

By Senator Passidomo

28-00888A-17

2017744__

1 A bill to be entitled
2 An act relating to community associations; amending s.
3 718.111, F.S.; revising reporting and record
4 requirements; amending s. 718.112, F.S.; authorizing
5 an association to adopt rules for posting certain
6 notices on a website; revising provisions relating to
7 required condominium and cooperative association
8 bylaws; revising provisions relating to evidence of
9 condominium and cooperative association compliance
10 with the applicable fire and life safety code;
11 revising unit and common elements required to be
12 retrofitted; revising provisions relating to an
13 association vote to forego retrofitting; providing
14 applicability; amending s. 718.707, F.S.; revising the
15 time period for classification as bulk assignee or
16 bulk buyer; amending s. 719.104, F.S.; revising
17 recordkeeping requirements; amending s. 719.1055,
18 F.S.; revising provisions relating to required
19 condominium and cooperative association bylaws;
20 revising provisions relating to evidence of
21 condominium and cooperative association compliance
22 with the applicable fire and life safety code;
23 revising unit and common elements required to be
24 retrofitted; revising provisions relating to an
25 association vote to forego retrofitting; providing
26 applicability; amending s. 719.106, F.S.; prohibiting
27 a board member from voting via e-mail; specifying
28 notice requirements when regular or special
29 assessments against unit owners are to be considered
30 at a meeting; authorizing an association to adopt
31 rules for posting certain notices on a website;
32 amending s. 720.303, F.S.; prohibiting a board member

28-00888A-17

2017744__

33 from voting via e-mail; specifying reserve account
34 amounts for maintenance expenses or replacement costs;
35 revising requirements for the reserve account;
36 authorizing a developer to waive the reserves or
37 reduce funding of reserves under certain circumstances
38 and subject to certain requirements; revising certain
39 financial report requirements; deleting provisions
40 specifying when an association is deemed to have
41 provided for reserve accounts; revising the formula to
42 determine funding for specified reserve accounts;
43 requiring reserve funds and interest accruing to
44 remain in the reserve accounts and limiting the
45 expenditures for which such funds may be used under
46 certain circumstances; specifying the voting interests
47 that are eligible to vote to waive or reduce funding
48 of reserves; providing voting requirements to waive or
49 reduce funding of reserves; revising requirements for
50 pooled accounts; providing requirements if a board
51 adopts assessments against parcel owners under certain
52 circumstances; providing a limit on assessments under
53 certain circumstances; providing an exemption to
54 certain requirements; amending s. 720.306, F.S.;
55 providing elections requirements; amending s.
56 720.3085, F.S.; providing applicability; providing an
57 effective date.

58
59 Be It Enacted by the Legislature of the State of Florida:

60
61 Section 1. Subsections (12) and (13) of section 718.111,

28-00888A-17

2017744__

62 Florida Statutes, are amended to read:

63 718.111 The association.—

64 (12) OFFICIAL RECORDS.—

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

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

70 2. A photocopy of the recorded declaration of condominium
71 of each condominium operated by the association and each
72 amendment to each declaration.

73 3. A photocopy of the recorded bylaws of the association
74 and each amendment to the bylaws.

75 4. A certified copy of the articles of incorporation of the
76 association, or other documents creating the association, and
77 each amendment thereto.

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

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

82 7. A current roster of all unit owners and their mailing
83 addresses, unit identifications, and voting certifications, and,
84 if known, telephone numbers. The association shall also maintain
85 the electronic mailing addresses and facsimile numbers of unit
86 owners consenting to receive notice by electronic transmission.
87 The electronic mailing addresses and facsimile numbers are not
88 accessible to unit owners if consent to receive notice by
89 electronic transmission is not provided in accordance with
90 subparagraph (c)5. However, the association is not liable for an

28-00888A-17

2017744__

91 inadvertent disclosure of the electronic mail address or
92 facsimile number for receiving electronic transmission of
93 notices.

94 8. All current insurance policies of the association and
95 condominiums operated by the association.

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

100 10. Bills of sale or transfer for all property owned by the
101 association.

102 11. Accounting records for the association and separate
103 accounting records for each condominium that the association
104 operates. All accounting records must be maintained for at least
105 7 years. Any person who knowingly or intentionally defaces or
106 destroys such records, or who knowingly or intentionally fails
107 to create or maintain such records, with the intent of causing
108 harm to the association or one or more of its members, is
109 personally subject to a civil penalty pursuant to s.
110 718.501(1)(d). The accounting records must include, but are not
111 limited to:

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

114 b. A current account and a monthly, bimonthly, or quarterly
115 statement of the account for each unit designating the name of
116 the unit owner, the due date and amount of each assessment, the
117 amount paid on the account, and the balance due.

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

28-00888A-17

2017744__

120 d. All contracts for work to be performed. Bids for work to
121 be performed are also considered official records and must be
122 maintained by the association for 1 year.

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

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

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

132 15. All other written records of the association not
133 specifically included in the foregoing which are related to the
134 operation of the association.

135 16. A copy of the inspection report as described in s.
136 718.301(4)(p).

137 (b) The official records of the association must be
138 maintained within the state for at least 7 years. The records of
139 the association shall be made available to a unit owner within
140 45 miles of the condominium property or within the county in
141 which the condominium property is located within 10 ~~5~~ working
142 days after receipt of a written request by the board or its
143 designee. However, such distance requirement does not apply to
144 an association governing a timeshare condominium. This paragraph
145 may be complied with by having a copy of the official records of
146 the association available for inspection or copying on the
147 condominium property or association property, or the association
148 may offer the option of making the records available to a unit

28-00888A-17

2017744__

149 owner electronically via the Internet or by allowing the records
150 to be viewed in electronic format on a computer screen and
151 printed upon request. The association is not responsible for the
152 use or misuse of the information provided to an association
153 member or his or her authorized representative pursuant to the
154 compliance requirements of this chapter unless the association
155 has an affirmative duty not to disclose such information
156 pursuant to this chapter.

