

1 A bill to be entitled

2 An act relating to residential properties; amending s.  
3 712.05, F.S.; clarifying existing law relating to  
4 marketable record title; amending s. 718.110, F.S.;  
5 providing that an amendment to a declaration relating  
6 to rental condominium units does not apply to unit  
7 owners who vote against the amendment; amending s.  
8 718.111, F.S.; providing authority to an association  
9 to inspect and repair abandoned condominium units;  
10 providing conditions to determine if a unit is  
11 abandoned; providing a mechanism for an association to  
12 recover costs associated with maintaining an abandoned  
13 unit; requiring an outgoing condominium association  
14 board or committee member to relinquish all official  
15 records and property of the association within a  
16 specified time; providing a civil penalty for failing  
17 to relinquish such records and property; amending s.  
18 718.112, F.S.; providing that a board or committee  
19 member's participation in a meeting via real-time  
20 videoconferencing, Internet-enabled videoconferencing,  
21 or similar electronic or video communication counts  
22 toward a quorum and that such member may vote as if  
23 physically present; prohibiting the board from voting  
24 via e-mail; prohibiting a quorum of members from  
25 communicating via certain telephonic, electronic, or  
26 video communications if it excludes membership

27 participation; amending s. 718.707, F.S.; extending  
28 the date by which a condominium parcel must be  
29 acquired in order for a person to be classified as a  
30 bulk assignee or bulk buyer; amending s. 719.104,  
31 F.S.; requiring an outgoing cooperative association  
32 board or committee member to relinquish all official  
33 records and property of the association within a  
34 specified time; providing a civil penalty for failing  
35 to relinquish such records and property; providing  
36 dates by which financial reports for an association  
37 must be completed; specifying that members must  
38 receive copies of financial reports; requiring  
39 specific types of financial statements for  
40 associations of varying sizes; providing exceptions;  
41 providing a mechanism for waiving or increasing  
42 financial reporting requirements; amending s. 719.106,  
43 F.S.; providing for suspension from office of a  
44 director or officer who is charged with one or more of  
45 certain felony offenses; providing procedures for  
46 filling such vacancy or reinstating such member under  
47 specific circumstances; providing a mechanism for a  
48 person who is convicted of a felony to be eligible for  
49 board membership; creating s. 719.128, F.S.; providing  
50 emergency powers of a cooperative association;  
51 creating s. 720.316, F.S.; providing emergency powers  
52 of a homeowners' association; providing an effective

53 | date.

54 |

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

56 |

57 | Section 1. Subsection (1) of section 712.05, Florida  
 58 | Statutes, is amended to read:

59 | 712.05 Effect of filing notice.—

60 | (1) A ~~Any~~ person claiming an interest in land or a  
 61 | homeowners' association desiring to preserve a ~~any~~ covenant or  
 62 | restriction may preserve and protect the same from  
 63 | extinguishment by the operation of this act by filing for  
 64 | record, during the 30-year period immediately following the  
 65 | effective date of the root of title, a written notice, ~~in~~  
 66 | ~~writing,~~ in accordance with this chapter. ~~Such the provisions~~  
 67 | ~~hereof, which~~ notice preserves ~~shall have the effect of so~~  
 68 | ~~preserving~~ such claim of right or such covenant or restriction  
 69 | or portion of such covenant or restriction for up to a period of  
 70 | ~~not longer than~~ 30 years after filing the notice ~~same~~ unless the  
 71 | notice is filed again ~~filed~~ as required in this chapter ~~herein~~.  
 72 | A person's ~~No~~ disability or lack of knowledge of any kind may  
 73 | not ~~on the part of anyone shall~~ delay the commencement of or  
 74 | suspend the running of the ~~said~~ 30-year period. Such notice may  
 75 | be filed for record by the claimant or by any other person  
 76 | acting on behalf of a ~~any~~ claimant who is:

77 | (a) Under a disability;~~;~~

78 | (b) Unable to assert a claim on his or her behalf;~~;~~ or

79 (c) One of a class, but whose identity cannot be  
 80 established or is uncertain at the time of filing such notice of  
 81 claim for record.

82  
 83 Such notice may be filed by a homeowners' association only if  
 84 the preservation of such covenant or restriction or portion of  
 85 such covenant or restriction is approved by at least two-thirds  
 86 of the members of the board of directors of an incorporated  
 87 homeowners' association at a meeting for which a notice, stating  
 88 the meeting's time and place and containing the statement of  
 89 marketable title action described in s. 712.06(1)(b), was mailed  
 90 or hand delivered to members of the homeowners' association at  
 91 least not less than 7 days before prior to such meeting. The  
 92 homeowners' association or clerk of the circuit court is not  
 93 required to provide notice other than as provided under s.  
 94 712.06(3). The preceding sentence is intended to clarify  
 95 existing law.

