

By the Committees on Appropriations; Judiciary; and Regulated Industries; and Senators Altman and Sachs

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1                                   A bill to be entitled  
2       An act relating to residential properties; amending s.  
3       399.02, F.S.; exempting certain elevators from  
4       specific code update requirements; amending s.  
5       718.111, F.S.; revising requirements for an  
6       association's approval of land purchases and  
7       recreational leases; revising reconstruction costs for  
8       which unit owners are responsible and authorizing the  
9       costs to be collected in a specified manner; requiring  
10      an association to repair or replace as a common  
11      expense certain condominium property damaged by an  
12      insurable event; requiring an association to allow a  
13      member or the member's representative to use certain  
14      portable devices to make electronic copies of  
15      association records; prohibiting the association from  
16      charging the member or representative for using the  
17      portable device; authorizing a condominium association  
18      to print and distribute a member directory under  
19      certain conditions; revising requirements for the  
20      preparation of an association's annual financial  
21      statement; amending s. 718.112, F.S.; revising terms  
22      of members of an association's board of administrators  
23      and revising eligibility criteria for candidates;  
24      revising condominium unit owner meeting notice  
25      requirements; providing for nonapplicability to  
26      associations governing timeshare condominiums of  
27      certain provisions relating to elections of board  
28      members; revising recordkeeping requirements of a  
29      condominium association board; requiring commencement

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30 of challenges to an election within a specified  
31 period; providing requirements for challenging the  
32 failure of a board to duly notice and hold the  
33 required board meeting or to file the required  
34 petition for a recall; providing requirements for  
35 recalled board members to challenge the recall;  
36 prohibiting the Division of Florida Condominiums,  
37 Timeshares, and Mobile Homes of the Department of  
38 Business and Professional Regulation from accepting  
39 recall petitions for filing under certain  
40 circumstances; amending s. 718.113, F.S.; providing  
41 requirements for a condominium association board  
42 relating to the installation of hurricane shutters,  
43 impact glass, code-compliant windows or doors, and  
44 other types of code-compliant hurricane protection  
45 under certain circumstances; amending s. 718.115,  
46 F.S.; conforming provisions to changes made by the  
47 act; amending s. 718.303, F.S.; revising provisions  
48 relating to imposing remedies against a noncompliant  
49 or delinquent condominium unit owner or member;  
50 amending s. 718.403, F.S.; providing requirements for  
51 the completion of phase condominiums; creating s.  
52 718.406, F.S.; providing definitions; providing  
53 requirements for condominiums created within  
54 condominium parcels; providing for the establishment  
55 of primary condominium and secondary condominium  
56 units; providing requirements for association  
57 declarations; authorizing a primary condominium  
58 association to provide insurance and adopt hurricane

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59 shutter or hurricane protection specifications under  
60 certain conditions; providing requirements relating to  
61 assessments; providing for resolution of conflicts  
62 between primary condominium declarations and secondary  
63 condominium declarations; providing requirements  
64 relating to common expenses due the primary  
65 condominium association; amending s. 718.5011, F.S.;  
66 revising the restriction on officers and full-time  
67 employees of the ombudsman from engaging in other  
68 businesses or professions; amending s. 719.104, F.S.;  
69 providing requirements for the maintenance of the  
70 official records of the association; authorizing  
71 records to be made available to unit owners in an  
72 electronic format; providing a civil penalty for the  
73 denial of a request to view records; requiring an  
74 association to allow a member or the member's  
75 authorized representative to use certain portable  
76 devices to make electronic copies of association  
77 records; prohibiting the association from charging the  
78 member or authorized representative for using the  
79 portable device; authorizing a cooperative association  
80 to print and distribute a member directory under  
81 certain conditions; specifying additional records that  
82 are not accessible to unit owners; amending s.  
83 719.1055, F.S.; revising provisions relating to the  
84 amendment of cooperative documents; providing  
85 legislative findings and a finding of compelling state  
86 interest; providing criteria for consent or joinder to  
87 an amendment; requiring notice regarding proposed

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88 amendments to mortgagees; providing criteria for  
89 notification; providing for voiding certain  
90 amendments; amending s. 719.106, F.S.; revising  
91 applicability of certain board of administration  
92 meeting requirements; requiring commencement of  
93 challenges to an election within a specified period;  
94 specifying certification or educational requirements  
95 for a newly elected or appointed cooperative board  
96 director; providing requirements for challenging the  
97 failure of a board to duly notice and hold the  
98 required board meeting or to file the required  
99 petition for a recall; providing requirements for  
100 recalled board members to challenge the recall;  
101 prohibiting the division from accepting recall  
102 petitions for filing under certain circumstances;  
103 providing education requirements for board members;  
104 amending s. 719.303, F.S.; revising provisions  
105 relating to imposing remedies against a noncompliant  
106 or delinquent cooperative unit owner or member;  
107 amending s. 719.501, F.S.; authorizing the division to  
108 provide training and educational programs for  
109 cooperative association board members and unit owners;  
110 amending s. 720.303, F.S.; requiring an association to  
111 allow a member or the member's representative to use  
112 certain portable devices to make electronic copies of  
113 association records; prohibiting the association from  
114 charging the member or representative for using the  
115 portable device; authorizing a homeowners' association  
116 to print and distribute a member directory under

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117 certain conditions; revising requirements for the  
118 preparation of an association's annual financial  
119 statement; revising the types of records that are not  
120 accessible to homeowners' association members and  
121 parcel owners; providing requirements for challenging  
122 the failure of a board to duly notice and hold the  
123 required board meeting or to file the required  
124 petition for a recall; providing requirements for  
125 recalled board members to challenge the recall;  
126 prohibiting the division from accepting recall  
127 petitions for filing under certain circumstances;  
128 amending s. 720.305, F.S.; revising provisions  
129 relating to imposing remedies against a noncompliant  
130 or delinquent homeowners' association member and  
131 parcel owner; amending s. 720.306, F.S.; revising  
132 provisions relating to the amendment of homeowners'  
133 association declarations; providing legislative  
134 findings and a finding of compelling state interest;  
135 providing criteria for consent or joinder to an  
136 amendment; requiring notice to mortgagees regarding  
137 proposed amendments; providing criteria for  
138 notification; providing for voiding certain  
139 amendments; revising provisions relating to right to  
140 speak at a homeowners' association meeting; requiring  
141 commencement of challenges to an election within a  
142 specified period; providing an effective date.

144 Be It Enacted by the Legislature of the State of Florida:

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146 Section 1. Subsection (9) of section 399.02, Florida  
147 Statutes, is amended to read:

148 399.02 General requirements.—

149 (9) Updates to the Safety Code for Existing Elevators and  
150 Escalators, ASME A17.1 and A17.3, which require Phase II  
151 Firefighters' Service on elevators may not be enforced ~~until~~  
152 ~~July 1, 2015, or~~ until the elevator is replaced or requires  
153 major modification, ~~whichever occurs first,~~ on elevators in  
154 condominiums or multifamily residential buildings, including  
155 those that are part of a continuing care facility licensed under  
156 chapter 651, or similar retirement community with apartments,  
157 having a certificate of occupancy by the local building  
158 authority that was issued before July 1, 2008. This exception  
159 does not prevent an elevator owner from requesting a variance  
160 from the applicable codes ~~before or after July 1, 2015.~~ This  
161 subsection does not prohibit the division from granting  
162 variances pursuant to s. 120.542 and subsection (8). The  
163 division shall adopt rules to administer this subsection.

164 Section 2. Subsection (8), paragraphs (g) and (j) of  
165 subsection (11), paragraph (c) of subsection (12), and  
166 paragraphs (a) and (b) of subsection (13) of section 718.111,  
167 Florida Statutes, are amended to read:

168 718.111 The association.—

169 (8) PURCHASE OF LEASES.—The association has the power to  
170 purchase any land or recreation lease, subject to the same  
171 manner of approval as in s. 718.114 for the acquisition of  
172 leaseholds ~~upon the approval of such voting interest as is~~  
173 ~~required by the declaration. If the declaration makes no~~  
174 ~~provision for acquisition of the land or recreation lease, the~~

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175 ~~vote required shall be that required to amend the declaration to~~  
176 ~~permit the acquisition.~~

177 (11) INSURANCE.—In order to protect the safety, health, and  
178 welfare of the people of the State of Florida and to ensure  
179 consistency in the provision of insurance coverage to  
180 condominiums and their unit owners, this subsection applies to  
181 every residential condominium in the state, regardless of the  
182 date of its declaration of condominium. It is the intent of the  
183 Legislature to encourage lower or stable insurance premiums for  
184 associations described in this subsection.

185 (g) A condominium unit owner's policy must conform to the  
186 requirements of s. 627.714.

187 1. All reconstruction work after a property loss must be  
188 undertaken by the association except as otherwise authorized in  
189 this section. A unit owner may undertake reconstruction work on  
190 portions of the unit with the prior written consent of the board  
191 of administration. However, such work may be conditioned upon  
192 the approval of the repair methods, the qualifications of the  
193 proposed contractor, or the contract that is used for that  
194 purpose. A unit owner must obtain all required governmental  
195 permits and approvals before commencing reconstruction.

196 2. Unit owners are responsible for the cost of  
197 reconstruction of any portions of the condominium property for  
198 which the unit owner is required to carry property insurance, or  
199 for which the unit owner is responsible under paragraph (j), and  
200 the cost of any such reconstruction work undertaken by the  
201 association is chargeable to the unit owner and enforceable as  
202 an assessment and may be collected in the manner provided for  
203 the collection of assessments pursuant to s. 718.116.

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204           3. A multicondominium association may elect, by a majority  
205 vote of the collective members of the condominiums operated by  
206 the association, to operate the condominiums as a single  
207 condominium for purposes of insurance matters, including, but  
208 not limited to, the purchase of the property insurance required  
209 by this section and the apportionment of deductibles and damages  
210 in excess of coverage. The election to aggregate the treatment  
211 of insurance premiums, deductibles, and excess damages  
212 constitutes an amendment to the declaration of all condominiums  
213 operated by the association, and the costs of insurance must be  
214 stated in the association budget. The amendments must be  
215 recorded as required by s. 718.110.

216           (j) Any portion of the condominium property that must be  
217 insured by the association against property loss pursuant to  
218 paragraph (f) which is damaged by an insurable event shall be  
219 reconstructed, repaired, or replaced as necessary by the  
220 association as a common expense. All property insurance  
221 deductibles, uninsured losses, and other damages in excess of  
222 property insurance coverage under the property insurance  
223 policies maintained by the association are a common expense of  
224 the condominium, except that:

225           1. A unit owner is responsible for the costs of repair or  
226 replacement of any portion of the condominium property not paid  
227 by insurance proceeds if such damage is caused by intentional  
228 conduct, negligence, or failure to comply with the terms of the  
229 declaration or the rules of the association by a unit owner, the  
230 members of his or her family, unit occupants, tenants, guests,  
231 or invitees, without compromise of the subrogation rights of the  
232 insurer.



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233           2. The provisions of subparagraph 1. regarding the  
234 financial responsibility of a unit owner for the costs of  
235 repairing or replacing other portions of the condominium  
236 property also apply to the costs of repair or replacement of  
237 personal property of other unit owners or the association, as  
238 well as other property, whether real or personal, which the unit  
239 owners are required to insure.

240           3. To the extent the cost of repair or reconstruction for  
241 which the unit owner is responsible under this paragraph is  
242 reimbursed to the association by insurance proceeds, and the  
243 association has collected the cost of such repair or  
244 reconstruction from the unit owner, the association shall  
245 reimburse the unit owner without the waiver of any rights of  
246 subrogation.

247           4. The association is not obligated to pay for  
248 reconstruction or repairs of property losses as a common expense  
249 if the property losses were known or should have been known to a  
250 unit owner and were not reported to the association until after  
251 the insurance claim of the association for that property was  
252 settled or resolved with finality, or denied because it was  
253 untimely filed.