157 (c) The official records of the association are open to
158 inspection by any association member or the authorized
159 representative of such member at all reasonable times. The right
160 to inspect the records includes the right to make or obtain
161 copies, at the reasonable expense, if any, of the member. The
162 association may adopt reasonable rules regarding the frequency,
163 time, location, notice, and manner of record inspections and
164 copying. The failure of an association to provide the records
165 within 10 working days after receipt of a written request
166 creates a rebuttable presumption that the association willfully
167 failed to comply with this paragraph. A unit owner who is denied
168 access to official records is entitled to the actual damages or
169 minimum damages for the association's willful failure to comply.
170 Minimum damages are \$50 per calendar day for up to 10 days,
171 beginning on the 11th working day after receipt of the written
172 request. The failure to permit inspection entitles any person
173 prevailing in an enforcement action to recover reasonable
174 attorney fees from the person in control of the records who,
175 directly or indirectly, knowingly denied access to the records.
176 Any person who knowingly or intentionally defaces or destroys
177 accounting records that are required by this chapter to be

28-00888A-17

2017744__

178 maintained during the period for which such records are required
179 to be maintained, or who knowingly or intentionally fails to
180 create or maintain accounting records that are required to be
181 created or maintained, with the intent of causing harm to the
182 association or one or more of its members, is personally subject
183 to a civil penalty pursuant to s. 718.501(1)(d). The association
184 shall maintain an adequate number of copies of the declaration,
185 articles of incorporation, bylaws, and rules, and all amendments
186 to each of the foregoing, as well as the question and answer
187 sheet as described in s. 718.504 and year-end financial
188 information required under this section, on the condominium
189 property to ensure their availability to unit owners and
190 prospective purchasers, and may charge its actual costs for
191 preparing and furnishing these documents to those requesting the
192 documents. An association shall allow a member or his or her
193 authorized representative to use a portable device, including a
194 smartphone, tablet, portable scanner, or any other technology
195 capable of scanning or taking photographs, to make an electronic
196 copy of the official records in lieu of the association's
197 providing the member or his or her authorized representative
198 with a copy of such records. The association may not charge a
199 member or his or her authorized representative for the use of a
200 portable device. Notwithstanding this paragraph, the following
201 records are not accessible to unit owners:

202 1. Any record protected by the lawyer-client privilege as
203 described in s. 90.502 and any record protected by the work-
204 product privilege, including a record prepared by an association
205 attorney or prepared at the attorney's express direction, which
206 reflects a mental impression, conclusion, litigation strategy,

28-00888A-17

2017744__

207 or legal theory of the attorney or the association, and which
208 was prepared exclusively for civil or criminal litigation or for
209 adversarial administrative proceedings, or which was prepared in
210 anticipation of such litigation or proceedings until the
211 conclusion of the litigation or proceedings.

212 2. Information obtained by an association in connection
213 with the approval of the lease, sale, or other transfer of a
214 unit.

215 3. Personnel records of association or management company
216 employees, including, but not limited to, disciplinary, payroll,
217 health, and insurance records. For purposes of this
218 subparagraph, the term "personnel records" does not include
219 written employment agreements with an association employee or
220 management company, or budgetary or financial records that
221 indicate the compensation paid to an association employee.

222 4. Medical records of unit owners.

223 5. Social security numbers, driver license numbers, credit
224 card numbers, e-mail addresses, telephone numbers, facsimile
225 numbers, emergency contact information, addresses of a unit
226 owner other than as provided to fulfill the association's notice
227 requirements, and other personal identifying information of any
228 person, excluding the person's name, unit designation, mailing
229 address, property address, and any address, e-mail address, or
230 facsimile number provided to the association to fulfill the
231 association's notice requirements. Notwithstanding the
232 restrictions in this subparagraph, an association may print and
233 distribute to parcel owners a directory containing the name,
234 parcel address, and all telephone numbers of each parcel owner.
235 However, an owner may exclude his or her telephone numbers from

28-00888A-17

2017744__

236 the directory by so requesting in writing to the association. An
237 owner may consent in writing to the disclosure of other contact
238 information described in this subparagraph. The association is
239 not liable for the inadvertent disclosure of information that is
240 protected under this subparagraph if the information is included
241 in an official record of the association and is voluntarily
242 provided by an owner and not requested by the association.

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

245 7. The software and operating system used by the
246 association which allow the manipulation of data, even if the
247 owner owns a copy of the same software used by the association.
248 The data is part of the official records of the association.

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

251 (e)1. The association or its authorized agent is not
252 required to provide a prospective purchaser or lienholder with
253 information about the condominium or the association other than
254 information or documents required by this chapter to be made
255 available or disclosed. The association or its authorized agent
256 may charge a reasonable fee to the prospective purchaser,
257 lienholder, or the current unit owner for providing good faith
258 responses to requests for information by or on behalf of a
259 prospective purchaser or lienholder, other than that required by
260 law, if the fee does not exceed \$150 plus the reasonable cost of
261 photocopying and any attorney's fees incurred by the association
262 in connection with the response.

263 2. An association and its authorized agent are not liable
264 for providing such information in good faith pursuant to a

28-00888A-17

2017744__

265 written request if the person providing the information includes
266 a written statement in substantially the following form: "The
267 responses herein are made in good faith and to the best of my
268 ability as to their accuracy."

269 (f) An outgoing board or committee member must relinquish
270 all official records and property of the association in his or
271 her possession or under his or her control to the incoming board
272 within 5 days after the election. The division shall impose a
273 civil penalty as set forth in s. 718.501(1)(d)6. against an
274 outgoing board or committee member who willfully and knowingly
275 fails to relinquish such records and property.

276 (13) FINANCIAL REPORTING.—Within 90 days after the end of
277 the fiscal year, or annually on a date provided in the bylaws,
278 the association shall prepare and complete, or contract for the
279 preparation and completion of, a financial report for the
280 preceding fiscal year. Within 21 days after the final financial
281 report is completed by the association or received from the
282 third party, but not later than 120 days after the end of the
283 fiscal year or other date as provided in the bylaws, the
284 association shall mail to each unit owner at the address last
285 furnished to the association by the unit owner, or hand deliver
286 to each unit owner, a copy of the financial report or a notice
287 that a copy of the financial report will be mailed or hand
288 delivered to the unit owner, without charge, upon receipt of a
289 written request from the unit owner. The division shall adopt
290 rules setting forth uniform accounting principles and standards
291 to be used by all associations and addressing the financial
292 reporting requirements for multicondominium associations. The
293 rules must include, but not be limited to, standards for

28-00888A-17

2017744__

294 presenting a summary of association reserves, including a good
295 faith estimate disclosing the annual amount of reserve funds
296 that would be necessary for the association to fully fund
297 reserves for each reserve item based on the straight-line
298 accounting method. This disclosure is not applicable to reserves
299 funded via the pooling method. In adopting such rules, the
300 division shall consider the number of members and annual
301 revenues of an association. Financial reports shall be prepared
302 as follows:

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

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

311 2. An association with total annual revenues of at least
312 \$300,000, but less than \$500,000, shall prepare reviewed
313 financial statements.