96 Section 2. Subsection (13) of section 718.110, Florida  
 97 Statutes, is amended to read:

98 718.110 Amendment of declaration; correction of error or  
 99 omission in declaration by circuit court.—

100 (13) An amendment that prohibits ~~prohibiting~~ unit owners  
 101 from renting their units or altering the duration of the rental  
 102 term or that specifies or limits ~~specifying or limiting~~ the  
 103 number of times unit owners are entitled to rent their units  
 104 during a specified period does not apply ~~applies only~~ to unit

105 owners who voted against ~~consent to~~ the amendment. However, such  
 106 amendment applies to unit owners who consented to the amendment,  
 107 who failed to cast a vote, or ~~and unit owners~~ who acquired  
 108 ~~acquire~~ title to their units after the effective date of the  
 109 ~~that~~ amendment.

110 Section 3. Subsection (5) of section 718.111, Florida  
 111 Statutes, is amended, and paragraph (f) is added to subsection  
 112 (12) of that section, to read:

113 718.111 The association.—

114 (5) RIGHT OF ACCESS TO UNITS.—

115 (a) The association has the irrevocable right of access to  
 116 each unit during reasonable hours, when necessary for the  
 117 maintenance, repair, or replacement of any common elements or of  
 118 any portion of a unit to be maintained by the association  
 119 pursuant to the declaration or as necessary to prevent damage to  
 120 the common elements or to a unit ~~or units~~.

121 (b)1. Notwithstanding paragraph (a) and regardless of  
 122 whether authority is provided in the declaration or other  
 123 recorded governing documents, an association, at the sole  
 124 discretion of the board, may enter an abandoned unit to: inspect  
 125 the unit and adjoining common elements; make repairs to the unit  
 126 or to the common elements serving the unit, as needed; repair  
 127 the unit if mold or deterioration is present; turn on the power  
 128 for the unit; or otherwise maintain, preserve, or protect the  
 129 unit and adjoining common elements. For purposes of this  
 130 paragraph, a unit is presumed to be abandoned if:

131 a. The unit is the subject of a foreclosure action and no  
132 tenant appears to have resided in the unit for at least 4  
133 continuous weeks without prior written notice to the  
134 association; or

135 b. No tenant appears to have resided in the unit for 2  
136 consecutive months without prior written notice to the  
137 association, and the association is unable to contact the owner  
138 or determine the whereabouts of the owner after reasonable  
139 inquiry.

140 2. Except in the case of an emergency, an association may  
141 not enter an abandoned unit until 48 hours after notice of the  
142 association's intent to enter the unit has been delivered to the  
143 owner at the address of the owner as reflected in the records of  
144 the association.

145 3. Any expense incurred by an association pursuant to this  
146 paragraph is chargeable to the unit owner and enforceable as an  
147 assessment pursuant to s. 718.116, and the association may use  
148 its lien authority provided by s. 718.116 to enforce collection  
149 of the expense.

150 4. The association may petition a court of competent  
151 jurisdiction to appoint a receiver and may lease out an  
152 abandoned unit for the benefit of the association to offset  
153 against the rental income the association's costs and expenses  
154 of maintaining, preserving, and protecting the unit and the  
155 adjoining common elements, including the costs of the  
156 receivership and all unpaid assessments, interest,

157 administrative late fees, costs, and reasonable attorney fees.

158 (12) OFFICIAL RECORDS.—

159 (f) An outgoing board or committee member must relinquish  
 160 all official records and property of the association in his or  
 161 her possession or under his or her control to the incoming board  
 162 within 5 days after the election. The division shall impose a  
 163 civil penalty as set forth in s. 718.501(1)(d)6. against an  
 164 outgoing board or committee member who willfully and knowingly  
 165 fails to relinquish such records and property.

166 Section 4. Paragraphs (b) and (c) of subsection (2) of  
 167 section 718.112, Florida Statutes, are amended to read:

168 718.112 Bylaws.—

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

172 (b) *Quorum; voting requirements; proxies.*—

173 1. Unless a lower number is provided in the bylaws, the  
 174 percentage of voting interests required to constitute a quorum  
 175 at a meeting of the members is a majority of the voting  
 176 interests. Unless otherwise provided in this chapter or in the  
 177 declaration, articles of incorporation, or bylaws, and except as  
 178 provided in subparagraph (d)4., decisions shall be made by a  
 179 majority of the voting interests represented at a meeting at  
 180 which a quorum is present.