254           (12) OFFICIAL RECORDS.—

255           (c) The official records of the association are open to  
256 inspection by any association member or the authorized  
257 representative of such member at all reasonable times. The right  
258 to inspect the records includes the right to make or obtain  
259 copies, at the reasonable expense, if any, of the member. The  
260 association may adopt reasonable rules regarding the frequency,  
261 time, location, notice, and manner of record inspections and

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262 copying. The failure of an association to provide the records  
263 within 10 working days after receipt of a written request  
264 creates a rebuttable presumption that the association willfully  
265 failed to comply with this paragraph. A unit owner who is denied  
266 access to official records is entitled to the actual damages or  
267 minimum damages for the association's willful failure to comply.  
268 Minimum damages are \$50 per calendar day for up to 10 days,  
269 beginning on the 11th working day after receipt of the written  
270 request. The failure to permit inspection entitles any person  
271 prevailing in an enforcement action to recover reasonable  
272 attorney ~~attorney's~~ fees from the person in control of the  
273 records who, directly or indirectly, knowingly denied access to  
274 the records. Any person who knowingly or intentionally defaces  
275 or destroys accounting records that are required by this chapter  
276 to be maintained during the period for which such records are  
277 required to be maintained, or who knowingly or intentionally  
278 fails to create or maintain accounting records that are required  
279 to be created or maintained, with the intent of causing harm to  
280 the association or one or more of its members, is personally  
281 subject to a civil penalty pursuant to s. 718.501(1)(d). The  
282 association shall maintain an adequate number of copies of the  
283 declaration, articles of incorporation, bylaws, and rules, and  
284 all amendments to each of the foregoing, as well as the question  
285 and answer sheet as described in s. 718.504 and year-end  
286 financial information required under this section, on the  
287 condominium property to ensure their availability to unit owners  
288 and prospective purchasers, and may charge its actual costs for  
289 preparing and furnishing these documents to those requesting the  
290 documents. An association shall allow a member or his or her

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291 authorized representative to use a portable device, including a  
292 smartphone, tablet, portable scanner, or any other technology  
293 capable of scanning or taking photographs, to make an electronic  
294 copy of the official records in lieu of the association's  
295 providing the member or his or her authorized representative  
296 with a copy of such records. The association may not charge a  
297 member or his or her authorized representative for the use of a  
298 portable device. Notwithstanding this paragraph, the following  
299 records are not accessible to unit owners:

300 1. Any record protected by the lawyer-client privilege as  
301 described in s. 90.502 and any record protected by the work-  
302 product privilege, including a record prepared by an association  
303 attorney or prepared at the attorney's express direction, which  
304 reflects a mental impression, conclusion, litigation strategy,  
305 or legal theory of the attorney or the association, and which  
306 was prepared exclusively for civil or criminal litigation or for  
307 adversarial administrative proceedings, or which was prepared in  
308 anticipation of such litigation or proceedings until the  
309 conclusion of the litigation or proceedings.

310 2. Information obtained by an association in connection  
311 with the approval of the lease, sale, or other transfer of a  
312 unit.

313 3. Personnel records of association or management company  
314 employees, including, but not limited to, disciplinary, payroll,  
315 health, and insurance records. For purposes of this  
316 subparagraph, the term "personnel records" does not include  
317 written employment agreements with an association employee or  
318 management company, or budgetary or financial records that  
319 indicate the compensation paid to an association employee.

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320 4. Medical records of unit owners.

321 5. Social security numbers, driver ~~driver's~~ license  
322 numbers, credit card numbers, e-mail addresses, telephone  
323 numbers, facsimile numbers, emergency contact information,  
324 addresses of a unit owner other than as provided to fulfill the  
325 association's notice requirements, and other personal  
326 identifying information of any person, excluding the person's  
327 name, unit designation, mailing address, property address, and  
328 any address, e-mail address, or facsimile number provided to the  
329 association to fulfill the association's notice requirements.  
330 Notwithstanding the restrictions in this subparagraph, an  
331 association may print and distribute to parcel owners a  
332 directory containing the name, parcel address, and telephone  
333 number of each parcel owner. However, an owner may exclude his  
334 or her telephone number from the directory by so requesting in  
335 writing to the association ~~consent in writing to the disclosure~~  
336 ~~of protected information described in this subparagraph.~~ The  
337 association is not liable for the inadvertent disclosure of  
338 information that is protected under this subparagraph if the  
339 information is included in an official record of the association  
340 and is voluntarily provided by an owner and not requested by the  
341 association.

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

344 7. The software and operating system used by the  
345 association which allow the manipulation of data, even if the  
346 owner owns a copy of the same software used by the association.  
347 The data is part of the official records of the association.

348 (13) FINANCIAL REPORTING.—Within 90 days after the end of

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349 the fiscal year, or annually on a date provided in the bylaws,  
350 the association shall prepare and complete, or contract for the  
351 preparation and completion of, a financial report for the  
352 preceding fiscal year. Within 21 days after the final financial  
353 report is completed by the association or received from the  
354 third party, but not later than 120 days after the end of the  
355 fiscal year or other date as provided in the bylaws, the  
356 association shall mail to each unit owner at the address last  
357 furnished to the association by the unit owner, or hand deliver  
358 to each unit owner, a copy of the financial report or a notice  
359 that a copy of the financial report will be mailed or hand  
360 delivered to the unit owner, without charge, upon receipt of a  
361 written request from the unit owner. The division shall adopt  
362 rules setting forth uniform accounting principles and standards  
363 to be used by all associations and addressing the financial  
364 reporting requirements for multicondominium associations. The  
365 rules must include, but not be limited to, standards for  
366 presenting a summary of association reserves, including a good  
367 faith estimate disclosing the annual amount of reserve funds  
368 that would be necessary for the association to fully fund  
369 reserves for each reserve item based on the straight-line  
370 accounting method. This disclosure is not applicable to reserves  
371 funded via the pooling method. In adopting such rules, the  
372 division shall consider the number of members and annual  
373 revenues of an association. Financial reports shall be prepared  
374 as follows:

375 (a) An association that meets the criteria of this  
376 paragraph shall prepare a complete set of financial statements  
377 in accordance with generally accepted accounting principles. The

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378 financial statements must be based upon the association's total  
379 annual revenues, as follows:

380 1. An association with total annual revenues of \$150,000  
381 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
382 compiled financial statements.

383 2. An association with total annual revenues of at least  
384 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall  
385 prepare reviewed financial statements.

386 3. An association with total annual revenues of \$500,000  
387 ~~\$400,000~~ or more shall prepare audited financial statements.

388 (b)1. An association with total annual revenues of less  
389 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts  
390 and expenditures.

391 2. An association that operates fewer than 50 ~~75~~ units,  
392 regardless of the association's annual revenues, shall prepare a  
393 report of cash receipts and expenditures in lieu of financial  
394 statements required by paragraph (a).

395 3. A report of cash receipts and disbursements must  
396 disclose the amount of receipts by accounts and receipt  
397 classifications and the amount of expenses by accounts and  
398 expense classifications, including, but not limited to, the  
399 following, as applicable: costs for security, professional and  
400 management fees and expenses, taxes, costs for recreation  
401 facilities, expenses for refuse collection and utility services,  
402 expenses for lawn care, costs for building maintenance and  
403 repair, insurance costs, administration and salary expenses, and  
404 reserves accumulated and expended for capital expenditures,  
405 deferred maintenance, and any other category for which the  
406 association maintains reserves.

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

409 718.112 Bylaws.—

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

413 (d) *Unit owner meetings.*—

414 1. An annual meeting of the unit owners shall be held at  
415 the location provided in the association bylaws and, if the  
416 bylaws are silent as to the location, the meeting shall be held  
417 within 45 miles of the condominium property. However, such  
418 distance requirement does not apply to an association governing  
419 a timeshare condominium.

420 2. Unless the bylaws provide otherwise, a vacancy on the  
421 board caused by the expiration of a director's term shall be  
422 filled by electing a new board member, and the election must be  
423 by secret ballot. An election is not required if the number of  
424 vacancies equals or exceeds the number of candidates. For  
425 purposes of this paragraph, the term "candidate" means an  
426 eligible person who has timely submitted the written notice, as  
427 described in sub-subparagraph 4.a., of his or her intention to  
428 become a candidate. Except in a timeshare condominium, or if the  
429 staggered term of a board member does not expire until a later  
430 annual meeting, or if all members' terms would otherwise expire  
431 but there are no candidates, the terms of all board members  
432 expire at the annual meeting, and such members may stand for  
433 reelection unless prohibited by the bylaws. If the bylaws or  
434 articles of incorporation permit ~~staggered~~ terms of no more than  
435 2 years ~~and upon approval of a majority of the total voting~~

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436 interests, the association board members may serve 2-year  
437 ~~staggered~~ terms. If the number of board members whose terms  
438 expire at the annual meeting equals or exceeds the number of  
439 candidates, the candidates become members of the board effective  
440 upon the adjournment of the annual meeting. Unless the bylaws  
441 provide otherwise, any remaining vacancies shall be filled by  
442 the affirmative vote of the majority of the directors making up  
443 the newly constituted board even if the directors constitute  
444 less than a quorum or there is only one director. In a  
445 condominium association of more than 10 units or in a  
446 condominium association that does not include timeshare units or  
447 timeshare interests, coowners of a unit may not serve as members  
448 of the board of directors at the same time unless they own more  
449 than one unit or unless there are not enough eligible candidates  
450 to fill the vacancies on the board at the time of the vacancy.  
451 Any unit owner desiring to be a candidate for board membership  
452 must comply with sub-subparagraph 4.a. and must be eligible to  
453 be a candidate to serve on the board of directors at the time of  
454 the deadline for submitting a notice of intent to run in order  
455 to have his or her name listed as a proper candidate on the  
456 ballot or to serve on the board. A person who has been suspended  
457 or removed by the division under this chapter, or who is  
458 delinquent in the payment of any monetary obligation due to the  
459 association fee, fine, or special or regular assessment as  
460 provided in paragraph (n), is not eligible to be a candidate for  
461 board membership and may not be listed on the ballot. A person  
462 who has been convicted of any felony in this state or in a  
463 United States District or Territorial Court, or who has been  
464 convicted of any offense in another jurisdiction which would be



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465 considered a felony if committed in this state, is not eligible  
466 for board membership unless such felon's civil rights have been  
467 restored for at least 5 years as of the date such person seeks  
468 election to the board. The validity of an action by the board is  
469 not affected if it is later determined that a board member is  
470 ineligible for board membership due to having been convicted of  
471 a felony.

472         3. The bylaws must provide the method of calling meetings  
473 of unit owners, including annual meetings. Written notice must  
474 include an agenda, must be mailed, hand delivered, or  
475 electronically transmitted to each unit owner at least 14 days  
476 before the annual meeting, and must be posted in a conspicuous  
477 place on the condominium property at least 14 continuous days  
478 before the annual meeting. Upon notice to the unit owners, the  
479 board shall, by duly adopted rule, designate a specific location  
480 on the condominium property or association property where all  
481 notices of unit owner meetings shall be posted. This requirement  
482 does not apply if there is no condominium property or  
483 association property for posting notices. In lieu of, or in  
484 addition to, the physical posting of meeting notices, the  
485 association may, by reasonable rule, adopt a procedure for  
486 conspicuously posting and repeatedly broadcasting the notice and  
487 the agenda on a closed-circuit cable television system serving  
488 the condominium association. However, if broadcast notice is  
489 used in lieu of a notice posted physically on the condominium  
490 property, the notice and agenda must be broadcast at least four  
491 times every broadcast hour of each day that a posted notice is  
492 otherwise required under this section. If broadcast notice is  
493 provided, the notice and agenda must be broadcast in a manner

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494 and for a sufficient continuous length of time so as to allow an  
495 average reader to observe the notice and read and comprehend the  
496 entire content of the notice and the agenda. Unless a unit owner  
497 waives in writing the right to receive notice of the annual  
498 meeting, such notice must be hand delivered, mailed, or  
499 electronically transmitted to each unit owner. Notice for  
500 meetings and notice for all other purposes must be mailed to  
501 each unit owner at the address last furnished to the association  
502 by the unit owner, or hand delivered to each unit owner.  
503 However, if a unit is owned by more than one person, the  
504 association must provide notice to the address that the  
505 developer identifies for that purpose and thereafter as one or  
506 more of the owners of the unit advise the association in  
507 writing, or if no address is given or the owners of the unit do  
508 not agree, to the address provided on the deed of record. An  
509 officer of the association, or the manager or other person  
510 providing notice of the association meeting, must provide an  
511 affidavit or United States Postal Service certificate of  
512 mailing, to be included in the official records of the  
513 association affirming that the notice was mailed or hand  
514 delivered in accordance with this provision.

515 4. The members of the board shall be elected by written  
516 ballot or voting machine. Proxies may not be used in electing  
517 the board in general elections or elections to fill vacancies  
518 caused by recall, resignation, or otherwise, unless otherwise  
519 provided in this chapter. This subparagraph does not apply to an  
520 association governing a timeshare condominium.

521 a. At least 60 days before a scheduled election, the  
522 association shall mail, deliver, or electronically transmit, by

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523 separate association mailing or included in another association  
524 mailing, delivery, or transmission, including regularly  
525 published newsletters, to each unit owner entitled to a vote, a  
526 first notice of the date of the election. Any unit owner or  
527 other eligible person desiring to be a candidate for the board  
528 must give written notice of his or her intent to be a candidate  
529 to the association at least 40 days before a scheduled election.  
530 Together with the written notice and agenda as set forth in  
531 subparagraph 3., the association shall mail, deliver, or  
532 electronically transmit a second notice of the election to all  
533 unit owners entitled to vote, together with a ballot that lists  
534 all candidates. Upon request of a candidate, an information  
535 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
536 furnished by the candidate at least 35 days before the election,  
537 must be included with the mailing, delivery, or transmission of  
538 the ballot, with the costs of mailing, delivery, or electronic  
539 transmission and copying to be borne by the association. The  
540 association is not liable for the contents of the information  
541 sheets prepared by the candidates. In order to reduce costs, the  
542 association may print or duplicate the information sheets on  
543 both sides of the paper. The division shall by rule establish  
544 voting procedures consistent with this sub-subparagraph,  
545 including rules establishing procedures for giving notice by  
546 electronic transmission and rules providing for the secrecy of  
547 ballots. Elections shall be decided by a plurality of ballots  
548 cast. There is no quorum requirement; however, at least 20  
549 percent of the eligible voters must cast a ballot in order to  
550 have a valid election. A unit owner may not permit any other  
551 person to vote his or her ballot, and any ballots improperly

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552 cast are invalid. A unit owner who violates this provision may  
553 be fined by the association in accordance with s. 718.303. A  
554 unit owner who needs assistance in casting the ballot for the  
555 reasons stated in s. 101.051 may obtain such assistance. The  
556 regular election must occur on the date of the annual meeting.  
557 Notwithstanding this sub-subparagraph, an election is not  
558 required unless more candidates file notices of intent to run or  
559 are nominated than board vacancies exist.