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

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

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

28-00888A-17

2017744__

323 ~~2.3.~~ A report of cash receipts and disbursements must
324 disclose the amount of receipts by accounts and receipt
325 classifications and the amount of expenses by accounts and
326 expense classifications, including, but not limited to, the
327 following, as applicable: costs for security, professional and
328 management fees and expenses, taxes, costs for recreation
329 facilities, expenses for refuse collection and utility services,
330 expenses for lawn care, costs for building maintenance and
331 repair, insurance costs, administration and salary expenses, and
332 reserves accumulated and expended for capital expenditures,
333 deferred maintenance, and any other category for which the
334 association maintains reserves.

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

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

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

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

345 (d) If approved by a majority of the voting interests
346 present at a properly called meeting of the association, an
347 association may prepare:

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

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

28-00888A-17

2017744__

352 statement; or

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

356
357 Such meeting and approval must occur before the end of the
358 fiscal year and is effective only for the fiscal year in which
359 the vote is taken, except that the approval may also be
360 effective for the following fiscal year. If the developer has
361 not turned over control of the association, all unit owners,
362 including the developer, may vote on issues related to the
363 preparation of the association's financial reports, from the
364 date of incorporation of the association through the end of the
365 second fiscal year after the fiscal year in which the
366 certificate of a surveyor and mapper is recorded pursuant to s.
367 718.104(4)(e) or an instrument that transfers title to a unit in
368 the condominium which is not accompanied by a recorded
369 assignment of developer rights in favor of the grantee of such
370 unit is recorded, whichever occurs first. Thereafter, all unit
371 owners except the developer may vote on such issues until
372 control is turned over to the association by the developer. Any
373 audit or review prepared under this section shall be paid for by
374 the developer if done before turnover of control of the
375 association. ~~An association may not waive the financial
376 reporting requirements of this section for more than 3
377 consecutive years.~~

378 Section 2. Paragraphs (c) and (1) of subsection (2) of
379 section 718.112, Florida Statutes, are amended to read:

380 718.112 Bylaws.—

28-00888A-17

2017744__

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

384 (c) *Board of administration meetings.*—Meetings of the board
385 of administration at which a quorum of the members is present
386 are open to all unit owners. Members of the board of
387 administration may use e-mail as a means of communication but
388 may not cast a vote on an association matter via e-mail. A unit
389 owner may tape record or videotape the meetings. The right to
390 attend such meetings includes the right to speak at such
391 meetings with reference to all designated agenda items. The
392 division shall adopt reasonable rules governing the tape
393 recording and videotaping of the meeting. The association may
394 adopt written reasonable rules governing the frequency,
395 duration, and manner of unit owner statements.

396 1. Adequate notice of all board meetings, which must
397 specifically identify all agenda items, must be posted
398 conspicuously on the condominium property at least 48 continuous
399 hours before the meeting except in an emergency. If 20 percent
400 of the voting interests petition the board to address an item of
401 business, the board, within 60 days after receipt of the
402 petition, shall place the item on the agenda at its next regular
403 board meeting or at a special meeting called for that purpose.
404 An item not included on the notice may be taken up on an
405 emergency basis by a vote of at least a majority plus one of the
406 board members. Such emergency action must be noticed and
407 ratified at the next regular board meeting. Notice of any
408 meeting in which a regular or special assessment against unit
409 owners is to be considered must specifically state that

28-00888A-17

2017744__

410 assessments will be considered and provide the estimated amount
411 and a description of the purposes for such assessments. ~~However,~~
412 Written notice of a meeting at which a nonemergency special
413 assessment or an amendment to rules regarding unit use will be
414 considered must be mailed, delivered, or electronically
415 transmitted to the unit owners and posted conspicuously on the
416 condominium property at least 14 days before the meeting.
417 Evidence of compliance with this 14-day notice requirement must
418 be made by an affidavit executed by the person providing the
419 notice and filed with the official records of the association.
420 Upon notice to the unit owners, the board shall, by duly adopted
421 rule, designate a specific location on the condominium or
422 association property where all notices of board meetings must be
423 posted. If there is no condominium property or association
424 property where notices can be posted, notices shall be mailed,
425 delivered, or electronically transmitted to each unit owner at
426 least 14 days before the meeting. In lieu of or in addition to
427 the physical posting of the notice on the condominium property,
428 the association may, by reasonable rule, adopt a procedure for
429 conspicuously posting and repeatedly broadcasting the notice and
430 the agenda on a closed-circuit cable television system serving
431 the condominium association. However, if broadcast notice is
432 used in lieu of a notice physically posted on condominium
433 property, the notice and agenda must be broadcast at least four
434 times every broadcast hour of each day that a posted notice is
435 otherwise required under this section. If broadcast notice is
436 provided, the notice and agenda must be broadcast in a manner
437 and for a sufficient continuous length of time so as to allow an
438 average reader to observe the notice and read and comprehend the

28-00888A-17

2017744__

439 entire content of the notice and the agenda. In addition to any
440 of the authorized means of providing notice of a meeting of the
441 board, the association may, by rule, adopt a procedure for
442 conspicuously posting the meeting notice and the agenda on a
443 website serving the condominium association for at least the
444 minimum period of time for which a notice of a meeting is also
445 required to be physically posted on the condominium property.
446 Any rule adopted shall, in addition to other matters, include a
447 requirement that the association send an electronic notice
448 providing a hypertext link to the website where the notice is
449 posted. ~~Notice of any meeting in which regular or special~~
450 ~~assessments against unit owners are to be considered must~~
451 ~~specifically state that assessments will be considered and~~
452 ~~provide the nature, estimated cost, and description of the~~
453 ~~purposes for such assessments.~~

454 2. Meetings of a committee to take final action on behalf
455 of the board or make recommendations to the board regarding the
456 association budget are subject to this paragraph. Meetings of a
457 committee that does not take final action on behalf of the board
458 or make recommendations to the board regarding the association
459 budget are subject to this section, unless those meetings are
460 exempted from this section by the bylaws of the association.