181 2. Except as specifically otherwise provided herein, unit  
 182 owners may not vote by general proxy, but may vote by limited

183 proxies substantially conforming to a limited proxy form adopted  
184 by the division. A voting interest or consent right allocated to  
185 a unit owned by the association may not be exercised or  
186 considered for any purpose, whether for a quorum, an election,  
187 or otherwise. Limited proxies and general proxies may be used to  
188 establish a quorum. Limited proxies shall be used for votes  
189 taken to waive or reduce reserves in accordance with  
190 subparagraph (f)2.; for votes taken to waive the financial  
191 reporting requirements of s. 718.111(13); for votes taken to  
192 amend the declaration pursuant to s. 718.110; for votes taken to  
193 amend the articles of incorporation or bylaws pursuant to this  
194 section; and for any other matter for which this chapter  
195 requires or permits a vote of the unit owners. Except as  
196 provided in paragraph (d), a proxy, limited or general, may not  
197 be used in the election of board members. General proxies may be  
198 used for other matters for which limited proxies are not  
199 required, and may be used in voting for nonsubstantive changes  
200 to items for which a limited proxy is required and given.  
201 Notwithstanding this subparagraph, unit owners may vote in  
202 person at unit owner meetings. This subparagraph does not limit  
203 the use of general proxies or require the use of limited proxies  
204 for any agenda item or election at any meeting of a timeshare  
205 condominium association.

206 3. Any proxy given is effective only for the specific  
207 meeting for which originally given and any lawfully adjourned  
208 meetings thereof. A proxy is not valid longer than 90 days after



209 the date of the first meeting for which it was given and may be  
210 revoked. ~~Every proxy is revocable~~ at any time at the pleasure of  
211 the unit owner executing it.

212 4. A member of the board of administration or a committee  
213 may submit in writing his or her agreement or disagreement with  
214 any action taken at a meeting that the member did not attend.  
215 This agreement or disagreement may not be used as a vote for or  
216 against the action taken or to create a quorum.

217 5. ~~A If any of the~~ board or committee member's  
218 participation in a meeting via telephone, real-time  
219 videoconferencing, or similar real-time electronic or video  
220 communication counts toward a quorum, and such member may vote  
221 as if physically present ~~members meet by telephone conference,~~  
222 ~~those board or committee members may be counted toward obtaining~~  
223 ~~a quorum and may vote by telephone.~~ A telephone speaker must be  
224 used so that the conversation of such ~~those~~ members may be heard  
225 by the board or committee members attending in person as well as  
226 by any unit owners present at a meeting.

227 (c) *Board of administration meetings.*—Meetings of the  
228 board of administration at which a quorum of the members is  
229 present are open to all unit owners. Members of the board of  
230 administration may use e-mail as a means of communication but  
231 may not cast a vote on an association matter via e-mail. A unit  
232 owner may tape record or videotape the meetings. The right to  
233 attend such meetings includes the right to speak at such  
234 meetings with reference to all designated agenda items. The

235 division shall adopt reasonable rules governing the tape  
 236 recording and videotaping of the meeting. The association may  
 237 adopt written reasonable rules governing the frequency,  
 238 duration, and manner of unit owner statements.

239 1. Adequate notice of all board meetings, which must  
 240 specifically identify all agenda items, must be posted  
 241 conspicuously on the condominium property at least 48 continuous  
 242 hours before the meeting except in an emergency. If 20 percent  
 243 of the voting interests petition the board to address an item of  
 244 business, the board, within 60 days after receipt of the  
 245 petition, shall place the item on the agenda at its next regular  
 246 board meeting or at a special meeting called for that purpose ~~of~~  
 247 ~~the board, but not later than 60 days after the receipt of the~~  
 248 ~~petition, shall place the item on the agenda.~~ An Any item not  
 249 included on the notice may be taken up on an emergency basis by  
 250 a vote of at least a majority plus one of the board members.  
 251 Such emergency action must be noticed and ratified at the next  
 252 regular board meeting. However, written notice of a ~~any~~ meeting  
 253 at which a nonemergency special assessment assessments, or an ~~at~~  
 254 ~~which~~ amendment to rules regarding unit use, will be considered  
 255 must be mailed, delivered, or electronically transmitted to the  
 256 unit owners and posted conspicuously on the condominium property  
 257 at least 14 days before the meeting. Evidence of compliance with  
 258 this 14-day notice requirement must be made by an affidavit  
 259 executed by the person providing the notice and filed with the  
 260 official records of the association. Upon notice to the unit