560       b. Within 90 days after being elected or appointed to the  
561 board, each newly elected or appointed director shall certify in  
562 writing to the secretary of the association that he or she has  
563 read the association's declaration of condominium, articles of  
564 incorporation, bylaws, and current written policies; that he or  
565 she will work to uphold such documents and policies to the best  
566 of his or her ability; and that he or she will faithfully  
567 discharge his or her fiduciary responsibility to the  
568 association's members. In lieu of this written certification,  
569 within 90 days after being elected or appointed to the board,  
570 the newly elected or appointed director may submit a certificate  
571 of having satisfactorily completed the educational curriculum  
572 administered by a division-approved condominium education  
573 provider within 1 year before or 90 days after the date of  
574 election or appointment. The written certification or  
575 educational certificate is valid and does not have to be  
576 resubmitted as long as the director serves on the board without  
577 interruption. A director who fails to timely file the written  
578 certification or educational certificate is suspended from  
579 service on the board until he or she complies with this sub-  
580 subparagraph. The board may temporarily fill the vacancy during

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581 the period of suspension. The secretary shall cause the  
582 association to retain a director's written certification or  
583 educational certificate for inspection by the members for 5  
584 years after a director's election or the duration of the  
585 director's uninterrupted tenure, whichever is longer. Failure to  
586 have such written certification or educational certificate on  
587 file does not affect the validity of any board action.

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

590 5. Any approval by unit owners called for by this chapter  
591 or the applicable declaration or bylaws, including, but not  
592 limited to, the approval requirement in s. 718.111(8), must be  
593 made at a duly noticed meeting of unit owners and is subject to  
594 all requirements of this chapter or the applicable condominium  
595 documents relating to unit owner decisionmaking, except that  
596 unit owners may take action by written agreement, without  
597 meetings, on matters for which action by written agreement  
598 without meetings is expressly allowed by the applicable bylaws  
599 or declaration or any law that provides for such action.

600 6. Unit owners may waive notice of specific meetings if  
601 allowed by the applicable bylaws or declaration or any law. If  
602 authorized by the bylaws, notice of meetings of the board of  
603 administration, unit owner meetings, except unit owner meetings  
604 called to recall board members under paragraph (j), and  
605 committee meetings may be given by electronic transmission to  
606 unit owners who consent to receive notice by electronic  
607 transmission.

608 7. Unit owners have the right to participate in meetings of  
609 unit owners with reference to all designated agenda items.

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610 However, the association may adopt reasonable rules governing  
611 the frequency, duration, and manner of unit owner participation.

612 8. A unit owner may tape record or videotape a meeting of  
613 the unit owners subject to reasonable rules adopted by the  
614 division.

615 9. Unless otherwise provided in the bylaws, any vacancy  
616 occurring on the board before the expiration of a term may be  
617 filled by the affirmative vote of the majority of the remaining  
618 directors, even if the remaining directors constitute less than  
619 a quorum, or by the sole remaining director. In the alternative,  
620 a board may hold an election to fill the vacancy, in which case  
621 the election procedures must conform to sub-subparagraph 4.a.  
622 unless the association governs 10 units or fewer and has opted  
623 out of the statutory election process, in which case the bylaws  
624 of the association control. Unless otherwise provided in the  
625 bylaws, a board member appointed or elected under this section  
626 shall fill the vacancy for the unexpired term of the seat being  
627 filled. Filling vacancies created by recall is governed by  
628 paragraph (j) and rules adopted by the division.

629 10. This chapter does not limit the use of general or  
630 limited proxies, require the use of general or limited proxies,  
631 or require the use of a written ballot or voting machine for any  
632 agenda item or election at any meeting of a timeshare  
633 condominium association.

634

635 Notwithstanding subparagraph (b)2. and sub-subparagraph 4.a., an  
636 association of 10 or fewer units may, by affirmative vote of a  
637 majority of the total voting interests, provide for different  
638 voting and election procedures in its bylaws, which may be by a

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639 proxy specifically delineating the different voting and election  
640 procedures. The different voting and election procedures may  
641 provide for elections to be conducted by limited or general  
642 proxy.

643 (j) *Recall of board members.*—Subject to ~~the provisions of~~  
644 s. 718.301, any member of the board of administration may be  
645 recalled and removed from office with or without cause by the  
646 vote or agreement in writing by a majority of all the voting  
647 interests. A special meeting of the unit owners to recall a  
648 member or members of the board of administration may be called  
649 by 10 percent of the voting interests giving notice of the  
650 meeting as required for a meeting of unit owners, and the notice  
651 shall state the purpose of the meeting. Electronic transmission  
652 may not be used as a method of giving notice of a meeting called  
653 in whole or in part for this purpose.

654 1. If the recall is approved by a majority of all voting  
655 interests by a vote at a meeting, the recall will be effective  
656 as provided in this paragraph herein. The board shall duly  
657 notice and hold a board meeting within 5 full business days  
658 after ~~of~~ the adjournment of the unit owner meeting to recall one  
659 or more board members. At the meeting, the board shall either  
660 certify the recall, in which case such member or members shall  
661 be recalled effective immediately and shall turn over to the  
662 board within 5 full business days any and all records and  
663 property of the association in their possession, or shall  
664 proceed as set forth in subparagraph 3.

665 2. If the proposed recall is by an agreement in writing by  
666 a majority of all voting interests, the agreement in writing or  
667 a copy thereof shall be served on the association by certified

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668 mail or by personal service in the manner authorized by chapter  
669 48 and the Florida Rules of Civil Procedure. The board of  
670 administration shall duly notice and hold a meeting of the board  
671 within 5 full business days after receipt of the agreement in  
672 writing. At the meeting, the board shall either certify the  
673 written agreement to recall a member or members of the board, in  
674 which case such member or members shall be recalled effective  
675 immediately and shall turn over to the board within 5 full  
676 business days any and all records and property of the  
677 association in their possession, or proceed as described in  
678 subparagraph 3.

679       3. If the board determines not to certify the written  
680 agreement to recall a member or members of the board, or does  
681 not certify the recall by a vote at a meeting, the board shall,  
682 within 5 full business days after the meeting, file with the  
683 division a petition for arbitration pursuant to the procedures  
684 in s. 718.1255. For the purposes of this section, the unit  
685 owners who voted at the meeting or who executed the agreement in  
686 writing shall constitute one party under the petition for  
687 arbitration. If the arbitrator certifies the recall as to any  
688 member or members of the board, the recall will be effective  
689 upon mailing of the final order of arbitration to the  
690 association. If the association fails to comply with the order  
691 of the arbitrator, the division may take action pursuant to s.  
692 718.501. Any member or members so recalled shall deliver to the  
693 board any and all records of the association in their possession  
694 within 5 full business days after ~~of~~ the effective date of the  
695 recall.

696       4. If the board fails to duly notice and hold a board



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697 meeting within 5 full business days after ~~of~~ service of an  
698 agreement in writing or within 5 full business days after ~~of~~ the  
699 adjournment of the unit owner recall meeting, the recall shall  
700 be deemed effective and the board members so recalled shall  
701 immediately turn over to the board any and all records and  
702 property of the association.

703 5. If the board fails to duly notice and hold the required  
704 meeting or fails to file the required petition, the unit owner  
705 representative may file a petition pursuant to s. 718.1255  
706 challenging the board's failure to act. The petition must be  
707 filed within 60 days after the expiration of the applicable 5-  
708 full-business-day period. The review of a petition under this  
709 subparagraph is limited to the sufficiency of service on the  
710 board and the facial validity of the written agreement or  
711 ballots filed.

712 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
713 recall or removal and less than a majority of the board members  
714 are removed, the vacancy may be filled by the affirmative vote  
715 of a majority of the remaining directors, notwithstanding any  
716 provision to the contrary contained in this subsection. If  
717 vacancies occur on the board as a result of a recall and a  
718 majority or more of the board members are removed, the vacancies  
719 shall be filled in accordance with procedural rules to be  
720 adopted by the division, which rules need not be consistent with  
721 this subsection. The rules must provide procedures governing the  
722 conduct of the recall election as well as the operation of the  
723 association during the period after a recall but before ~~prior to~~  
724 the recall election.

725 7. A board member who has been recalled may file a petition

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726 pursuant to s. 718.1255 challenging the validity of the recall.  
727 The petition must be filed within 60 days after the recall is  
728 deemed certified. The association and the unit owner  
729 representative shall be named as the respondents.

730 8. The division may not accept for filing a recall  
731 petition, whether filed pursuant to subparagraph 1.,  
732 subparagraph 2., subparagraph 5., or subparagraph 7. and  
733 regardless of whether the recall was certified, when there are  
734 60 or fewer days until the scheduled reelection of the board  
735 member sought to be recalled or when 60 or fewer days have  
736 elapsed since the election of the board member sought to be  
737 recalled.

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

740 718.113 Maintenance; limitation upon improvement; display  
741 of flag; hurricane shutters and protection; display of religious  
742 decorations.-

743 (5) Each board of administration shall adopt hurricane  
744 shutter specifications for each building within each condominium  
745 operated by the association which shall include color, style,  
746 and other factors deemed relevant by the board. All  
747 specifications adopted by the board must comply with the  
748 applicable building code.

749 (a) The board may, subject to ~~the provisions of s.~~  
750 ~~718.3026~~, and the approval of a majority of voting interests of  
751 the condominium, install hurricane shutters, impact glass, ~~or~~  
752 ~~other~~ code-compliant windows or doors, or other types of code-  
753 compliant hurricane protection that comply ~~complies~~ with or  
754 exceed ~~exceeds~~ the applicable building code. However, a vote of

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755 the owners is not required if the maintenance, repair, and  
756 replacement of hurricane shutters, impact glass, ~~or other~~ code-  
757 compliant windows or doors, or other types of code-compliant  
758 hurricane protection are the responsibility of the association  
759 pursuant to the declaration of condominium. If hurricane  
760 protection or laminated glass or window film architecturally  
761 designed to function as hurricane protection that ~~which~~ complies  
762 with or exceeds the current applicable building code has been  
763 previously installed, the board may not install hurricane  
764 shutters, ~~hurricane protection, or~~ impact glass, ~~or other~~ code-  
765 compliant windows or doors, or other types of code-compliant  
766 hurricane protection except upon approval by a majority vote of  
767 the voting interests.

768 (b) The association is responsible for the maintenance,  
769 repair, and replacement of the hurricane shutters, impact glass,  
770 code-compliant windows or doors, or other types of code-  
771 compliant hurricane protection authorized by this subsection if  
772 such property ~~hurricane shutters or other hurricane protection~~  
773 is the responsibility of the association pursuant to the  
774 declaration of condominium. If the hurricane shutters, impact  
775 glass, code-compliant windows or doors, or other types of code-  
776 compliant hurricane protection ~~authorized by this subsection~~ are  
777 the responsibility of the unit owners pursuant to the  
778 declaration of condominium, the maintenance, repair, and  
779 replacement of such items are the responsibility of the unit  
780 owner.

781 (c) The board may operate shutters, impact glass, code-  
782 compliant windows or doors, or other types of code-compliant  
783 hurricane protection installed pursuant to this subsection

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784 without permission of the unit owners only if such operation is  
785 necessary to preserve and protect the condominium property and  
786 association property. The installation, replacement, operation,  
787 repair, and maintenance of such shutters, impact glass, code-  
788 compliant windows or doors, or other types of code-compliant  
789 hurricane protection in accordance with the procedures set forth  
790 in this paragraph are not a material alteration to the common  
791 elements or association property within the meaning of this  
792 section.

793 (d) Notwithstanding any other provision in the condominium  
794 documents, if approval is required by the documents, a board may  
795 not refuse to approve the installation or replacement of  
796 hurricane shutters, impact glass, code-compliant windows or  
797 doors, or other types of code-compliant hurricane protection by  
798 a unit owner conforming to the specifications adopted by the  
799 board.