461 3. Notwithstanding any other law, the requirement that
462 board meetings and committee meetings be open to the unit owners
463 does not apply to:

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

28-00888A-17

2017744__

468 b. Board meetings held for the purpose of discussing
469 personnel matters.

470 (1) *Certificate of compliance.*—A provision that a
471 certificate of compliance from a licensed professional engineer
472 ~~electrical contractor or electrician~~ may be accepted by the
473 association's board as evidence of compliance ~~of the condominium~~
474 ~~units~~ with the applicable fire and life safety code must be
475 included. Notwithstanding chapter 633, s. 509.215, s.
476 553.895(1), or ~~of~~ any other code, statute, ordinance,
477 administrative rule, or regulation, or any interpretation of the
478 foregoing, an association, ~~residential condominium,~~ or unit
479 owner is not obligated to retrofit the common elements,
480 association property, or units of a residential condominium with
481 a fire sprinkler system or other engineered lifesafety system in
482 a building that is 75 feet or less in height. There is no
483 obligation to retrofit for a building greater than 75 feet in
484 height, calculated from the lowest level of fire department
485 vehicle access to the floor of the highest occupiable story, has
486 ~~been certified for occupancy by the applicable governmental~~
487 ~~entity~~ if the unit owners have voted to forego such retrofitting
488 by the affirmative vote of a majority of all voting interests in
489 the affected condominium. There is no requirement that owners in
490 condominiums of 75 feet or less conduct an opt-out vote; such
491 condominiums are exempt from fire sprinkler or other engineered
492 lifesafety retrofitting. The preceding sentence is intended to
493 clarify existing law. The local authority having jurisdiction
494 may not require completion of retrofitting with a fire sprinkler
495 system or other engineered lifesafety system before January 1,
496 2022 ~~2020~~. By December 31, 2018 ~~2016~~, an a residential

28-00888A-17

2017744__

497 ~~condominium~~ association that operates a residential condominium
498 that is not in compliance with the requirements for a fire
499 sprinkler system or other engineered lifesafety system and has
500 not voted to forego retrofitting of such a system must initiate
501 an application for a building permit for the required
502 installation with the local government having jurisdiction
503 demonstrating that the association will become compliant by
504 December 31, 2021 ~~2019~~.

505 1. A vote to forego required retrofitting may be obtained
506 by limited proxy or by a ballot personally cast at a duly called
507 membership meeting, or by execution of a written consent by the
508 member, or by electronic voting, and is effective upon recording
509 a certificate executed by an officer or agent of the association
510 attesting to such vote in the public records of the county where
511 the condominium is located. When an opt-out vote is to be
512 conducted at a meeting, the association shall mail or ~~hand~~
513 deliver to each unit owner written notice at least 14 days
514 before the membership meeting in which the vote to forego
515 retrofitting of the required fire sprinkler system or other
516 engineered lifesafety system is to take place. Within 30 days
517 after the association's opt-out vote, notice of the results of
518 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
519 owners. Evidence of compliance with this notice requirement must
520 be made by affidavit executed by the person providing the notice
521 and filed among the official records of the association. Failure
522 to provide timely notice to unit owners does not invalidate an
523 otherwise valid opt-out vote if notice of the results is
524 provided to the owners. ~~After notice is provided to each owner,~~
525 ~~a copy must be provided by the current owner to a new owner~~

28-00888A-17

2017744__

526 ~~before closing and by a unit owner to a renter before signing a~~
527 ~~lease.~~

528 2. If there has been a previous vote to forego
529 retrofitting, a vote to require retrofitting may be obtained at
530 a special meeting of the unit owners called by a petition of at
531 least 10 percent of the voting interests or by a majority of the
532 board of directors. ~~Such a vote may only be called once every 3~~
533 ~~years.~~ Notice shall be provided as required for any regularly
534 called meeting of the unit owners, and must state the purpose of
535 the meeting. ~~Electronic transmission may not be used to provide~~
536 ~~notice of a meeting called in whole or in part for this purpose.~~

537 3. As part of the information collected annually from
538 condominiums, the division shall require condominium
539 associations to report the membership vote and recording of a
540 certificate under this subsection and, if retrofitting has been
541 undertaken, the per-unit cost of such work. The division shall
542 annually report to the Division of State Fire Marshal of the
543 Department of Financial Services the number of condominiums that
544 have elected to forego retrofitting. Compliance with this
545 administrative reporting requirement does not affect the
546 validity of an opt-out vote.

547 4. Notwithstanding s. 553.509, a residential association
548 may not be obligated to, and may forego the retrofitting of, any
549 improvements required by s. 553.509(2) upon an affirmative vote
550 of a majority of the voting interests in the affected
551 condominium.

552 Section 3. Section 718.707, Florida Statutes, is amended to
553 read:

554 718.707 Time limitation for classification as bulk assignee

28-00888A-17

2017744__

555 or bulk buyer.—A person acquiring condominium parcels may not be
556 classified as a bulk assignee or bulk buyer unless the
557 condominium parcels were acquired on or after July 1, 2010, ~~but~~
558 ~~before July 1, 2018~~. The date of such acquisition shall be
559 determined by the date of recording a deed or other instrument
560 of conveyance for such parcels in the public records of the
561 county in which the condominium is located, or by the date of
562 issuing a certificate of title in a foreclosure proceeding with
563 respect to such condominium parcels.

564 Section 4. Paragraphs (a) and (b) of subsection (2) of
565 section 719.104, 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 provided
574 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

28-00888A-17

2017744__

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

594 6. All current insurance policies of the association.

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

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

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

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

608 b. A current account and a monthly, bimonthly, or quarterly
609 statement of the account for each unit designating the name of
610 the unit owner, the due date and amount of each assessment, the
611 amount paid upon the account, and the balance due.

612 c. All audits, reviews, accounting statements, and

28-00888A-17

2017744__

613 financial reports of the association.