261 owners, the board shall, by duly adopted rule, designate a  
262 specific location on the condominium or association property  
263 where all notices of board meetings must ~~are to~~ be posted. If  
264 there is no condominium property or association property where  
265 notices can be posted, notices shall be mailed, delivered, or  
266 electronically transmitted to each unit owner at least 14 days  
267 before the meeting ~~to the owner of each unit~~. In lieu of or in  
268 addition to the physical posting of the notice on the  
269 condominium property, the association may, by reasonable rule,  
270 adopt a procedure for conspicuously posting and repeatedly  
271 broadcasting the notice and the agenda on a closed-circuit cable  
272 television system serving the condominium association. However,  
273 if broadcast notice is used in lieu of a notice physically  
274 posted on condominium property, the notice and agenda must be  
275 broadcast at least four times every broadcast hour of each day  
276 that a posted notice is otherwise required under this section.  
277 If broadcast notice is provided, the notice and agenda must be  
278 broadcast in a manner and for a sufficient continuous length of  
279 time so as to allow an average reader to observe the notice and  
280 read and comprehend the entire content of the notice and the  
281 agenda. Notice of any meeting in which regular or special  
282 assessments against unit owners are to be considered ~~for any~~  
283 ~~reason~~ must specifically state that assessments will be  
284 considered and provide the nature, estimated cost, and  
285 description of the purposes for such assessments.

286 2. Meetings of a committee to take final action on behalf

287 of the board or make recommendations to the board regarding the  
288 association budget are subject to this paragraph. Meetings of a  
289 committee that does not take final action on behalf of the board  
290 or make recommendations to the board regarding the association  
291 budget are subject to this section, unless those meetings are  
292 exempted from this section by the bylaws of the association.

293 3. Notwithstanding any other law, the requirement that  
294 board meetings and committee meetings be open to the unit owners  
295 does not apply to:

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

300 b. Board meetings held for the purpose of discussing  
301 personnel matters.

302 Section 5. Section 718.707, Florida Statutes, is amended  
303 to read:

304 718.707 Time limitation for classification as bulk  
305 assignee or bulk buyer.—A person acquiring condominium parcels  
306 may not be classified as a bulk assignee or bulk buyer unless  
307 the condominium parcels were acquired on or after July 1, 2010,  
308 but before July 1, 2016 ~~2015~~. The date of such acquisition shall  
309 be determined by the date of recording a deed or other  
310 instrument of conveyance for such parcels in the public records  
311 of the county in which the condominium is located, or by the  
312 date of issuing a certificate of title in a foreclosure

313 proceeding with respect to such condominium parcels.

314 Section 6. Paragraph (e) is added to subsection (2) of  
 315 section 719.104, Florida Statutes, and subsection (4) of that  
 316 section is amended, to read:

317 719.104 Cooperatives; access to units; records; financial  
 318 reports; assessments; purchase of leases.—

319 (2) OFFICIAL RECORDS.—

320 (e) An outgoing board or committee member must relinquish  
 321 all official records and property of the association in his or  
 322 her possession or under his or her control to the incoming board  
 323 within 5 days after the election. The division shall impose a  
 324 civil penalty as set forth in s. 719.501(1)(d) against an  
 325 outgoing board or committee member who willfully and knowingly  
 326 fails to relinquish such records and property.

327 (4) FINANCIAL REPORT.—

328 (a) Within 90 ~~60~~ days following the end of the fiscal or  
 329 calendar year or annually on such date as ~~is otherwise~~ provided  
 330 in the bylaws of the association, the board of administration ~~of~~  
 331 ~~the association~~ shall prepare and complete, or contract with a  
 332 third party to prepare and complete, a financial report covering  
 333 the preceding fiscal or calendar year. Within 21 days after the  
 334 financial report is completed by the association or received  
 335 from the third party, but no later than 120 days after the end  
 336 of the fiscal year, calendar year, or other date provided in the  
 337 bylaws, the association shall provide each member with a copy of  
 338 the annual financial report or a written notice that a copy of

339 the financial report is available upon request at no charge to  
340 the member. The division shall adopt rules setting forth uniform  
341 accounting principles, standards, and reporting requirements.  
342 ~~mail or furnish by personal delivery to each unit owner a~~  
343 ~~complete financial report of actual receipts and expenditures~~  
344 ~~for the previous 12 months, or a complete set of financial~~  
345 ~~statements for the preceding fiscal year prepared in accordance~~  
346 ~~with generally accepted accounting procedures. The report shall~~  
347 ~~show the amounts of receipts by accounts and receipt~~  
348 ~~classifications and shall show the amounts of expenses by~~  
349 ~~accounts and expense classifications including, if applicable,~~  
350 ~~but not limited to, the following:~~