800 Section 5. Paragraph (e) of subsection (1) of section  
801 718.115, Florida Statutes, is amended to read:

802 718.115 Common expenses and common surplus.—

803 (1)

804 (e) The expense of installation, replacement, operation,  
805 repair, and maintenance of hurricane shutters, impact glass,  
806 code-compliant windows or doors, or other types of code-  
807 compliant hurricane protection by the board pursuant to s.  
808 718.113(5) constitutes ~~shall constitute~~ a common expense ~~as~~  
809 ~~defined herein~~ and shall be collected as provided in this  
810 section if the association is responsible for the maintenance,  
811 repair, and replacement of the hurricane shutters, impact glass,  
812 code-compliant windows or doors, or other types of code-

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813 compliant hurricane protection pursuant to the declaration of  
814 condominium. However, if the maintenance, repair, and  
815 replacement of the hurricane shutters, impact glass, code-  
816 compliant windows or doors, or other types of code-compliant  
817 hurricane protection are ~~is~~ the responsibility of the unit  
818 owners pursuant to the declaration of condominium, the cost of  
819 the installation of the hurricane shutters, impact glass, code-  
820 compliant windows or doors, or other types of code-compliant  
821 hurricane protection is ~~shall~~ not ~~be~~ a common expense and, but  
822 shall be charged individually to the unit owners based on the  
823 cost of installation of the hurricane shutters, impact glass,  
824 code-compliant windows or doors, or other types of code-  
825 compliant hurricane protection appurtenant to the unit.  
826 Notwithstanding ~~the provisions of~~ s. 718.116(9), and regardless  
827 of whether or not the declaration requires the association or  
828 unit owners to maintain, repair, or replace hurricane shutters,  
829 impact glass, code-compliant windows or doors, or other types of  
830 code-compliant hurricane protection, a unit owner who has  
831 previously installed hurricane shutters in accordance with s.  
832 718.113(5) that comply with the current applicable building code  
833 shall receive a credit when the shutters are installed; a unit  
834 owner who has previously installed impact glass or code-  
835 compliant windows or doors that comply with the current  
836 applicable building code shall receive a credit when the impact  
837 glass or code-compliant windows or doors are installed; and a  
838 unit owner who has installed, other types of code-compliant  
839 hurricane protection that comply with the current applicable  
840 building code shall receive a credit when the same type of other  
841 code-compliant hurricane protection is installed, and the ~~or~~

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842 ~~laminated glass architecturally designed to function as~~  
843 ~~hurricane protection, which hurricane shutters or other~~  
844 ~~hurricane protection or laminated glass comply with the current~~  
845 ~~applicable building code, shall receive a credit shall be equal~~  
846 to the pro rata portion of the assessed installation cost  
847 assigned to each unit. However, such unit owner remains ~~shall~~  
848 ~~remain~~ responsible for the pro rata share of expenses for  
849 hurricane shutters, impact glass, code-compliant windows or  
850 doors, or other types of code-compliant hurricane protection  
851 installed on common elements and association property by the  
852 board pursuant to s. 718.113(5),~~7~~ and remains ~~shall remain~~  
853 responsible for a pro rata share of the expense of the  
854 replacement, operation, repair, and maintenance of such  
855 shutters, impact glass, code-compliant windows or doors, or  
856 other types of code-compliant hurricane protection.

857 Section 6. Paragraph (a) of subsection (3) of section  
858 718.303, Florida Statutes, is amended to read:

859 718.303 Obligations of owners and occupants; remedies.—

860 (3) The association may levy reasonable fines for the  
861 failure of the owner of the unit or its occupant, licensee, or  
862 invitee to comply with any provision of the declaration, the  
863 association bylaws, or reasonable rules of the association. A  
864 fine may not become a lien against a unit. A fine may be levied  
865 on the basis of each day of a continuing violation, with a  
866 single notice and opportunity for hearing. However, the fine may  
867 not exceed \$100 per violation, or \$1,000 in the aggregate.

868 (a) An association may suspend, for a reasonable period of  
869 time, the right of a unit owner, or a unit owner's tenant,  
870 guest, or invitee, to use the common elements, common

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871 facilities, or any other association property for failure to  
872 comply with any provision of the declaration, the association  
873 bylaws, or reasonable rules of the association. This paragraph  
874 does not apply to limited common elements intended to be used  
875 only by that unit, common elements needed to access the unit,  
876 utility services provided to the unit, parking spaces, or  
877 elevators.

878 Section 7. Subsection (1) of section 718.403, Florida  
879 Statutes, is amended to read:

880 718.403 Phase condominiums.—

881 (1) Notwithstanding ~~the provisions of~~ s. 718.110, a  
882 developer may develop a condominium in phases, if the original  
883 declaration of condominium submitting the initial phase to  
884 condominium ownership or an amendment to the declaration which  
885 has been approved by all of the unit owners and unit mortgagees  
886 provides for and describes in detail all anticipated phases; the  
887 impact, if any, which the completion of subsequent phases would  
888 have upon the initial phase; and the time period ~~(which may not~~  
889 ~~exceed 7 years from the date of recording the declaration of~~  
890 ~~condominium)~~ within which all phases must be added to the  
891 condominium and comply with the requirements of this section and  
892 at the end of which the right to add additional phases expires.

893 (a) All phases must be added to the condominium within 7  
894 years after the date of recording the original declaration of  
895 condominium submitting the initial phase to condominium  
896 ownership unless an amendment extending the 7-year period is  
897 approved by the unit owners.

898 (b) An amendment to extend the 7-year period requires the  
899 approval of the owners necessary to amend the declaration of

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900 condominium consistent with s. 718.110(1)(a). An extension of  
901 the 7-year period may be submitted for approval only during the  
902 last 3 years of the 7-year period.

903 (c) An amendment must describe the period within which all  
904 phases must be added to the condominium and such period may not  
905 exceed 10 years after the date of recording the original  
906 declaration of condominium submitting the initial phase to  
907 condominium ownership.

908 (d) Notwithstanding s. 718.110, an amendment extending the  
909 7-year period is not an amendment subject to s. 718.110(4).

910 Section 8. Section 718.406, Florida Statutes, is created to  
911 read:

912 718.406 Condominiums created within condominium parcels.—

913 (1) Unless otherwise expressed in the declaration of  
914 condominium, if a condominium is created within a condominium  
915 parcel, the term:

916 (a) "Primary condominium" means any condominium that is not  
917 a secondary condominium and contains one or more subdivided  
918 parcels.

919 (b) "Primary condominium association" means any entity that  
920 operates a primary condominium.

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

924 (d) "Secondary condominium" means one or more condominium  
925 parcels that have been submitted to condominium ownership  
926 pursuant to a secondary condominium declaration.

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



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

932 (g) "Secondary unit" means a unit that is part of a  
933 secondary condominium.

934 (h) "Subdivided parcel" means a condominium parcel in a  
935 primary condominium that has been submitted to condominium  
936 ownership pursuant to a secondary condominium declaration.

937 (2) Unless otherwise provided in the primary condominium  
938 declaration, if a condominium parcel is a subdivided parcel, the  
939 secondary condominium association responsible for operating the  
940 secondary condominium upon the subdivided parcel shall act on  
941 behalf of all of the unit owners of secondary units in the  
942 secondary condominium and shall exercise all rights of the  
943 secondary unit owners in the primary condominium association,  
944 other than the right of possession of the secondary unit. The  
945 secondary condominium association shall designate a  
946 representative who shall cast the vote of the subdivided parcel  
947 in the primary condominium association and, if no person is  
948 designated by the secondary condominium association to cast such  
949 vote, the vote shall be cast by the president of the secondary  
950 condominium association or the designee of the president.

951 (3) Unless otherwise provided in the primary condominium  
952 declaration as originally recorded, no secondary condominium may  
953 be created upon any condominium parcel in the primary  
954 condominium, and no amendment to the primary condominium  
955 declaration may permit secondary condominiums to be created upon  
956 parcels in the primary condominium, unless the record owners of  
957 a majority of the condominium parcels join in the execution of

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958 the amendment.

959 (4) If the primary condominium declaration permits the  
960 creation of a secondary condominium and a condominium parcel in  
961 the primary condominium is being submitted for condominium  
962 ownership to create a secondary condominium upon the primary  
963 condominium parcel, the approval of the board of administration  
964 of the primary condominium association is required in order to  
965 create the secondary condominium on the primary condominium  
966 parcel. Unless otherwise provided in the primary condominium  
967 declaration, the owners of condominium parcels in the primary  
968 condominium that will not be part of the proposed secondary  
969 condominium and the holders of liens upon such primary  
970 condominium parcels shall not have approval rights regarding the  
971 creation of the secondary condominium or the contents of the  
972 secondary condominium declaration being submitted. Only the  
973 board of administration of the primary condominium association,  
974 the owner of the subdivided parcel, and the holders of liens  
975 upon the subdivided parcel shall have approval rights regarding  
976 the creation of the secondary condominium and the contents of  
977 the secondary condominium declaration. In order for the  
978 recording of the secondary condominium declaration to be  
979 effective to create the secondary condominium, the board of  
980 administration of the primary condominium association, the owner  
981 of the subdivided parcel, and all holders of liens on the  
982 subdivided parcel must execute the secondary condominium  
983 declaration for the purpose of evidencing their approval.

984 (5) An owner of a secondary unit is subject to both the  
985 primary condominium declaration and the secondary condominium  
986 declaration.

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987       (6) The primary condominium association may provide  
988 insurance required by s. 718.111(11) for common elements and  
989 other improvements within the secondary condominium if the  
990 primary condominium declaration permits the primary condominium  
991 association to provide such insurance for the benefit of the  
992 condominium property included in the subdivided parcel, in lieu  
993 of such insurance being provided by the secondary condominium  
994 association.

995       (7) Unless otherwise provided in the primary condominium  
996 declaration, the board of administration of the primary  
997 condominium association may adopt hurricane shutter or hurricane  
998 protection specifications for each building within which  
999 subdivided parcels are located and govern any subdivided parcels  
1000 in the primary condominium.

1001       (8) Any unit owner of, or holder of a first mortgage on, a  
1002 secondary unit may register such unit owner's or mortgagee's  
1003 interest in the secondary unit with the primary condominium  
1004 association by delivering written notice to the primary  
1005 condominium association. Once registered, the primary  
1006 condominium association must provide written notice to such  
1007 secondary unit owner and his, her, or its first mortgagee at  
1008 least 30 days before instituting any foreclosure action against  
1009 the subdivided parcel in which the secondary unit owner and his,  
1010 her, or its first mortgagee hold an interest for failure of the  
1011 subdivided parcel owner to pay any assessments or other amounts  
1012 due to the primary condominium association. A foreclosure action  
1013 against a subdivided parcel is not effective without an  
1014 affidavit indicating that written notice of the foreclosure was  
1015 timely sent to the names and addresses of secondary unit owners

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1016 and first mortgagees registered with the primary condominium  
1017 association pursuant to this subsection. The registered  
1018 secondary unit owner or mortgagee has a right to pay the  
1019 proportionate amount of the delinquent assessment attributable  
1020 to the secondary unit in which the registered unit owner or  
1021 mortgagee holds an interest. Upon such payment, the primary  
1022 condominium association is obligated to promptly modify or  
1023 partially release the record of lien on the primary condominium  
1024 association so that the lien no longer encumbers such secondary  
1025 unit. Alternatively, a registered secondary unit owner or  
1026 mortgagee may pay the amount of all delinquent assessments  
1027 attributed to the subdivided parcel and seek reimbursement for  
1028 all such amounts paid and all costs incurred from the secondary  
1029 condominium association, including, without limitation, the  
1030 costs of collection other than the share allocable to the  
1031 secondary unit on behalf of which such payment was made.

1032 (9) In the event of a conflict between the primary  
1033 condominium declaration and the secondary condominium  
1034 declaration, the primary condominium declaration controls.

1035 (10) All common expenses due to the primary condominium  
1036 association with respect to a subdivided parcel are a common  
1037 expense of the secondary condominium association and shall be  
1038 collected by the secondary condominium association from its  
1039 members and paid to the primary condominium association.

1040 Section 9. Subsection (2) of section 718.5011, Florida  
1041 Statutes, is amended to read:

1042 718.5011 Ombudsman; appointment; administration.—

1043 (2) The Governor shall appoint the ombudsman. The ombudsman  
1044 must be an attorney admitted to practice before the Florida

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1045 Supreme Court and shall serve at the pleasure of the Governor. A  
1046 vacancy in the office shall be filled in the same manner as the  
1047 original appointment. An officer or full-time employee of the  
1048 ombudsman's office may not actively engage in any other business  
1049 or profession that directly or indirectly relates to or  
1050 conflicts with his or her work in the ombudsman's office; serve  
1051 as the representative of any political party, executive  
1052 committee, or other governing body of a political party; serve  
1053 as an executive, officer, or employee of a political party;  
1054 receive remuneration for activities on behalf of any candidate  
1055 for public office; or engage in soliciting votes or other  
1056 activities on behalf of a candidate for public office. The  
1057 ombudsman or any employee of his or her office may not become a  
1058 candidate for election to public office unless he or she first  
1059 resigns from his or her office or employment.