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

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

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

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

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

628 (b) The official records of the association must be
629 maintained within the state for at least 7 years. The records of
630 the association shall be made available to a unit owner within
631 45 miles of the cooperative property or within the county in
632 which the cooperative property is located within 10 ~~5~~ working
633 days after receipt of written request by the board or its
634 designee. This paragraph may be complied with by having a copy
635 of the official records of the association available for
636 inspection or copying on the cooperative property or the
637 association may offer the option of making the records available
638 to a unit owner electronically via the Internet or by allowing
639 the records to be viewed in an electronic format on a computer
640 screen and printed upon request. The association is not
641 responsible for the use or misuse of the information provided to

28-00888A-17

2017744__

642 an association member or his or her authorized representative
643 pursuant to the compliance requirements of this chapter unless
644 the association has an affirmative duty not to disclose such
645 information pursuant to this chapter.

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

648 719.1055 Amendment of cooperative documents; alteration and
649 acquisition of property.—

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

655 (a)1. Notwithstanding chapter 633, s. 509.215, s.
656 553.895(1), or any other code, statute, ordinance,
657 administrative rule, or regulation, or any interpretation of the
658 foregoing, an association a cooperative or unit owner is not
659 obligated to retrofit the common elements or units of a
660 residential cooperative with a fire sprinkler system or other
661 engineered lifesafety system in a building that is 75 feet or
662 less in height. There is no obligation to retrofit for a
663 building greater than 75 feet in height, calculated from the
664 lowest level of fire department vehicle access to the floor of
665 the highest occupiable story, has been certified for occupancy
666 ~~by the applicable governmental entity~~ if the unit owners have
667 voted to forego such retrofitting by the affirmative vote of a
668 majority of all voting interests in the affected cooperative.
669 There is no requirement that owners in cooperatives of 75 feet
670 or less conduct an opt-out vote; such cooperatives are exempt

28-00888A-17

2017744__

671 from fire sprinkler or other engineered life safety
672 retrofitting. The preceding sentence is intended to clarify
673 existing law. The local authority having jurisdiction may not
674 require completion of retrofitting with a fire sprinkler system
675 or other engineered life safety system before January 1, 2022
676 ~~the end of 2019~~. By December 31, 2018 ~~2016~~, a cooperative that
677 is not in compliance with the requirements for a fire sprinkler
678 system or other engineered lifesafety system and has not voted
679 to forego retrofitting of such a system must initiate an
680 application for a building permit for the required installation
681 with the local government having jurisdiction demonstrating that
682 the cooperative will become compliant by December 31, 2021 ~~2019~~.

683 2. A vote to forego required retrofitting may be obtained
684 by limited proxy or by a ballot personally cast at a duly called
685 membership meeting, or by execution of a written consent by the
686 member, or by electronic voting, and is effective upon recording
687 a certificate executed by an officer or agent of the association
688 attesting to such vote in the public records of the county where
689 the cooperative is located. When the opt-out vote is to be
690 conducted at a meeting, the cooperative shall mail or ~~hand~~
691 deliver to each unit owner written notice at least 14 days
692 before the membership meeting in which the vote to forego
693 retrofitting of the required fire sprinkler system or other
694 engineered lifesafety system is to take place. Within 30 days
695 after the cooperative's opt-out vote, notice of the results of
696 the opt-out vote must be mailed or ~~hand~~ delivered to all unit
697 owners. Evidence of compliance with this notice requirement must
698 be made by affidavit executed by the person providing the notice
699 and filed among the official records of the cooperative. Failure

28-00888A-17

2017744__

700 to provide timely notice to unit owners does not invalidate an
701 otherwise valid opt-out vote if notice of the results is
702 provided to the owners. After notice is provided to each owner,
703 ~~a copy must be provided by the current owner to a new owner~~
704 ~~before closing and by a unit owner to a renter before signing a~~
705 ~~lease.~~

706 (b) If there has been a previous vote to forego
707 retrofitting, a vote to require retrofitting may be obtained at
708 a special meeting of the unit owners called by a petition of
709 least 10 percent of the voting interests or by a majority of the
710 board of directors. ~~Such vote may only be called once every 3~~
711 ~~years.~~ Notice must be provided as required for any regularly
712 called meeting of the unit owners, and the notice must state the
713 purpose of the meeting. ~~Electronic transmission may not be used~~
714 ~~to provide notice of a meeting called in whole or in part for~~
715 ~~this purpose.~~

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

726 Section 6. Paragraph (c) of subsection (1) of section
727 719.106, Florida Statutes, is amended to read:

728 719.106 Bylaws; cooperative ownership.-

28-00888A-17

2017744__

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

732 (c) *Board of administration meetings.*—Members of the board
733 of administration may use e-mail as a means of communication,
734 but may not cast a vote on an association matter via e-mail.
735 Meetings of the board of administration at which a quorum of the
736 members is present shall be open to all unit owners. Any unit
737 owner may tape record or videotape meetings of the board of
738 administration. The right to attend such meetings includes the
739 right to speak at such meetings with reference to all designated
740 agenda items. The division shall adopt reasonable rules
741 governing the tape recording and videotaping of the meeting. The
742 association may adopt reasonable written rules governing the
743 frequency, duration, and manner of unit owner statements.
744 Adequate notice of all meetings shall be posted in a conspicuous
745 place upon the cooperative property at least 48 continuous hours
746 preceding the meeting, except in an emergency. Any item not
747 included on the notice may be taken up on an emergency basis by
748 at least a majority plus one of the members of the board. Such
749 emergency action shall be noticed and ratified at the next
750 regular meeting of the board. Notice of any meeting in which
751 regular or special assessments against unit owners are to be
752 considered must specifically state that assessments will be
753 considered and provide the estimated amount and description of
754 the purposes for such assessments. ~~However,~~ Written notice of
755 any meeting at which nonemergency special assessments, or at
756 which amendment to rules regarding unit use, will be considered
757 shall be mailed, delivered, or electronically transmitted to the

