, Florida Statutes, is amended to read:

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1851 720.306 Meetings of members; voting and election
1852 procedures; amendments.—

1853 (9) ELECTIONS AND BOARD VACANCIES.—

1854 (a) Elections of directors must be conducted in accordance
1855 with the procedures set forth in the governing documents of the
1856 association. Except as provided in paragraph (b), all members of
1857 the association are eligible to serve on the board of directors,
1858 and a member may nominate himself or herself as a candidate for
1859 the board at a meeting where the election is to be held;
1860 provided, however, that if the election process allows
1861 candidates to be nominated in advance of the meeting, the
1862 association is not required to allow nominations at the meeting.
1863 An election is not required unless more candidates are nominated
1864 than vacancies exist. If an election is not required because
1865 there are either an equal number or fewer qualified candidates
1866 than vacancies exist, and if nominations from the floor are not
1867 required pursuant to this section or the bylaws, write-in
1868 nominations are not permitted and such candidates shall commence
1869 service on the board of directors, regardless of whether a
1870 quorum is attained at the annual meeting. Except as otherwise
1871 provided in the governing documents, boards of directors must be
1872 elected by a plurality of the votes cast by eligible voters. Any
1873 challenge to the election process must be commenced within 60
1874 days after the election results are announced.

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1875 Section 11. Paragraph (b) of subsection (3) of section
1876 720.3085, Florida Statutes, is amended to read:

1877 720.3085 Payment for assessments; lien claims.—

1878 (3) Assessments and installments on assessments that are
1879 not paid when due bear interest from the due date until paid at
1880 the rate provided in the declaration of covenants or the bylaws
1881 of the association, which rate may not exceed the rate allowed
1882 by law. If no rate is provided in the declaration or bylaws,
1883 interest accrues at the rate of 18 percent per year.

1884 (b) Any payment received by an association and accepted
1885 shall be applied first to any interest accrued, then to any
1886 administrative late fee, then to any costs and reasonable
1887 attorney fees incurred in collection, and then to the delinquent
1888 assessment. This paragraph applies notwithstanding any
1889 restrictive endorsement, designation, or instruction placed on
1890 or accompanying a payment. A late fee is not subject to the
1891 provisions of chapter 687 and is not a fine. The foregoing is
1892 applicable notwithstanding s. 673.3111, any purported accord and
1893 satisfaction, or any restrictive endorsement, designation, or
1894 instruction placed on or accompanying a payment. The preceding
1895 sentence is intended to clarify existing law.

1896 Section 12. This act shall take effect July 1, 2017.

1897 -----
1898
1899

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T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:
An act relating to community associations; amending s.
718.111, F.S.; revising reporting requirements; amending s.
718.112, F.S.; authorizing an association to adopt rules
for posting certain notices on a website; revising
provisions relating to required condominium and cooperative
association bylaws; revising provisions relating to
evidence of condominium and cooperative association
compliance with the fire and life safety code; revising
unit and common elements required to be retrofitted;
revising provisions relating to an association vote to
forego retrofitting; providing applicability; amending s.
718.113, F.S.; revising voting requirements to approve
declarations for additions or alterations to common
elements or real property; amending s. 718.707, F.S.;
revising the time period for classification as bulk
assignee or bulk buyer; amending s. 719.104, F.S.; revising
recordkeeping and reporting requirements; amending s.
719.1055, F.S.; revising provisions relating to required
condominium and cooperative association bylaws; revising
provisions relating to evidence of condominium and
cooperative association compliance with the fire and life
safety code; revising unit and common elements required to
be retrofitted; revising provisions relating to an

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 653 (2017)

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1925 association vote to forego retrofitting; providing
1926 applicability; amending s. 719.106, F.S.; revising
1927 requirements to serve as a board member, prohibiting a
1928 board member from voting via e-mail, and providing
1929 circumstances when a director or officer abandons the
1930 position; authorizing an association to adopt rules for
1931 posting certain notices on a website; amending s. 719.107,
1932 F.S., revising items that are common expenses in bulk
1933 contracts; s. 720.303, F.S.; prohibiting a board member
1934 from voting via e-mail; providing and revising budget
1935 requirements; providing an exemption to certain
1936 requirements, revising reporting requirements, authorizing
1937 an association to adopt rules for posting certain notices
1938 on a website; amending s. 720.306, F.S.; revising elections
1939 requirements; amending s. 720.3085, F.S.; providing
1940 applicability; providing an effective date.
1941

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