- 351 ~~1. Costs for security;~~
- 352 ~~2. Professional and management fees and expenses;~~
- 353 ~~3. Taxes;~~
- 354 ~~4. Costs for recreation facilities;~~
- 355 ~~5. Expenses for refuse collection and utility services;~~
- 356 ~~6. Expenses for lawn care;~~
- 357 ~~7. Costs for building maintenance and repair;~~
- 358 ~~8. Insurance costs;~~
- 359 ~~9. Administrative and salary expenses; and~~
- 360 ~~10. Reserves for capital expenditures, deferred~~  
361 ~~maintenance, and any other category for which the association~~  
362 ~~maintains a reserve account or accounts.~~

363 (b) Except as provided in paragraph (c), an association  
364 whose total annual revenues meet the criteria of this paragraph

365 shall prepare or cause to be prepared a complete set of  
366 financial statements according to the generally accepted  
367 accounting principles adopted by the Board of Accountancy. The  
368 financial statements shall be as follows:

369 1. An association with total annual revenues between  
370 \$150,000 and \$299,999 shall prepare a compiled financial  
371 statement.

372 2. An association with total annual revenues between  
373 \$300,000 and \$499,999 shall prepare a reviewed financial  
374 statement.

375 3. An association with total annual revenues of \$500,000  
376 or more shall prepare an audited financial statement. The  
377 ~~division shall adopt rules that may require that the association~~  
378 ~~deliver to the unit owners, in lieu of the financial report~~  
379 ~~required by this section, a complete set of financial statements~~  
380 ~~for the preceding fiscal year. The financial statements shall be~~  
381 ~~delivered within 90 days following the end of the previous~~  
382 ~~fiscal year or annually on such other date as provided in the~~  
383 ~~bylaws. The rules of the division may require that the financial~~  
384 ~~statements be compiled, reviewed, or audited, and the rules~~  
385 ~~shall take into consideration the criteria set forth in s.~~  
386 ~~719.501(1)(j).~~

387 4. The requirement to have the financial statements  
388 compiled, reviewed, or audited does not apply to an association  
389 ~~associations~~ if a majority of the voting interests of the  
390 association present at a duly called meeting of the association

391 have voted ~~determined for a fiscal year~~ to waive this  
392 requirement for the fiscal year. In an association in which  
393 turnover of control by the developer has not occurred, the  
394 developer may vote to waive the audit requirement for the first  
395 2 years of ~~the~~ operation of the association, after which time  
396 waiver of an applicable audit requirement shall be by a majority  
397 of voting interests other than the developer. The meeting shall  
398 be held prior to the end of the fiscal year, and the waiver  
399 shall be effective for only one fiscal year. An association may  
400 not waive the financial reporting requirements of this section  
401 for more than 3 consecutive years. ~~This subsection does not~~  
402 ~~apply to a cooperative that consists of 50 or fewer units.~~

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

406 2. An association in a community of fewer than 50 units,  
407 regardless of the association's annual revenues, shall prepare a  
408 report of cash receipts and expenditures in lieu of the  
409 financial statements required by paragraph (b), unless the  
410 declaration or other recorded governing documents provide  
411 otherwise.

412 3. A report of cash receipts and expenditures must  
413 disclose the amount of receipts by accounts and receipt  
414 classifications and the amount of expenses by accounts and  
415 expense classifications, including the following, as applicable:  
416 costs for security, professional, and management fees and



417 expenses; taxes; costs for recreation facilities; expenses for  
418 refuse collection and utility services; expenses for lawn care;  
419 costs for building maintenance and repair; insurance costs;  
420 administration and salary expenses; and reserves, if maintained  
421 by the association.

422 (d) If at least 20 percent of the unit owners petition the  
423 board for a greater level of financial reporting than that  
424 required by this section, the association shall duly notice and  
425 hold a meeting of members within 30 days after receipt of the  
426 petition to vote on raising the level of reporting for that  
427 fiscal year. Upon approval by a majority of the voting interests  
428 represented at a meeting at which a quorum of unit owners is  
429 present, the association shall prepare an amended budget or  
430 shall adopt a special assessment to pay for the financial report  
431 regardless of any provision to the contrary in the declaration  
432 or other recorded governing documents. In addition, the  
433 association shall provide within 90 days after the meeting or  
434 the end of the fiscal year, whichever occurs later:

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

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

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

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

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

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

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

454 Section 7. Paragraphs (a) and (d) of subsection (1) of  
 455 section 719.106, Florida Statutes, are amended to read:

456 719.106 Bylaws; cooperative ownership.—

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

460 (a) Administration.—

461 1. The form of administration of the association shall be  
 462 described, indicating the titles of the officers and board of  
 463 administration and specifying the powers, duties, manner of  
 464 selection and removal, and compensation, if any, of officers and  
 465 board members. In the absence of such a provision, the board of  
 466 administration shall be composed of five members, except in the  
 467 case of cooperatives having five or fewer units, in which case  
 468 in not-for-profit corporations, the board shall consist of not

469 fewer than three members. In the absence of provisions to the  
470 contrary, the board of administration shall have a president, a  
471 secretary, and a treasurer, who shall perform the duties of  
472 those offices customarily performed by officers of corporations.  
473 Unless prohibited in the bylaws, the board of administration may  
474 appoint other officers and grant them those duties it deems  
475 appropriate. Unless otherwise provided in the bylaws, the  
476 officers shall serve without compensation and at the pleasure of  
477 the board. Unless otherwise provided in the bylaws, the members  
478 of the board shall serve without compensation.

479 2. A person who has been suspended or removed by the  
480 division under this chapter, or who is delinquent in the payment  
481 of any monetary obligation due to the association, is not  
482 eligible to be a candidate for board membership and may not be  
483 listed on the ballot. A director or officer charged by  
484 information or indictment with a felony theft or embezzlement  
485 offense involving the association's funds or property is  
486 suspended from office. The board shall fill the vacancy  
487 according to general law until the end of the period of the  
488 suspension or the end of the director's term of office,  
489 whichever occurs first. However, if the charges are resolved  
490 without a finding of guilt or without acceptance of a plea of  
491 guilty or nolo contendere, the director or officer shall be  
492 reinstated for any remainder of his or her term of office. A  
493 member who has such criminal charges pending may not be  
494 appointed or elected to a position as a director or officer. A

495 person who has been convicted of any felony in this state or in  
496 any United States District Court, or who has been convicted of  
497 any offense in another jurisdiction which would be considered a  
498 felony if committed in this state, is not eligible for board  
499 membership unless such felon's civil rights have been restored  
500 for at least 5 years as of the date such person seeks election  
501 to the board. The validity of an action by the board is not  
502 affected if it is later determined that a board member is  
503 ineligible for board membership due to having been convicted of  
504 a felony.

505 ~~3.2.~~ When a unit owner files a written inquiry by  
506 certified mail with the board of administration, the board shall  
507 respond in writing to the unit owner within 30 days of receipt  
508 of the inquiry. The board's response shall either give a  
509 substantive response to the inquirer, notify the inquirer that a  
510 legal opinion has been requested, or notify the inquirer that  
511 advice has been requested from the division. If the board  
512 requests advice from the division, the board shall, within 10  
513 days of its receipt of the advice, provide in writing a  
514 substantive response to the inquirer. If a legal opinion is  
515 requested, the board shall, within 60 days after the receipt of  
516 the inquiry, provide in writing a substantive response to the  
517 inquirer. The failure to provide a substantive response to the  
518 inquirer as provided herein precludes the board from recovering  
519 attorney's fees and costs in any subsequent litigation,  
520 administrative proceeding, or arbitration arising out of the

521 inquiry. The association may, through its board of  
522 administration, adopt reasonable rules and regulations regarding  
523 the frequency and manner of responding to the unit owners'  
524 inquiries, one of which may be that the association is obligated  
525 to respond to only one written inquiry per unit in any given 30-  
526 day period. In such case, any additional inquiry or inquiries  
527 must be responded to in the subsequent 30-day period, or  
528 periods, as applicable.

529 (d) Shareholder meetings.—There shall be an annual meeting  
530 of the shareholders. All members of the board of administration  
531 shall be elected at the annual meeting unless the bylaws provide  
532 for staggered election terms or for their election at another  
533 meeting. Any unit owner desiring to be a candidate for board  
534 membership must comply with subparagraph 1. The bylaws must  
535 provide the method for calling meetings, including annual  
536 meetings. Written notice, which must incorporate an  
537 identification of agenda items, shall be given to each unit  
538 owner at least 14 days before the annual meeting and posted in a  
539 conspicuous place on the cooperative property at least 14  
540 continuous days preceding the annual meeting. Upon notice to the  
541 unit owners, the board must by duly adopted rule designate a  
542 specific location on the cooperative property upon which all  
543 notice of unit owner meetings are posted. In lieu of or in  
544 addition to the physical posting of the meeting notice, the  
545 association may, by reasonable rule, adopt a procedure for  
546 conspicuously posting and repeatedly broadcasting the notice and