1060 Section 10. Paragraphs (b) and (c) of subsection (2) of  
1061 section 719.104, Florida Statutes, are amended to read:

1062 719.104 Cooperatives; access to units; records; financial  
1063 reports; assessments; purchase of leases.—

1064 (2) OFFICIAL RECORDS.—

1065 (b) The official records of the association must ~~shall~~ be  
1066 maintained within the state for at least 7 years. The records of  
1067 the association shall be made available to a unit owner within  
1068 45 miles of the cooperative property or within the county in  
1069 which the cooperative property is located within 5 working days  
1070 after receipt of written request by the board or its designee.  
1071 This paragraph may be complied with by having a copy of the  
1072 official records of the association available for inspection or  
1073 copying on the cooperative property, or the association may

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1074 offer the option of making the records available to a unit owner  
1075 electronically via the Internet or by allowing the records to be  
1076 viewed in an electronic format on a computer screen and printed  
1077 upon request. The association is not responsible for the use or  
1078 misuse of the information provided to an association member or  
1079 his or her authorized representative pursuant to the compliance  
1080 requirements of this chapter unless the association has an  
1081 affirmative duty not to disclose such information pursuant to  
1082 this chapter.

1083 (c) The official records of the association are ~~shall be~~  
1084 open to inspection by any association member or the authorized  
1085 representative of such member at all reasonable times. ~~Failure~~  
1086 ~~to permit inspection of the association records as provided~~  
1087 ~~herein entitles any person prevailing in an enforcement action~~  
1088 ~~to recover reasonable attorney's fees from the person in control~~  
1089 ~~of the records who, directly or indirectly, knowingly denies~~  
1090 ~~access to the records for inspection.~~ The right to inspect the  
1091 records includes the right to make or obtain copies, at the  
1092 reasonable expense, if any, of the association member. The  
1093 association may adopt reasonable rules regarding the frequency,  
1094 time, location, notice, and manner of record inspections and  
1095 copying. The failure of an association to provide the records  
1096 within 10 working days after receipt of a written request  
1097 creates a rebuttable presumption that the association willfully  
1098 failed to comply with this paragraph. A unit owner who is denied  
1099 access to official records is entitled to the actual damages or  
1100 minimum damages for the association's willful failure to comply  
1101 ~~with this paragraph.~~ The minimum damages are ~~shall be~~ \$50 per  
1102 calendar day for up to 10 days, beginning ~~the calculation to~~

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1103 ~~begin~~ on the 11th working day after receipt of the written  
1104 request. The failure to permit inspection entitles any person  
1105 prevailing in an enforcement action to recover reasonable  
1106 attorney fees from the person in control of the records who,  
1107 directly or indirectly, knowingly denied access to the records.  
1108 Any person who knowingly or intentionally defaces or destroys  
1109 accounting records that are required by this chapter to be  
1110 maintained during the period for which such records are required  
1111 to be maintained, or who knowingly or intentionally fails to  
1112 create or maintain accounting records that are required to be  
1113 created or maintained, with the intent of causing harm to the  
1114 association or one or more of its members, is personally subject  
1115 to a civil penalty pursuant to s. 719.501(1)(d). The association  
1116 shall maintain an adequate number of copies of the declaration,  
1117 articles of incorporation, bylaws, and rules, and all amendments  
1118 to each of the foregoing, as well as the question and answer  
1119 sheet as described ~~provided for~~ in s. 719.504 and year-end  
1120 financial information required by the department, on the  
1121 cooperative property to ensure their availability to unit owners  
1122 and prospective purchasers, and may charge its actual costs for  
1123 preparing and furnishing these documents to those requesting the  
1124 same. An association shall allow a member or his or her  
1125 authorized representative to use a portable device, including a  
1126 smartphone, tablet, portable scanner, or any other technology  
1127 capable of scanning or taking photographs, to make an electronic  
1128 copy of the official records in lieu of the association  
1129 providing the member or his or her authorized representative  
1130 with a copy of such records. The association may not charge a  
1131 member or his or her authorized representative for the use of a

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1132 portable device. Notwithstanding ~~the provisions of~~ this  
1133 paragraph, the following records shall not be accessible to unit  
1134 owners:

1135 1. Any record protected by the lawyer-client privilege as  
1136 described in s. 90.502 and any record protected by the work-  
1137 product privilege, including any record ~~A record that was~~  
1138 prepared by an association attorney or prepared at the  
1139 attorney's express direction which; ~~that~~ reflects a mental  
1140 impression, conclusion, litigation strategy, or legal theory of  
1141 the attorney or the association, and which; ~~or that~~ was prepared  
1142 exclusively for civil or criminal litigation or for adversarial  
1143 administrative proceedings, or which was prepared in  
1144 anticipation of such imminent civil or criminal litigation or  
1145 ~~imminent adversarial administrative~~ proceedings, until the  
1146 conclusion of the litigation or ~~adversarial administrative~~  
1147 proceedings.

1148 2. Information obtained by an association in connection  
1149 with the approval of the lease, sale, or other transfer of a  
1150 unit.

1151 3. Personnel records of association or management company  
1152 employees, including, but not limited to, disciplinary, payroll,  
1153 health, and insurance records. For purposes of this  
1154 subparagraph, the term "personnel records" does not include  
1155 written employment agreements with an association employee or  
1156 management company, or budgetary or financial records that  
1157 indicate the compensation paid to an association employee.

1158 ~~4.3.~~ Medical records of unit owners.

1159 5. Social security numbers, driver license numbers, credit  
1160 card numbers, e-mail addresses, telephone numbers, facsimile



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1161 numbers, emergency contact information, addresses of a unit  
1162 owner other than as provided to fulfill the association's notice  
1163 requirements, and other personal identifying information of any  
1164 person, excluding the person's name, unit designation, mailing  
1165 address, property address, and any address, e-mail address, or  
1166 facsimile number provided to the association to fulfill the  
1167 association's notice requirements. Notwithstanding the  
1168 restrictions in this subparagraph, an association may print and  
1169 distribute to parcel owners a directory containing the name,  
1170 parcel address, and telephone number of each parcel owner.  
1171 However, an owner may exclude his or her telephone number from  
1172 the directory by so requesting in writing to the association.  
1173 The association is not liable for the inadvertent disclosure of  
1174 information that is protected under this subparagraph if the  
1175 information is included in an official record of the association  
1176 and is voluntarily provided by an owner and not requested by the  
1177 association.

1178 6. Electronic security measures that are used by the  
1179 association to safeguard data, including passwords.

1180 7. The software and operating system used by the  
1181 association which allow the manipulation of data, even if the  
1182 owner owns a copy of the same software used by the association.  
1183 The data is part of the official records of the association.

1184 Section 11. Subsection (7) is added to section 719.1055,  
1185 Florida Statutes, to read:

1186 719.1055 Amendment of cooperative documents; alteration and  
1187 acquisition of property.—

1188 (7) The Legislature finds that the procurement of mortgagee  
1189 consent to amendments that do not affect the rights or interests

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1190 of mortgagees is an unreasonable and substantial logistical and  
1191 financial burden on the unit owners and that there is a  
1192 compelling state interest in enabling the members of an  
1193 association to approve amendments to the association's  
1194 cooperative documents through legal means. Accordingly, and  
1195 notwithstanding any provision of this subsection to the  
1196 contrary:

1197 (a) As to any mortgage recorded on or after July 1, 2013,  
1198 any provision in the association's cooperative documents that  
1199 requires the consent or joinder of some or all mortgagees of  
1200 units or any other portion of the association's common areas to  
1201 amend the association's cooperative documents or for any other  
1202 matter is enforceable only as to amendments to the association's  
1203 cooperative documents that adversely affect the priority of the  
1204 mortgagee's lien or the mortgagee's rights to foreclose its lien  
1205 or that otherwise materially affect the rights and interests of  
1206 the mortgagees.

1207 (b) As to mortgages recorded before July 1, 2013, any  
1208 existing provisions in the association's cooperative documents  
1209 requiring mortgagee consent are enforceable.

1210 (c) In securing consent or joinder, the association is  
1211 entitled to rely upon the public records to identify the holders  
1212 of outstanding mortgages. The association may use the address  
1213 provided in the original recorded mortgage document, unless  
1214 there is a different address for the holder of the mortgage in a  
1215 recorded assignment or modification of the mortgage, which  
1216 recorded assignment or modification must reference the official  
1217 records book and page on which the original mortgage was  
1218 recorded. Once the association has identified the recorded

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1219 mortgages of record, the association shall, in writing, request  
1220 of each unit owner whose unit is encumbered by a mortgage of  
1221 record any information that the owner has in his or her  
1222 possession regarding the name and address of the person to whom  
1223 mortgage payments are currently being made. Notice shall be sent  
1224 to such person if the address provided in the original recorded  
1225 mortgage document is different from the name and address of the  
1226 mortgagee or assignee of the mortgage as shown by the public  
1227 record. The association is deemed to have complied with this  
1228 requirement by making the written request of the unit owners  
1229 required under this paragraph. Any notices required to be sent  
1230 to the mortgagees under this paragraph shall be sent to all  
1231 available addresses provided to the association.

1232 (d) Any notice to the mortgagees required under paragraph  
1233 (c) may be sent by a method that establishes proof of delivery,  
1234 and any mortgagee who fails to respond within 60 days after the  
1235 date of mailing is deemed to have consented to the amendment.

1236 (e) For those amendments requiring mortgagee consent on or  
1237 after July 1, 2013, in the event mortgagee consent is provided  
1238 other than by properly recorded joinder, such consent shall be  
1239 evidenced by affidavit of the association recorded in the public  
1240 records of the county in which the declaration is recorded.

1241 (f) Any amendment adopted without the required consent of a  
1242 mortgagee is voidable only by a mortgagee who was entitled to  
1243 notice and an opportunity to consent. An action to void an  
1244 amendment is subject to the statute of limitations beginning 5  
1245 years after the date of discovery as to the amendments described  
1246 in paragraph (a) and 5 years after the date of recordation of  
1247 the certificate of amendment for all other amendments. This

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1248 paragraph applies to all mortgages, regardless of the date of  
1249 recordation of the mortgage.

1250 Section 12. Paragraphs (c), (d), and (f) of subsection (1)  
1251 of section 719.106, Florida Statutes, are amended to read:

1252 719.106 Bylaws; cooperative ownership.—

1253 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative  
1254 documents shall provide for the following, and if they do not,  
1255 they shall be deemed to include the following:

1256 (c) *Board of administration meetings.*—Meetings of the board  
1257 of administration at which a quorum of the members is present  
1258 shall be open to all unit owners. Any unit owner may tape record  
1259 or videotape meetings of the board of administration. The right  
1260 to attend such meetings includes the right to speak at such  
1261 meetings with reference to all designated agenda items. The  
1262 division shall adopt reasonable rules governing the tape  
1263 recording and videotaping of the meeting. The association may  
1264 adopt reasonable written rules governing the frequency,  
1265 duration, and manner of unit owner statements. Adequate notice  
1266 of all meetings shall be posted in a conspicuous place upon the  
1267 cooperative property at least 48 continuous hours preceding the  
1268 meeting, except in an emergency. Any item not included on the  
1269 notice may be taken up on an emergency basis by at least a  
1270 majority plus one of the members of the board. Such emergency  
1271 action shall be noticed and ratified at the next regular meeting  
1272 of the board. However, written notice of any meeting at which  
1273 nonemergency special assessments, or at which amendment to rules  
1274 regarding unit use, will be considered shall be mailed,  
1275 delivered, or electronically transmitted to the unit owners and  
1276 posted conspicuously on the cooperative property not less than

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1277 14 days before ~~prior to~~ the meeting. Evidence of compliance with  
1278 this 14-day notice shall be made by an affidavit executed by the  
1279 person providing the notice and filed among the official records  
1280 of the association. Upon notice to the unit owners, the board  
1281 shall by duly adopted rule designate a specific location on the  
1282 cooperative property upon which all notices of board meetings  
1283 shall be posted. In lieu of or in addition to the physical  
1284 posting of notice of any meeting of the board of administration  
1285 on the cooperative property, the association may, by reasonable  
1286 rule, adopt a procedure for conspicuously posting and repeatedly  
1287 broadcasting the notice and the agenda on a closed-circuit cable  
1288 television system serving the cooperative association. However,  
1289 if broadcast notice is used in lieu of a notice posted  
1290 physically on the cooperative property, the notice and agenda  
1291 must be broadcast at least four times every broadcast hour of  
1292 each day that a posted notice is otherwise required under this  
1293 section. When broadcast notice is provided, the notice and  
1294 agenda must be broadcast in a manner and for a sufficient  
1295 continuous length of time so as to allow an average reader to  
1296 observe the notice and read and comprehend the entire content of  
1297 the notice and the agenda. Notice of any meeting in which  
1298 regular assessments against unit owners are to be considered for  
1299 any reason shall specifically contain a statement that  
1300 assessments will be considered and the nature of any such  
1301 assessments. Meetings of a committee to take final action on  
1302 behalf of the board or to make recommendations to the board  
1303 regarding the association budget are subject to the provisions  
1304 of this paragraph. Meetings of a committee that does not take  
1305 final action on behalf of the board or make recommendations to

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1306 the board regarding the association budget are subject to the  
1307 provisions of this section, unless those meetings are exempted  
1308 from this section by the bylaws of the association.  
1309 Notwithstanding any other law to the contrary, the requirement  
1310 that board meetings and committee meetings be open to the unit  
1311 owners does not apply ~~is inapplicable~~ to board or committee  
1312 meetings held for the purpose of discussing personnel matters or  
1313 meetings between the board or a committee and the association's  
1314 attorney, with respect to proposed or pending litigation, if  
1315 ~~when~~ the meeting is held for the purpose of seeking or rendering  
1316 legal advice.