28-00888A-17

2017744__

758 unit owners and posted conspicuously on the cooperative property
759 not less than 14 days before the meeting. Evidence of compliance
760 with this 14-day notice shall be made by an affidavit executed
761 by the person providing the notice and filed among the official
762 records of the association. Upon notice to the unit owners, the
763 board shall by duly adopted rule designate a specific location
764 on the cooperative property upon which all notices of board
765 meetings shall be posted. In lieu of or in addition to the
766 physical posting of notice of any meeting of the board of
767 administration on the cooperative property, the association may,
768 by reasonable rule, adopt a procedure for conspicuously posting
769 and repeatedly broadcasting the notice and the agenda on a
770 closed-circuit cable television system serving the cooperative
771 association. However, if broadcast notice is used in lieu of a
772 notice posted physically on the cooperative property, the notice
773 and agenda must be broadcast at least four times every broadcast
774 hour of each day that a posted notice is otherwise required
775 under this section. When broadcast notice is provided, the
776 notice and agenda must be broadcast in a manner and for a
777 sufficient continuous length of time so as to allow an average
778 reader to observe the notice and read and comprehend the entire
779 content of the notice and the agenda. In addition to any of the
780 authorized means of providing notice of a meeting of the board,
781 the association may, by rule, adopt a procedure for
782 conspicuously posting the meeting notice and the agenda on a
783 website serving the cooperative association for at least the
784 minimum period of time for which a notice of a meeting is also
785 required to be physically posted on the cooperative property.
786 Any rule adopted shall, in addition to other matters, include a

28-00888A-17

2017744__

787 requirement that the association send an electronic notice
788 providing a hypertext link to the website where the notice is
789 posted. ~~Notice of any meeting in which regular assessments~~
790 ~~against unit owners are to be considered for any reason shall~~
791 ~~specifically contain a statement that assessments will be~~
792 ~~considered and the nature of any such assessments.~~ Meetings of a
793 committee to take final action on behalf of the board or to make
794 recommendations to the board regarding the association budget
795 are subject to the provisions of this paragraph. Meetings of a
796 committee that does not take final action on behalf of the board
797 or make recommendations to the board regarding the association
798 budget are subject to the provisions of this section, unless
799 those meetings are exempted from this section by the bylaws of
800 the association. Notwithstanding any other law to the contrary,
801 the requirement that board meetings and committee meetings be
802 open to the unit owners does not apply to board or committee
803 meetings held for the purpose of discussing personnel matters or
804 meetings between the board or a committee and the association's
805 attorney, with respect to proposed or pending litigation, if the
806 meeting is held for the purpose of seeking or rendering legal
807 advice.

808 Section 7. Paragraph (a) of subsection (2) and subsection
809 (6) of section 720.303, Florida Statutes, are amended to read:

810 720.303 Association powers and duties; meetings of board;
811 official records; budgets; budget meetings; financial reporting;
812 association funds; recalls.-

813 (2) BOARD MEETINGS.-

814 (a) Members of the board of administration may use e-mail
815 as a means of communication, but may not cast a vote on an

28-00888A-17

2017744__

816 association matter via e-mail. A meeting of the board of
817 directors of an association occurs whenever a quorum of the
818 board gathers to conduct association business. Meetings of the
819 board must be open to all members, except for meetings between
820 the board and its attorney with respect to proposed or pending
821 litigation where the contents of the discussion would otherwise
822 be governed by the attorney-client privilege. A meeting of the
823 board must be held at a location that is accessible to a
824 physically handicapped person if requested by a physically
825 handicapped person who has a right to attend the meeting. The
826 provisions of this subsection shall also apply to the meetings
827 of any committee or other similar body when a final decision
828 will be made regarding the expenditure of association funds and
829 to meetings of any body vested with the power to approve or
830 disapprove architectural decisions with respect to a specific
831 parcel of residential property owned by a member of the
832 community.

833 (6) BUDGETS; BUDGET MEETINGS.—

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

28-00888A-17

2017744__

845 subsection (5).

846 (b) In addition to annual operating expenses, the budget
847 ~~must may~~ include reserve accounts for capital expenditures and
848 deferred maintenance ~~for~~ which are obligations of the
849 association under is responsible. ~~If reserve accounts are not~~
850 ~~established pursuant to paragraph (d), funding of such reserves~~
851 ~~is limited to the extent that the governing documents for any~~
852 item that has a deferred maintenance expense or replacement cost
853 that exceeds \$10,000. The amount to be reserved must be computed
854 using a formula based upon estimated remaining useful life and
855 estimated replacement cost or deferred maintenance expense of
856 each reserve item. The association may adjust replacement
857 reserve limit increases in assessments annually to take into
858 account any changes in estimates or extension of the useful life
859 of a reserve item caused by deferred maintenance. This
860 subsection does not apply to an adopted budget in which the
861 members of an association have determined, by a majority vote at
862 a duly called meeting, including reserves. ~~If the budget of the~~
863 ~~association, to provide no reserves or less reserves than~~
864 required by this subsection includes reserve accounts
865 ~~established pursuant to paragraph (d), such reserves shall be~~
866 ~~determined, maintained, and waived in the manner provided in~~
867 ~~this subsection. Once an association provides for reserve~~
868 ~~accounts pursuant to paragraph (d), the association shall~~
869 ~~thereafter determine, maintain, and waive reserves in compliance~~
870 ~~with this subsection. This section does not preclude the~~
871 ~~termination of a reserve account established pursuant to this~~
872 ~~paragraph upon approval of a majority of the total voting~~
873 ~~interests of the association. Upon such approval, the~~

28-00888A-17

2017744__

874 terminating reserve account shall be removed from the budget.

875 ~~(c)1. Before turnover of control of an If the budget of the~~
876 ~~association pursuant to s. 720.307, the developer may vote the~~
877 ~~voting interests allocated to its parcels to waive the reserves~~
878 ~~or reduce the funding of reserves through the period expiring at~~
879 ~~the end of the second fiscal year after the fiscal year in which~~
880 ~~the governing documents are initially recorded or an instrument~~
881 ~~that transfers title to a parcel subject to the governing~~
882 ~~documents which is not accompanied by a recorded assignment of~~
883 ~~developer rights in favor of the grantee of such parcel is~~
884 ~~recorded, whichever occurs first, after which time reserves may~~
885 ~~be waived or reduced only upon the vote of a majority of all~~
886 ~~nondeveloper voting interests voting in person or by limited~~
887 ~~proxy at a duly called meeting of the association. does not~~
888 ~~provide for reserve accounts pursuant to paragraph (d) and the~~
889 ~~association is responsible for the repair and maintenance of~~
890 ~~capital improvements that may result in a special assessment if~~
891 ~~reserves are not provided, each financial report for the~~
892 ~~preceding fiscal year required by subsection (7) must contain~~
893 ~~the following statement in conspicuous type:~~

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

901 ~~2. If the budget of the association does provide for~~
902 ~~funding accounts for deferred expenditures, including, but not~~