547 the agenda on a closed-circuit cable television system serving  
548 the cooperative association. However, if broadcast notice is  
549 used in lieu of a posted notice, the notice and agenda must be  
550 broadcast at least four times every broadcast hour of each day  
551 that a posted notice is otherwise required under this section.  
552 If broadcast notice is provided, the notice and agenda must be  
553 broadcast in a manner and for a sufficient continuous length of  
554 time to allow an average reader to observe the notice and read  
555 and comprehend the entire content of the notice and the agenda.  
556 Unless a unit owner waives in writing the right to receive  
557 notice of the annual meeting, the notice of the annual meeting  
558 must be sent by mail, hand delivered, or electronically  
559 transmitted to each unit owner. An officer of the association  
560 must provide an affidavit or United States Postal Service  
561 certificate of mailing, to be included in the official records  
562 of the association, affirming that notices of the association  
563 meeting were mailed, hand delivered, or electronically  
564 transmitted, in accordance with this provision, to each unit  
565 owner at the address last furnished to the association.

566 1. The board of administration shall be elected by written  
567 ballot or voting machine. A proxy may not be used in electing  
568 the board of administration in general elections or elections to  
569 fill vacancies caused by recall, resignation, or otherwise  
570 unless otherwise provided in this chapter.

571 a. At least 60 days before a scheduled election, the  
572 association shall mail, deliver, or transmit, whether by

573 separate association mailing, delivery, or electronic  
574 transmission or included in another association mailing,  
575 delivery, or electronic transmission, including regularly  
576 published newsletters, to each unit owner entitled to vote, a  
577 first notice of the date of the election. Any unit owner or  
578 other eligible person desiring to be a candidate for the board  
579 of administration must give written notice to the association at  
580 least 40 days before a scheduled election. Together with the  
581 written notice and agenda as set forth in this section, the  
582 association shall mail, deliver, or electronically transmit a  
583 second notice of election to all unit owners entitled to vote,  
584 together with a ballot that lists all candidates. Upon request  
585 of a candidate, the association shall include an information  
586 sheet, no larger than 8 1/2 inches by 11 inches, which must be  
587 furnished by the candidate at least 35 days before the election,  
588 to be included with the mailing, delivery, or electronic  
589 transmission of the ballot, with the costs of mailing, delivery,  
590 or transmission and copying to be borne by the association. The  
591 association is not liable for the contents of the information  
592 sheets provided by the candidates. In order to reduce costs, the  
593 association may print or duplicate the information sheets on  
594 both sides of the paper. The division shall by rule establish  
595 voting procedures consistent with this subparagraph, including  
596 rules establishing procedures for giving notice by electronic  
597 transmission and rules providing for the secrecy of ballots.  
598 Elections shall be decided by a plurality of those ballots cast.

599 There is no quorum requirement. However, at least 20 percent of  
600 the eligible voters must cast a ballot in order to have a valid  
601 election. A unit owner may not permit any other person to vote  
602 his or her ballot, and any such ballots improperly cast are  
603 invalid. A unit owner who needs assistance in casting the ballot  
604 for the reasons stated in s. 101.051 may obtain assistance in  
605 casting the ballot. Any unit owner violating this provision may  
606 be fined by the association in accordance with s. 719.303. The  
607 regular election must occur on the date of the annual meeting.  
608 This subparagraph does not apply to timeshare cooperatives.  
609 Notwithstanding this subparagraph, an election and balloting are  
610 not required unless more candidates file a notice of intent to  
611 run or are nominated than vacancies exist on the board. Any  
612 challenge to the election process must be commenced within 60  
613 days after the election results are announced.

614       b. Within 90 days after being elected or appointed to the  
615 board, each new director shall certify in writing to the  
616 secretary of the association that he or she has read the  
617 association's bylaws, articles of incorporation, proprietary  
618 lease, and current written policies; that he or she will work to  
619 uphold such documents and policies to the best of his or her  
620 ability; and that he or she will faithfully discharge his or her  
621 fiduciary responsibility to the association's members. Within 90  
622 days after being elected or appointed to the board, in lieu of  
623 this written certification, the newly elected or appointed  
624 director may submit a certificate of having satisfactorily



625 completed the educational curriculum administered by an  
626 education provider as approved by the division pursuant to the  
627 requirements established in chapter 718 within 1 year before or  
628 90 days after the date of election or appointment. The  
629 educational certificate is valid and does not have to be  
630 resubmitted as long as the director serves on the board without  
631 interruption. A director who fails to timely file the written  
632 certification or educational certificate is suspended from  
633 service on the board until he or she complies with this sub-  
634 subparagraph. The board may temporarily fill the vacancy during  
635 the period of suspension. The secretary of the association shall  
636 cause the association to retain a director's written  
637 certification or educational certificate for inspection by the  
638 members for 5 years after a director's election or the duration  
639 of the director's uninterrupted tenure, whichever is longer.  
640 Failure to have such written certification or educational  
641 certificate on file does not affect the validity of any board  
642 action.