1317 (d) *Shareholder meetings.*—There shall be an annual meeting  
1318 of the shareholders. All members of the board of administration  
1319 shall be elected at the annual meeting unless the bylaws provide  
1320 for staggered election terms or for their election at another  
1321 meeting. Any unit owner desiring to be a candidate for board  
1322 membership must comply with subparagraph 1. The bylaws must  
1323 provide the method for calling meetings, including annual  
1324 meetings. Written notice, which must incorporate an  
1325 identification of agenda items, shall be given to each unit  
1326 owner at least 14 days before the annual meeting and posted in a  
1327 conspicuous place on the cooperative property at least 14  
1328 continuous days preceding the annual meeting. Upon notice to the  
1329 unit owners, the board must by duly adopted rule designate a  
1330 specific location on the cooperative property upon which all  
1331 notice of unit owner meetings are posted. In lieu of or in  
1332 addition to the physical posting of the meeting notice, the  
1333 association may, by reasonable rule, adopt a procedure for  
1334 conspicuously posting and repeatedly broadcasting the notice and

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1335 the agenda on a closed-circuit cable television system serving  
1336 the cooperative association. However, if broadcast notice is  
1337 used in lieu of a posted notice, the notice and agenda must be  
1338 broadcast at least four times every broadcast hour of each day  
1339 that a posted notice is otherwise required under this section.  
1340 If broadcast notice is provided, the notice and agenda must be  
1341 broadcast in a manner and for a sufficient continuous length of  
1342 time to allow an average reader to observe the notice and read  
1343 and comprehend the entire content of the notice and the agenda.  
1344 Unless a unit owner waives in writing the right to receive  
1345 notice of the annual meeting, the notice of the annual meeting  
1346 must be sent by mail, hand delivered, or electronically  
1347 transmitted to each unit owner. An officer of the association  
1348 must provide an affidavit or United States Postal Service  
1349 certificate of mailing, to be included in the official records  
1350 of the association, affirming that notices of the association  
1351 meeting were mailed, hand delivered, or electronically  
1352 transmitted, in accordance with this provision, to each unit  
1353 owner at the address last furnished to the association.

1354 1. The board of administration shall be elected by written  
1355 ballot or voting machine. A proxy may not be used in electing  
1356 the board of administration in general elections or elections to  
1357 fill vacancies caused by recall, resignation, or otherwise  
1358 unless otherwise provided in this chapter.

1359 a. At least 60 days before a scheduled election, the  
1360 association shall mail, deliver, or transmit, whether by  
1361 separate association mailing, delivery, or electronic  
1362 transmission or included in another association mailing,  
1363 delivery, or electronic transmission, including regularly

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1364 published newsletters, to each unit owner entitled to vote, a  
1365 first notice of the date of the election. Any unit owner or  
1366 other eligible person desiring to be a candidate for the board  
1367 of administration must give written notice to the association at  
1368 least 40 days before a scheduled election. Together with the  
1369 written notice and agenda as set forth in this section, the  
1370 association shall mail, deliver, or electronically transmit a  
1371 second notice of election to all unit owners entitled to vote,  
1372 together with a ballot that ~~which~~ lists all candidates. Upon  
1373 request of a candidate, the association shall include an  
1374 information sheet, no larger than 8 1/2 inches by 11 inches,  
1375 which must be furnished by the candidate at least 35 days before  
1376 the election, to be included with the mailing, delivery, or  
1377 electronic transmission of the ballot, with the costs of  
1378 mailing, delivery, or transmission and copying to be borne by  
1379 the association. The association is not liable for the contents  
1380 of the information sheets provided by the candidates. In order  
1381 to reduce costs, the association may print or duplicate the  
1382 information sheets on both sides of the paper. The division  
1383 shall by rule establish voting procedures consistent with this  
1384 subparagraph, including rules establishing procedures for giving  
1385 notice by electronic transmission and rules providing for the  
1386 secrecy of ballots. Elections shall be decided by a plurality of  
1387 those ballots cast. There is no quorum requirement. However, at  
1388 least 20 percent of the eligible voters must cast a ballot in  
1389 order to have a valid election. A unit owner may not permit any  
1390 other person to vote his or her ballot, and any such ballots  
1391 improperly cast are invalid. A unit owner who needs assistance  
1392 in casting the ballot for the reasons stated in s. 101.051 may



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1393 obtain assistance in casting the ballot. Any unit owner  
1394 violating this provision may be fined by the association in  
1395 accordance with s. 719.303. The regular election must occur on  
1396 the date of the annual meeting. This subparagraph does not apply  
1397 to timeshare cooperatives. Notwithstanding this subparagraph, an  
1398 election and balloting are not required unless more candidates  
1399 file a notice of intent to run or are nominated than vacancies  
1400 exist on the board. Any challenge to the election process must  
1401 be commenced within 60 days after the election results are  
1402 announced.

1403 b. Within 90 days after being elected or appointed to the  
1404 board, each new director shall certify in writing to the  
1405 secretary of the association that he or she has read the  
1406 association's bylaws, articles of incorporation, proprietary  
1407 lease, and current written policies; that he or she will work to  
1408 uphold such documents and policies to the best of his or her  
1409 ability; and that he or she will faithfully discharge his or her  
1410 fiduciary responsibility to the association's members. Within 90  
1411 days after being elected or appointed to the board, in lieu of  
1412 this written certification, the newly elected or appointed  
1413 director may submit a certificate of having satisfactorily  
1414 completed the educational curriculum administered by an  
1415 education provider as approved by the division pursuant to the  
1416 requirements established in chapter 718 within 1 year before or  
1417 90 days after the date of election or appointment. The  
1418 educational certificate is valid and does not have to be  
1419 resubmitted as long as the director serves on the board without  
1420 interruption. A director who fails to timely file the written  
1421 certification or educational certificate is suspended from

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1422 service on the board until he or she complies with this sub-  
1423 subparagraph. The board may temporarily fill the vacancy during  
1424 the period of suspension. The secretary of the association shall  
1425 cause the association to retain a director's written  
1426 certification or educational certificate for inspection by the  
1427 members for 5 years after a director's election or the duration  
1428 of the director's uninterrupted tenure, whichever is longer.  
1429 Failure to have such written certification or educational  
1430 certificate on file does not affect the validity of any board  
1431 action.

1432       2. Any approval by unit owners called for by this chapter,  
1433 or the applicable cooperative documents, must be made at a duly  
1434 noticed meeting of unit owners and is subject to this chapter or  
1435 the applicable cooperative documents relating to unit owner  
1436 decisionmaking, except that unit owners may take action by  
1437 written agreement, without meetings, on matters for which action  
1438 by written agreement without meetings is expressly allowed by  
1439 the applicable cooperative documents or law which provides for  
1440 the unit owner action.

1441       3. Unit owners may waive notice of specific meetings if  
1442 allowed by the applicable cooperative documents or law. If  
1443 authorized by the bylaws, notice of meetings of the board of  
1444 administration, shareholder meetings, except shareholder  
1445 meetings called to recall board members under paragraph (f), and  
1446 committee meetings may be given by electronic transmission to  
1447 unit owners who consent to receive notice by electronic  
1448 transmission.

1449       4. Unit owners have the right to participate in meetings of  
1450 unit owners with reference to all designated agenda items.

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1451 However, the association may adopt reasonable rules governing  
1452 the frequency, duration, and manner of unit owner participation.

1453 5. Any unit owner may tape record or videotape meetings of  
1454 the unit owners subject to reasonable rules adopted by the  
1455 division.

1456 6. Unless otherwise provided in the bylaws, a vacancy  
1457 occurring on the board before the expiration of a term may be  
1458 filled by the affirmative vote of the majority of the remaining  
1459 directors, even if the remaining directors constitute less than  
1460 a quorum, or by the sole remaining director. In the alternative,  
1461 a board may hold an election to fill the vacancy, in which case  
1462 the election procedures must conform to the requirements of  
1463 subparagraph 1. unless the association has opted out of the  
1464 statutory election process, in which case the bylaws of the  
1465 association control. Unless otherwise provided in the bylaws, a  
1466 board member appointed or elected under this subparagraph shall  
1467 fill the vacancy for the unexpired term of the seat being  
1468 filled. Filling vacancies created by recall is governed by  
1469 paragraph (f) and rules adopted by the division.

1470

1471 Notwithstanding subparagraphs (b)2. and (d)1., an association  
1472 may, by the affirmative vote of a majority of the total voting  
1473 interests, provide for a different voting and election procedure  
1474 in its bylaws, which vote may be by a proxy specifically  
1475 delineating the different voting and election procedures. The  
1476 different voting and election procedures may provide for  
1477 elections to be conducted by limited or general proxy.

1478 (f) *Recall of board members.*—Subject to ~~the provisions of~~  
1479 s. 719.301, any member of the board of administration may be

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1480 recalled and removed from office with or without cause by the  
1481 vote or agreement in writing by a majority of all the voting  
1482 interests. A special meeting of the voting interests to recall  
1483 any member of the board of administration may be called by 10  
1484 percent of the unit owners giving notice of the meeting as  
1485 required for a meeting of unit owners, and the notice shall  
1486 state the purpose of the meeting. Electronic transmission may  
1487 not be used as a method of giving notice of a meeting called in  
1488 whole or in part for this purpose.

1489       1. If the recall is approved by a majority of all voting  
1490 interests by a vote at a meeting, the recall shall be effective  
1491 as provided in this paragraph herein. The board shall duly  
1492 notice and hold a board meeting within 5 full business days  
1493 after ~~of~~ the adjournment of the unit owner meeting to recall one  
1494 or more board members. At the meeting, the board shall either  
1495 certify the recall, in which case such member or members shall  
1496 be recalled effective immediately and shall turn over to the  
1497 board within 5 full business days any and all records and  
1498 property of the association in their possession, or shall  
1499 proceed as set forth in subparagraph 3.

1500       2. If the proposed recall is by an agreement in writing by  
1501 a majority of all voting interests, the agreement in writing or  
1502 a copy thereof shall be served on the association by certified  
1503 mail or by personal service in the manner authorized by chapter  
1504 48 and the Florida Rules of Civil Procedure. The board of  
1505 administration shall duly notice and hold a meeting of the board  
1506 within 5 full business days after receipt of the agreement in  
1507 writing. At the meeting, the board shall either certify the  
1508 written agreement to recall members of the board, in which case

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1509 such members shall be recalled effective immediately and shall  
1510 turn over to the board, within 5 full business days, any and all  
1511 records and property of the association in their possession, or  
1512 proceed as described in subparagraph 3.

1513 3. If the board determines not to certify the written  
1514 agreement to recall members of the board, or does not certify  
1515 the recall by a vote at a meeting, the board shall, within 5  
1516 full business days after the board meeting, file with the  
1517 division a petition for binding arbitration pursuant to the  
1518 procedures of s. 719.1255. For purposes of this paragraph, the  
1519 unit owners who voted at the meeting or who executed the  
1520 agreement in writing shall constitute one party under the  
1521 petition for arbitration. If the arbitrator certifies the recall  
1522 as to any member of the board, the recall shall be effective  
1523 upon mailing of the final order of arbitration to the  
1524 association. If the association fails to comply with the order  
1525 of the arbitrator, the division may take action pursuant to s.  
1526 719.501. Any member so recalled shall deliver to the board any  
1527 and all records and property of the association in the member's  
1528 possession within 5 full business days after ~~of~~ the effective  
1529 date of the recall.

1530 4. If the board fails to duly notice and hold a board  
1531 meeting within 5 full business days after ~~of~~ service of an  
1532 agreement in writing or within 5 full business days after ~~of~~ the  
1533 adjournment of the unit owner recall meeting, the recall shall  
1534 be deemed effective and the board members so recalled shall  
1535 immediately turn over to the board any and all records and  
1536 property of the association.

1537 5. If the board fails to duly notice and hold the required

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1538 meeting or fails to file the required petition, the unit owner  
1539 representative may file a petition pursuant to s. 719.1255  
1540 challenging the board's failure to act. The petition must be  
1541 filed within 60 days after the expiration of the applicable 5-  
1542 full-business-day period. The review of a petition under this  
1543 subparagraph is limited to the sufficiency of service on the  
1544 board and the facial validity of the written agreement or  
1545 ballots filed.

1546 ~~6.5.~~ If a vacancy occurs on the board as a result of a  
1547 recall and less than a majority of the board members are  
1548 removed, the vacancy may be filled by the affirmative vote of a  
1549 majority of the remaining directors, notwithstanding any  
1550 provision to the contrary contained in this chapter. If  
1551 vacancies occur on the board as a result of a recall and a  
1552 majority or more of the board members are removed, the vacancies  
1553 shall be filled in accordance with procedural rules to be  
1554 adopted by the division, which rules need not be consistent with  
1555 this chapter. The rules must provide procedures governing the  
1556 conduct of the recall election as well as the operation of the  
1557 association during the period after a recall but before ~~prior to~~  
1558 the recall election.