28-00888A-17

2017744__

903 ~~limited to, funds for capital expenditures and deferred~~
904 ~~maintenance, but such accounts are not created or established~~
905 ~~pursuant to paragraph (d), each financial report for the~~
906 ~~preceding fiscal year required under subsection (7) must also~~
907 ~~contain the following statement in conspicuous type:~~
908 ~~THE BUDGET OF THE ASSOCIATION PROVIDES FOR LIMITED VOLUNTARY~~
909 ~~DEFERRED EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES~~
910 ~~AND DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED~~
911 ~~IN OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED~~
912 ~~TO PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),~~
913 ~~FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE~~
914 ~~RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR~~
915 ~~ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.~~

916 ~~(d) An association is deemed to have provided for reserve~~
917 ~~accounts if reserve accounts have been initially established by~~
918 ~~the developer or if the membership of the association~~
919 ~~affirmatively elects to provide for reserves. If reserve~~
920 ~~accounts are established by the developer, the budget must~~
921 ~~designate the components for which the reserve accounts may be~~
922 ~~used. If reserve accounts are not initially provided by the~~
923 ~~developer, the membership of the association may elect to do so~~
924 ~~upon the affirmative approval of a majority of the total voting~~
925 ~~interests of the association. Such approval may be obtained by~~
926 ~~vote of the members at a duly called meeting of the membership~~
927 ~~or by the written consent of a majority of the total voting~~
928 ~~interests of the association. The approval action of the~~
929 ~~membership must state that reserve accounts shall be provided~~
930 ~~for in the budget and must designate the components for which~~
931 ~~the reserve accounts are to be established. Upon approval by the~~

28-00888A-17

2017744__

932 ~~membership, the board of directors shall include the required~~
933 ~~reserve accounts in the budget in the next fiscal year following~~
934 ~~the approval and each year thereafter. Once established as~~
935 ~~provided in this subsection, the reserve accounts must be funded~~
936 ~~or maintained or have their funding waived in the manner~~
937 ~~provided in paragraph (f).~~

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

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

956 (d) Reserve funds and any interest accruing thereon shall
957 remain in the reserve account or accounts and may be used only
958 for authorized reserve expenditures unless their use for other
959 purposes is approved in advance by a majority vote at a duly
960 called meeting of the association. Before turnover of control of

28-00888A-17

2017744__

961 an association by a developer to parcel owners other than the
962 developer pursuant to s. 720.307, the developer-controlled
963 association may not vote to use reserves for purposes other than
964 those for which they were intended without the approval of a
965 majority of all nondeveloper voting interests, voting in person
966 or by limited proxy at a duly called meeting of the association.

967 (e) The only voting interests that are eligible to vote on
968 questions that involve waiving or reducing the funding of
969 reserves, or using existing reserve funds for purposes other
970 than purposes for which the reserves were intended, are the
971 voting interests of the parcels subject to assessment to fund
972 the reserves in question. Any vote taken pursuant to this
973 subsection to waive or reduce reserves is applicable only to 1
974 budget year. Proxy questions relating to waiving or reducing the
975 funding of reserves or using existing reserve funds for purposes
976 other than purposes for which the reserves were intended must
977 contain the following statement in capitalized, bold letters in
978 a font size larger than any other used on the face of the proxy
979 ballot: WAIVING OF RESERVES, IN WHOLE OR IN PART, OR ALLOWING
980 ALTERNATIVE USES OF EXISTING RESERVES MAY RESULT IN PARCEL OWNER
981 LIABILITY FOR PAYMENT OF UNANTICIPATED SPECIAL ASSESSMENTS
982 REGARDING THOSE ITEMS.

983 (f) Funding formulas for reserves required by this section
984 shall be based on a pooled analysis of two or more of the items
985 for which reserves are required to be accrued pursuant to this
986 subsection. The amount of the contribution to the pooled reserve
987 account as disclosed on the proposed budget may not be less than
988 that required to ensure that the balance on hand at the
989 beginning of the period the budget will go into effect plus the

28-00888A-17

2017744__

990 projected annual cash inflows over the remaining estimated
991 useful life of all of the assets that make up the reserve pool
992 are equal to or greater than the projected annual cash outflows
993 over the remaining estimated useful lives of all the assets that
994 make up the reserve pool based on the current reserve analysis.
995 The projected annual cash inflows may include estimated earnings
996 from investment of principal and accounts receivable minus the
997 allowance for doubtful accounts. The reserve funding formula may
998 not include any type of balloon payments.

999 (g) As an alternative to the pooled analysis method
1000 described in paragraph (f) and, if approved by a majority vote
1001 at a meeting of the members of the association at which a quorum
1002 is present, the funding formulas for reserves required
1003 authorized by this section may must be based on a separate
1004 analysis of each of the required assets or a pooled analysis of
1005 two or more of the required assets. ~~1.~~ If the association
1006 maintains separate reserve accounts for each of the required
1007 assets, the amount of the contribution to each reserve account
1008 is the sum of the following two calculations:

1009 ~~1.a.~~ The total amount necessary, if any, to bring a
1010 negative component balance to zero.

1011 ~~2.b.~~ The total estimated deferred maintenance expense or
1012 estimated replacement cost of the reserve component less the
1013 estimated balance of the reserve component as of the beginning
1014 of the period the budget will be in effect. The remainder, if
1015 greater than zero, shall be divided by the estimated remaining
1016 useful life of the component.

1017
1018 The formula may be adjusted each year for changes in estimates

28-00888A-17

2017744__

1019 and deferred maintenance performed during the year and may
1020 include factors such as inflation and earnings on invested
1021 funds. An association may convert its funding formulas from a
1022 component method to a pooled method, as described in paragraph
1023 (f), at any time if approved by a majority vote at a meeting at
1024 which a quorum is present.

1025 ~~2. If the association maintains a pooled account of two or~~
1026 ~~more of the required reserve assets, the amount of the~~
1027 ~~contribution to the pooled reserve account as disclosed on the~~
1028 ~~proposed budget may not be less than that required to ensure~~
1029 ~~that the balance on hand at the beginning of the period the~~
1030 ~~budget will go into effect plus the projected annual cash~~
1031 ~~inflows over the remaining estimated useful life of all of the~~
1032 ~~assets that make up the reserve pool are equal to or greater~~
1033 ~~than the projected annual cash outflows over the remaining~~
1034 ~~estimated useful lives of all the assets that make up the~~
1035 ~~reserve pool, based on the current reserve analysis. The~~
1036 ~~projected annual cash inflows may include estimated earnings~~
1037 ~~from investment of principal and accounts receivable minus the~~
1038 ~~allowance for doubtful accounts. The reserve funding formula may~~
1039 ~~not include any type of balloon payments.~~

1040 (h)1. ~~Reserve funds and Any interest accruing thereon shall~~
1041 ~~remain in the reserve account or accounts and shall be used only~~
1042 ~~for authorized reserve expenditures unless their use for other~~
1043 ~~purposes is approved in advance by a majority vote at a meeting~~
1044 ~~at which a proposed annual budget of an association will be~~
1045 ~~considered by the board or a quorum is present. Prior to~~
1046 ~~turnover of control of an association by a developer to parcel~~
1047 ~~owners shall be open to all parcel owners, the developer~~

28-00888A-17

2017744__

1048 ~~controlled association shall not vote to use reserves for~~
1049 ~~purposes other than those for which they were intended without~~
1050 ~~the approval of a majority of all nondeveloper voting interests~~
1051 ~~voting in person or by limited proxy at a duly called meeting of~~
1052 ~~the association.~~

1053 2.a. If a board adopts in any fiscal year an annual budget
1054 which requires assessments against parcel owners which exceed
1055 115 percent of assessments for the preceding fiscal year, the
1056 board shall conduct a special meeting of the parcel owners to
1057 consider a substitute budget if the board receives, within 21
1058 days after adoption of the annual budget, a written request for
1059 a special meeting from at least 10 percent of all voting
1060 interests. The special meeting shall be conducted within 60 days
1061 after adoption of the annual budget. At least 14 days before
1062 such special meeting, the board shall hand deliver to each
1063 parcel owner, or mail to each parcel owner at the address last
1064 furnished to the association, a notice of the meeting. An
1065 officer or manager of the association, or other person providing
1066 notice of such meeting, shall execute an affidavit evidencing
1067 compliance with this notice requirement, and such affidavit
1068 shall be filed among the official records of the association.
1069 Parcel owners may consider and adopt a substitute budget at the
1070 special meeting. A substitute budget is adopted if approved by a
1071 majority of all voting interests unless the bylaws require
1072 adoption by a greater percentage of voting interests. If there
1073 is not a quorum at the special meeting or a substitute budget is
1074 not adopted, the annual budget previously adopted by the board
1075 shall take effect as scheduled.

1076 b. Any determination of whether assessments exceed 115

28-00888A-17

2017744__

1077 percent of assessments for the prior fiscal year shall exclude
1078 any authorized provision for reasonable reserves for repair or
1079 replacement of the association property, anticipated expenses of
1080 the association which the board does not expect to be incurred
1081 on a regular or annual basis, or assessments for betterments to
1082 the condominium property.

1083 c. If the developer controls the board, assessments may not
1084 exceed 115 percent of assessments for the prior fiscal year
1085 unless approved by a majority of all voting interests.

1086 (i) The provisions of paragraphs (b)-(h) do not apply to
1087 mandatory reserve accounts required to be established and
1088 maintained by an association at the direction of a county or
1089 municipal government, water or drainage management district,
1090 community development district, or other political subdivision
1091 that has the authority to approve and control subdivision
1092 infrastructure which is being entrusted to the care of an
1093 association on condition that the association establish and
1094 maintain one or more mandatory reserve accounts for the deferred
1095 maintenance or replacement of the infrastructure in accordance
1096 with the requirements of that entrusting authority.

1097 Section 8. Paragraph (a) of subsection (9) of section
1098 720.306, Florida Statutes, is amended to read:

1099 720.306 Meetings of members; voting and election
1100 procedures; amendments.—

1101 (9) ELECTIONS AND BOARD VACANCIES.—

1102 (a) Elections of directors must be conducted in accordance
1103 with the procedures set forth in the governing documents of the
1104 association. Except as provided in paragraph (b), all members of
1105 the association are eligible to serve on the board of directors,

28-00888A-17

2017744__

1106 and a member may nominate himself or herself as a candidate for
1107 the board at a meeting where the election is to be held;
1108 provided, however, that if the election process allows
1109 candidates to be nominated in advance of the meeting, the
1110 association is not required to allow nominations at the meeting.
1111 An election is not required unless more candidates are nominated
1112 than vacancies exist. If an election is not required because
1113 there are either an equal number or fewer qualified candidates
1114 than vacancies exist, and if nominations from the floor are not
1115 required pursuant to this section or the bylaws, write-in
1116 nominations are not permitted and such candidates shall commence
1117 service on the board of directors, regardless of whether a
1118 quorum is attained at the annual meeting. Except as otherwise
1119 provided in the governing documents, boards of directors must be
1120 elected by a plurality of the votes cast by eligible voters. Any
1121 challenge to the election process must be commenced within 60
1122 days after the election results are announced.

1123 Section 9. Paragraph (b) of subsection (3) of section
1124 720.3085, Florida Statutes, is amended to read:

1125 720.3085 Payment for assessments; lien claims.—

1126 (3) Assessments and installments on assessments that are
1127 not paid when due bear interest from the due date until paid at
1128 the rate provided in the declaration of covenants or the bylaws
1129 of the association, which rate may not exceed the rate allowed
1130 by law. If no rate is provided in the declaration or bylaws,
1131 interest accrues at the rate of 18 percent per year.

1132 (b) Any payment received by an association and accepted
1133 shall be applied first to any interest accrued, then to any
1134 administrative late fee, then to any costs and reasonable

28-00888A-17

2017744__

1135 attorney fees incurred in collection, and then to the delinquent
1136 assessment. This paragraph applies notwithstanding any
1137 restrictive endorsement, designation, or instruction placed on
1138 or accompanying a payment. A late fee is not subject to the
1139 provisions of chapter 687 and is not a fine. The foregoing is
1140 applicable notwithstanding s. 673.3111, any purported accord and
1141 satisfaction, or any restrictive endorsement, designation, or
1142 instruction placed on or accompanying a payment. The preceding
1143 sentence is intended to clarify existing law.

1144 Section 10. This act shall take effect July 1, 2017.