1559 7. A board member who has been recalled may file a petition  
1560 pursuant to s. 719.1255 challenging the validity of the recall.  
1561 The petition must be filed within 60 days after the recall is  
1562 deemed certified. The association and the unit owner  
1563 representative shall be named as the respondents.

1564 8. The division may not accept for filing a recall  
1565 petition, whether filed pursuant to subparagraph 1.,  
1566 subparagraph 2., subparagraph 5., or subparagraph 7. and

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1567 regardless of whether the recall was certified, when there are  
1568 60 or fewer days until the scheduled reelection of the board  
1569 member sought to be recalled or when 60 or fewer days have not  
1570 elapsed since the election of the board member sought to be  
1571 recalled.

1572 Section 13. Paragraph (a) of subsection (3) of section  
1573 719.303, Florida Statutes, is amended to read:

1574 719.303 Obligations of owners.—

1575 (3) The association may levy reasonable fines for failure  
1576 of the unit owner or the unit's occupant, licensee, or invitee  
1577 to comply with any provision of the cooperative documents or  
1578 reasonable rules of the association. A fine may not become a  
1579 lien against a unit. A fine may be levied on the basis of each  
1580 day of a continuing violation, with a single notice and  
1581 opportunity for hearing. However, the fine may not exceed \$100  
1582 per violation, or \$1,000 in the aggregate.

1583 (a) An association may suspend, for a reasonable period of  
1584 time, the right of a unit owner, or a unit owner's tenant,  
1585 guest, or invitee, to use the common elements, common  
1586 facilities, or any other association property for failure to  
1587 comply with any provision of the cooperative documents or  
1588 reasonable rules of the association. This paragraph does not  
1589 apply to limited common elements intended to be used only by  
1590 that unit, common elements needed to access the unit, utility  
1591 services provided to the unit, parking spaces, or elevators.

1592 Section 14. Paragraph (k) of subsection (1) of section  
1593 719.501, Florida Statutes, is amended to read:

1594 719.501 Powers and duties of Division of Florida  
1595 Condominiums, Timeshares, and Mobile Homes.—

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1596 (1) The Division of Florida Condominiums, Timeshares, and  
1597 Mobile Homes of the Department of Business and Professional  
1598 Regulation, referred to as the "division" in this part, in  
1599 addition to other powers and duties prescribed by chapter 718,  
1600 has the power to enforce and ensure compliance with this chapter  
1601 and adopted rules relating to the development, construction,  
1602 sale, lease, ownership, operation, and management of residential  
1603 cooperative units. In performing its duties, the division shall  
1604 have the following powers and duties:

1605 (k) The division shall provide training and educational  
1606 programs for cooperative association board members and unit  
1607 owners. The training may, in the division's discretion, include  
1608 web-based electronic media, and live training and seminars in  
1609 various locations throughout the state. The division may review  
1610 and approve education and training programs for board members  
1611 and unit owners offered by providers and shall maintain a  
1612 current list of approved programs and providers and make such  
1613 list available to board members and unit owners in a reasonable  
1614 and cost-effective manner.

1615 Section 15. Subsection (5), paragraphs (a) and (b) of  
1616 subsection (7), and subsection (10) of section 720.303, Florida  
1617 Statutes, are amended to read:

1618 720.303 Association powers and duties; meetings of board;  
1619 official records; budgets; financial reporting; association  
1620 funds; recalls.—

1621 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
1622 shall be maintained within the state and must be open to  
1623 inspection and available for photocopying by members or their  
1624 authorized agents at reasonable times and places within 10



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1625 business days after receipt of a written request for access.  
1626 This subsection may be complied with by having a copy of the  
1627 official records available for inspection or copying in the  
1628 community. If the association has a photocopy machine available  
1629 where the records are maintained, it must provide parcel owners  
1630 with copies on request during the inspection if the entire  
1631 request is limited to no more than 25 pages. An association  
1632 shall allow a member or his or her authorized representative to  
1633 use a portable device, including a smartphone, tablet, portable  
1634 scanner, or any other technology capable of scanning or taking  
1635 photographs, to make an electronic copy of the official records  
1636 in lieu of the association's providing the member or his or her  
1637 authorized representative with a copy of such records. The  
1638 association may not charge a member or his or her authorized  
1639 representative for the use of a portable device.

1640 (a) The failure of an association to provide access to the  
1641 records within 10 business days after receipt of a written  
1642 request submitted by certified mail, return receipt requested,  
1643 creates a rebuttable presumption that the association willfully  
1644 failed to comply with this subsection.

1645 (b) A member who is denied access to official records is  
1646 entitled to the actual damages or minimum damages for the  
1647 association's willful failure to comply with this subsection.  
1648 The minimum damages are to be \$50 per calendar day up to 10  
1649 days, the calculation to begin on the 11th business day after  
1650 receipt of the written request.

1651 (c) The association may adopt reasonable written rules  
1652 governing the frequency, time, location, notice, records to be  
1653 inspected, and manner of inspections, but may not require a

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1654 parcel owner to demonstrate any proper purpose for the  
1655 inspection, state any reason for the inspection, or limit a  
1656 parcel owner's right to inspect records to less than one 8-hour  
1657 business day per month. The association may impose fees to cover  
1658 the costs of providing copies of the official records,  
1659 including, without limitation, the costs of copying. The  
1660 association may charge up to 50 cents per page for copies made  
1661 on the association's photocopier. If the association does not  
1662 have a photocopy machine available where the records are kept,  
1663 or if the records requested to be copied exceed 25 pages in  
1664 length, the association may have copies made by an outside  
1665 vendor or association management company personnel and may  
1666 charge the actual cost of copying, including any reasonable  
1667 costs involving personnel fees and charges at an hourly rate for  
1668 vendor or employee time to cover administrative costs to the  
1669 vendor or association. The association shall maintain an  
1670 adequate number of copies of the recorded governing documents,  
1671 to ensure their availability to members and prospective members.  
1672 Notwithstanding this paragraph, the following records are not  
1673 accessible to members or parcel owners:

1674       1. Any record protected by the lawyer-client privilege as  
1675 described in s. 90.502 and any record protected by the work-  
1676 product privilege, including, but not limited to, a record  
1677 prepared by an association attorney or prepared at the  
1678 attorney's express direction which reflects a mental impression,  
1679 conclusion, litigation strategy, or legal theory of the attorney  
1680 or the association and which was prepared exclusively for civil  
1681 or criminal litigation or for adversarial administrative  
1682 proceedings or which was prepared in anticipation of such

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1683 litigation or proceedings until the conclusion of the litigation  
1684 or proceedings.

1685 2. Information obtained by an association in connection  
1686 with the approval of the lease, sale, or other transfer of a  
1687 parcel.

1688 3. Personnel records of association or management company  
1689 ~~the association's~~ employees, including, but not limited to,  
1690 disciplinary, payroll, health, and insurance records. For  
1691 purposes of this subparagraph, the term "personnel records" does  
1692 not include written employment agreements with an association or  
1693 management company employee or budgetary or financial records  
1694 that indicate the compensation paid to an association or  
1695 management company employee.

1696 4. Medical records of parcel owners or community residents.

1697 5. Social security numbers, driver ~~driver's~~ license  
1698 numbers, credit card numbers, electronic mailing addresses,  
1699 telephone numbers, facsimile numbers, emergency contact  
1700 information, any addresses for a parcel owner other than as  
1701 provided for association notice requirements, and other personal  
1702 identifying information of any person, excluding the person's  
1703 name, parcel designation, mailing address, and property address.  
1704 Notwithstanding the restrictions in this subparagraph, an  
1705 association may print and distribute to parcel owners a  
1706 directory containing the name, parcel address, and telephone  
1707 number of each parcel owner. However, an owner may exclude his  
1708 or her telephone number from the directory by so requesting in  
1709 writing to the association ~~consent in writing to the disclosure~~  
1710 ~~of protected information described in this subparagraph.~~ The  
1711 association is not liable for the disclosure of information that

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1712 is protected under this subparagraph if the information is  
1713 included in an official record of the association and is  
1714 voluntarily provided by an owner and not requested by the  
1715 association.

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

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

1722 (d) The association or its authorized agent is not required  
1723 to provide a prospective purchaser or lienholder with  
1724 information about the residential subdivision or the association  
1725 other than information or documents required by this chapter to  
1726 be made available or disclosed. The association or its  
1727 authorized agent may charge a reasonable fee to the prospective  
1728 purchaser or lienholder or the current parcel owner or member  
1729 for providing good faith responses to requests for information  
1730 by or on behalf of a prospective purchaser or lienholder, other  
1731 than that required by law, if the fee does not exceed \$150 plus  
1732 the reasonable cost of photocopying and any attorney ~~attorney's~~  
1733 fees incurred by the association in connection with the  
1734 response.

1735 (7) FINANCIAL REPORTING.—Within 90 days after the end of  
1736 the fiscal year, or annually on the date provided in the bylaws,  
1737 the association shall prepare and complete, or contract with a  
1738 third party for the preparation and completion of, a financial  
1739 report for the preceding fiscal year. Within 21 days after the  
1740 final financial report is completed by the association or

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1741 received from the third party, but not later than 120 days after  
1742 the end of the fiscal year or other date as provided in the  
1743 bylaws, the association shall, within the time limits set forth  
1744 in subsection (5), provide each member with a copy of the annual  
1745 financial report or a written notice that a copy of the  
1746 financial report is available upon request at no charge to the  
1747 member. Financial reports shall be prepared as follows:

1748 (a) An association that meets the criteria of this  
1749 paragraph shall prepare or cause to be prepared a complete set  
1750 of financial statements in accordance with generally accepted  
1751 accounting principles as adopted by the Board of Accountancy.  
1752 The financial statements shall be based upon the association's  
1753 total annual revenues, as follows:

1754 1. An association with total annual revenues of \$150,000  
1755 ~~\$100,000~~ or more, but less than \$300,000 ~~\$200,000~~, shall prepare  
1756 compiled financial statements.

1757 2. An association with total annual revenues of at least  
1758 \$300,000 ~~\$200,000~~, but less than \$500,000 ~~\$400,000~~, shall  
1759 prepare reviewed financial statements.

1760 3. An association with total annual revenues of \$500,000  
1761 ~~\$400,000~~ or more shall prepare audited financial statements.

1762 (b)1. An association with total annual revenues of less  
1763 than \$150,000 ~~\$100,000~~ shall prepare a report of cash receipts  
1764 and expenditures.

1765 2. An association in a community of fewer than 50 parcels,  
1766 regardless of the association's annual revenues, may prepare a  
1767 report of cash receipts and expenditures in lieu of financial  
1768 statements required by paragraph (a) unless the governing  
1769 documents provide otherwise.

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1770           3. A report of cash receipts and disbursement must disclose  
1771 the amount of receipts by accounts and receipt classifications  
1772 and the amount of expenses by accounts and expense  
1773 classifications, including, but not limited to, the following,  
1774 as applicable: costs for security, professional, and management  
1775 fees and expenses; taxes; costs for recreation facilities;  
1776 expenses for refuse collection and utility services; expenses  
1777 for lawn care; costs for building maintenance and repair;  
1778 insurance costs; administration and salary expenses; and  
1779 reserves if maintained by the association.

1780           (10) RECALL OF DIRECTORS.—

1781           (a)1. Regardless of any provision to the contrary contained  
1782 in the governing documents, subject to the provisions of s.  
1783 720.307 regarding transition of association control, any member  
1784 of the board of directors may be recalled and removed from  
1785 office with or without cause by a majority of the total voting  
1786 interests.

1787           2. When the governing documents, including the declaration,  
1788 articles of incorporation, or bylaws, provide that only a  
1789 specific class of members is entitled to elect a board director  
1790 or directors, only that class of members may vote to recall  
1791 those board directors so elected.

1792           (b)1. Board directors may be recalled by an agreement in  
1793 writing or by written ballot without a membership meeting. The  
1794 agreement in writing or the written ballots, or a copy thereof,  
1795 shall be served on the association by certified mail or by  
1796 personal service in the manner authorized by chapter 48 and the  
1797 Florida Rules of Civil Procedure.

1798           2. The board shall duly notice and hold a meeting of the

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1799 board within 5 full business days after receipt of the agreement  
1800 in writing or written ballots. At the meeting, the board shall  
1801 either certify the written ballots or written agreement to  
1802 recall a director or directors of the board, in which case such  
1803 director or directors shall be recalled effective immediately  
1804 and shall turn over to the board within 5 full business days any  
1805 and all records and property of the association in their  
1806 possession, or proceed as described in paragraph (d).

1807         3. When it is determined by the department pursuant to  
1808 binding arbitration proceedings that an initial recall effort  
1809 was defective, written recall agreements or written ballots used  
1810 in the first recall effort and not found to be defective may be  
1811 reused in one subsequent recall effort. However, in no event is  
1812 a written agreement or written ballot valid for more than 120  
1813 days after it has been signed by the member.

1814         4. Any rescission or revocation of a member's written  
1815 recall ballot or agreement must be in writing and, in order to  
1816 be effective, must be delivered to the association before the  
1817 association is served with the written recall agreements or  
1818 ballots.

1819         5. The agreement in writing or ballot shall list at least  
1820 as many possible replacement directors as there are directors  
1821 subject to the recall, when at least a majority of the board is  
1822 sought to be recalled; the person executing the recall  
1823 instrument may vote for as many replacement candidates as there  
1824 are directors subject to the recall.

1825         (c)1. If the declaration, articles of incorporation, or  
1826 bylaws specifically provide, the members may also recall and  
1827 remove a board director or directors by a vote taken at a

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1828 meeting. If so provided in the governing documents, a special  
1829 meeting of the members to recall a director or directors of the  
1830 board of administration may be called by 10 percent of the  
1831 voting interests giving notice of the meeting as required for a  
1832 meeting of members, and the notice shall state the purpose of  
1833 the meeting. Electronic transmission may not be used as a method  
1834 of giving notice of a meeting called in whole or in part for  
1835 this purpose.

1836         2. The board shall duly notice and hold a board meeting  
1837 within 5 full business days after the adjournment of the member  
1838 meeting to recall one or more directors. At the meeting, the  
1839 board shall certify the recall, in which case such member or  
1840 members shall be recalled effective immediately and shall turn  
1841 over to the board within 5 full business days any and all  
1842 records and property of the association in their possession, or  
1843 shall proceed as set forth in paragraph ~~subparagraph~~ (d).

1844         (d) If the board determines not to certify the written  
1845 agreement or written ballots to recall a director or directors  
1846 of the board or does not certify the recall by a vote at a  
1847 meeting, the board shall, within 5 full business days after the  
1848 meeting, file with the department a petition for binding  
1849 arbitration pursuant to the applicable procedures in ss.  
1850 718.112(2)(j) and 718.1255 and the rules adopted thereunder. For  
1851 the purposes of this section, the members who voted at the  
1852 meeting or who executed the agreement in writing shall  
1853 constitute one party under the petition for arbitration. If the  
1854 arbitrator certifies the recall as to any director or directors  
1855 of the board, the recall will be effective upon mailing of the  
1856 final order of arbitration to the association. The director or



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1857 directors so recalled shall deliver to the board any and all  
1858 records of the association in their possession within 5 full  
1859 business days after the effective date of the recall.

1860 (e) If a vacancy occurs on the board as a result of a  
1861 recall and less than a majority of the board directors are  
1862 removed, the vacancy may be filled by the affirmative vote of a  
1863 majority of the remaining directors, notwithstanding any  
1864 provision to the contrary contained in this subsection or in the  
1865 association documents. If vacancies occur on the board as a  
1866 result of a recall and a majority or more of the board directors  
1867 are removed, the vacancies shall be filled by members voting in  
1868 favor of the recall; if removal is at a meeting, any vacancies  
1869 shall be filled by the members at the meeting. If the recall  
1870 occurred by agreement in writing or by written ballot, members  
1871 may vote for replacement directors in the same instrument in  
1872 accordance with procedural rules adopted by the division, which  
1873 rules need not be consistent with this subsection.

1874 (f) If the board fails to duly notice and hold a board  
1875 meeting within 5 full business days after service of an  
1876 agreement in writing or within 5 full business days after the  
1877 adjournment of the member recall meeting, the recall shall be  
1878 deemed effective and the board directors so recalled shall  
1879 immediately turn over to the board all records and property of  
1880 the association.

1881 (g) If the board fails to duly notice and hold the required  
1882 meeting or fails to file the required petition, the unit owner  
1883 representative may file a petition pursuant to s. 718.1255  
1884 challenging the board's failure to act. The petition must be  
1885 filed within 60 days after the expiration of the applicable 5-

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1886 full-business-day period. The review of a petition under this  
1887 paragraph is limited to the sufficiency of service on the board  
1888 and the facial validity of the written agreement or ballots  
1889 filed.

1890 (h)~~(g)~~ If a director who is removed fails to relinquish his  
1891 or her office or turn over records as required under this  
1892 section, the circuit court in the county where the association  
1893 maintains its principal office may, upon the petition of the  
1894 association, summarily order the director to relinquish his or  
1895 her office and turn over all association records upon  
1896 application of the association.

1897 (i)~~(h)~~ The minutes of the board meeting at which the board  
1898 decides whether to certify the recall are an official  
1899 association record. The minutes must record the date and time of  
1900 the meeting, the decision of the board, and the vote count taken  
1901 on each board member subject to the recall. In addition, when  
1902 the board decides not to certify the recall, as to each vote  
1903 rejected, the minutes must identify the parcel number and the  
1904 specific reason for each such rejection.

1905 (j)~~(i)~~ When the recall of more than one board director is  
1906 sought, the written agreement, ballot, or vote at a meeting  
1907 shall provide for a separate vote for each board director sought  
1908 to be recalled.

1909 (k) A board member who has been recalled may file a  
1910 petition pursuant to ss. 718.112(2)(j) and 718.1255 and the  
1911 rules adopted challenging the validity of the recall. The  
1912 petition must be filed within 60 days after the recall is deemed  
1913 certified. The association and the unit owner representative  
1914 shall be named as respondents.

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1915       (1) The division may not accept for filing a recall  
1916 petition, whether filed pursuant to paragraph (b), paragraph  
1917 (c), paragraph (g), or paragraph (k) and regardless of whether  
1918 the recall was certified, when there are 60 or fewer days until  
1919 the scheduled reelection of the board member sought to be  
1920 recalled or when 60 or fewer days have not elapsed since the  
1921 election of the board member sought to be recalled.

1922       Section 16. Subsection (2) of section 720.305, Florida  
1923 Statutes, is amended to read:

1924       720.305 Obligations of members; remedies at law or in  
1925 equity; levy of fines and suspension of use rights.—

1926       (2) The association may levy reasonable fines of up to \$100  
1927 per violation against any member or any member's tenant, guest,  
1928 or invitee for the failure of the owner of the parcel or its  
1929 occupant, licensee, or invitee to comply with any provision of  
1930 the declaration, the association bylaws, or reasonable rules of  
1931 the association. A fine may be levied for each day of a  
1932 continuing violation, with a single notice and opportunity for  
1933 hearing, except that the fine may not exceed \$1,000 in the  
1934 aggregate unless otherwise provided in the governing documents.  
1935 A fine of less than \$1,000 may not become a lien against a  
1936 parcel. In any action to recover a fine, the prevailing party is  
1937 entitled to reasonable attorney ~~attorney's~~ fees and costs from  
1938 the nonprevailing party as determined by the court.

1939       (a) An association may suspend, for a reasonable period of  
1940 time, the right of a member, or a member's tenant, guest, or  
1941 invitee, to use common areas and facilities for the failure of  
1942 the owner of the parcel or its occupant, licensee, or invitee to  
1943 comply with any provision of the declaration, the association

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1944 bylaws, or reasonable rules of the association. This paragraph  
1945 does not apply to that portion of common areas used to provide  
1946 access or utility services to the parcel. A suspension may not  
1947 impair the right of an owner or tenant of a parcel to have  
1948 vehicular and pedestrian ingress to and egress from the parcel,  
1949 including, but not limited to, the right to park.

1950 (b) A fine or suspension may not be imposed without at  
1951 least 14 days' notice to the person sought to be fined or  
1952 suspended and an opportunity for a hearing before a committee of  
1953 at least three members appointed by the board who are not  
1954 officers, directors, or employees of the association, or the  
1955 spouse, parent, child, brother, or sister of an officer,  
1956 director, or employee. If the committee, by majority vote, does  
1957 not approve a proposed fine or suspension, it may not be  
1958 imposed. If the association imposes a fine or suspension, the  
1959 association must provide written notice of such fine or  
1960 suspension by mail or hand delivery to the parcel owner and, if  
1961 applicable, to any tenant, licensee, or invitee of the parcel  
1962 owner.

1963 Section 17. Paragraph (d) is added to subsection (1) of  
1964 section 720.306, Florida Statutes, and subsection (6) and  
1965 paragraph (a) of subsection (9) of that section are amended, to  
1966 read:

1967 720.306 Meetings of members; voting and election  
1968 procedures; amendments.—

1969 (1) QUORUM; AMENDMENTS.—

1970 (d) The Legislature finds that the procurement of mortgagee  
1971 consent to amendments that do not affect the rights or interests  
1972 of mortgagees is an unreasonable and substantial logistical and

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1973 financial burden on the parcel owners and that there is a  
1974 compelling state interest in enabling the members of an  
1975 association to approve amendments to the association's governing  
1976 documents through legal means. Accordingly, and notwithstanding  
1977 any provision of this paragraph to the contrary:

1978 1. As to any mortgage recorded on or after July 1, 2013,  
1979 any provision in the association's governing documents that  
1980 requires the consent or joinder of some or all mortgagees of  
1981 parcels or any other portion of the association's common areas  
1982 to amend the association's governing documents or for any other  
1983 matter is enforceable only as to amendments to the association's  
1984 governing documents that adversely affect the priority of the  
1985 mortgagee's lien or the mortgagee's rights to foreclose its lien  
1986 or that otherwise materially affect the rights and interests of  
1987 the mortgagees.

1988 2. As to mortgages recorded before July 1, 2013, any  
1989 existing provisions in the association's governing documents  
1990 requiring mortgagee consent are enforceable.

1991 3. In securing consent or joinder, the association is  
1992 entitled to rely upon the public records to identify the holders  
1993 of outstanding mortgages. The association may use the address  
1994 provided in the original recorded mortgage document, unless  
1995 there is a different address for the holder of the mortgage in a  
1996 recorded assignment or modification of the mortgage, which  
1997 recorded assignment or modification must reference the official  
1998 records book and page on which the original mortgage was  
1999 recorded. Once the association has identified the recorded  
2000 mortgages of record, the association shall, in writing, request  
2001 of each parcel owner whose parcel is encumbered by a mortgage of

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2002 record any information that the owner has in his or her  
2003 possession regarding the name and address of the person to whom  
2004 mortgage payments are currently being made. Notice shall be sent  
2005 to such person if the address provided in the original recorded  
2006 mortgage document is different from the name and address of the  
2007 mortgagee or assignee of the mortgage as shown by the public  
2008 record. The association is deemed to have complied with this  
2009 requirement by making the written request of the parcel owners  
2010 required under this subparagraph. Any notices required to be  
2011 sent to the mortgagees under this subparagraph shall be sent to  
2012 all available addresses provided to the association.

2013 4. Any notice to the mortgagees required under subparagraph  
2014 3. may be sent by a method that establishes proof of delivery,  
2015 and any mortgagee who fails to respond within 60 days after the  
2016 date of mailing is deemed to have consented to the amendment.

2017 5. For those amendments requiring mortgagee consent on or  
2018 after July 1, 2013, in the event mortgagee consent is provided  
2019 other than by properly recorded joinder, such consent shall be  
2020 evidenced by affidavit of the association recorded in the public  
2021 records of the county in which the declaration is recorded.

2022 6. Any amendment adopted without the required consent of a  
2023 mortgagee is voidable only by a mortgagee who was entitled to  
2024 notice and an opportunity to consent. An action to void an  
2025 amendment is subject to the statute of limitations beginning 5  
2026 years after the date of discovery as to the amendments described  
2027 in subparagraph 1. and 5 years after the date of recordation of  
2028 the certificate of amendment for all other amendments. This  
2029 subparagraph applies to all mortgages, regardless of the date of  
2030 recordation of the mortgage.

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2031 (6) RIGHT TO SPEAK.—Members and parcel owners have the  
2032 right to attend all membership meetings and to speak at any  
2033 meeting with reference to all items opened for discussion or  
2034 included on the agenda. Notwithstanding any provision to the  
2035 contrary in the governing documents or any rules adopted by the  
2036 board or by the membership, a member and a parcel owner have the  
2037 right to speak for at least 3 minutes on any item, ~~provided that~~  
2038 ~~the member or parcel owner submits a written request to speak~~  
2039 ~~prior to the meeting.~~ The association may adopt written  
2040 reasonable rules governing the frequency, duration, and other  
2041 manner of member and parcel owner statements, which rules must  
2042 be consistent with this subsection.

2043 (9) ~~(a)~~ ELECTIONS AND BOARD VACANCIES.—

2044 (a) Elections of directors must be conducted in accordance  
2045 with the procedures set forth in the governing documents of the  
2046 association. All members of the association are eligible to  
2047 serve on the board of directors, and a member may nominate  
2048 himself or herself as a candidate for the board at a meeting  
2049 where the election is to be held or, if the election process  
2050 allows voting by absentee ballot, in advance of the balloting.  
2051 Except as otherwise provided in the governing documents, boards  
2052 of directors must be elected by a plurality of the votes cast by  
2053 eligible voters. Any challenge to the election process must be  
2054 commenced within 60 days after the election results are  
2055 announced.

2056 Section 18. This act shall take effect July 1, 2013.