643 2. Any approval by unit owners called for by this chapter,  
644 or the applicable cooperative documents, must be made at a duly  
645 noticed meeting of unit owners and is subject to this chapter or  
646 the applicable cooperative documents relating to unit owner  
647 decisionmaking, except that unit owners may take action by  
648 written agreement, without meetings, on matters for which action  
649 by written agreement without meetings is expressly allowed by  
650 the applicable cooperative documents or law which provides for

651 the unit owner action.

652 3. Unit owners may waive notice of specific meetings if  
653 allowed by the applicable cooperative documents or law. If  
654 authorized by the bylaws, notice of meetings of the board of  
655 administration, shareholder meetings, except shareholder  
656 meetings called to recall board members under paragraph (f), and  
657 committee meetings may be given by electronic transmission to  
658 unit owners who consent to receive notice by electronic  
659 transmission.

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

664 5. Any unit owner may tape record or videotape meetings of  
665 the unit owners subject to reasonable rules adopted by the  
666 division.

667 6. Unless otherwise provided in the bylaws, a vacancy  
668 occurring on the board before the expiration of a term may be  
669 filled by the affirmative vote of the majority of the remaining  
670 directors, even if the remaining directors constitute less than  
671 a quorum, or by the sole remaining director. In the alternative,  
672 a board may hold an election to fill the vacancy, in which case  
673 the election procedures must conform to the requirements of  
674 subparagraph 1. unless the association has opted out of the  
675 statutory election process, in which case the bylaws of the  
676 association control. Unless otherwise provided in the bylaws,

677 the term of a board member appointed or elected under this  
678 subparagraph shall expire at the next annual meeting at which  
679 directors are elected ~~fill the vacancy for the unexpired term of~~  
680 ~~the seat being filled.~~ Filling vacancies created by recall is  
681 governed by paragraph (f) and rules adopted by the division.  
682 Notwithstanding subparagraphs (b)2. and (d)1., an association  
683 may, by the affirmative vote of a majority of the total voting  
684 interests, provide for a different voting and election procedure  
685 in its bylaws, which vote may be by a proxy specifically  
686 delineating the different voting and election procedures. The  
687 different voting and election procedures may provide for  
688 elections to be conducted by limited or general proxy.

689 Section 8. Section 719.128, Florida Statutes, is created  
690 to read:

691 719.128 Association emergency powers.—

692 (1) To the extent allowed by law, unless specifically  
693 prohibited by the cooperative documents, and consistent with s.  
694 617.0830, the board of administration, in response to damage  
695 caused by an event for which a state of emergency is declared  
696 pursuant to s. 252.36 in the area encompassed by the  
697 cooperative, may exercise the following powers:

698 (a) Conduct board or membership meetings after notice of  
699 the meetings and board decisions is provided in as practicable a  
700 manner as possible, including via publication, radio, United  
701 States mail, the Internet, public service announcements,  
702 conspicuous posting on the cooperative property, or any other

703 means the board deems appropriate under the circumstances.

704 (b) Cancel and reschedule an association meeting.

705 (c) Designate assistant officers who are not directors. If  
 706 the executive officer is incapacitated or unavailable, the  
 707 assistant officer has the same authority during the state of  
 708 emergency as the executive officer he or she assists.

709 (d) Relocate the association's principal office or  
 710 designate an alternative principal office.

711 (e) Enter into agreements with counties and municipalities  
 712 to assist counties and municipalities with debris removal.

713 (f) Implement a disaster plan before or immediately  
 714 following the event for which a state of emergency is declared,  
 715 which may include turning on or shutting off elevators;  
 716 electricity; water, sewer, or security systems; or air  
 717 conditioners for association buildings.

718 (g) Based upon the advice of emergency management  
 719 officials or upon the advice of licensed professionals retained  
 720 by the board of administration, determine any portion of the  
 721 cooperative property unavailable for entry or occupancy by unit  
 722 owners or their family members, tenants, guests, agents, or  
 723 invitees to protect their health, safety, or welfare.

724 (h) Based upon the advice of emergency management  
 725 officials or upon the advice of licensed professionals retained  
 726 by the board of administration, determine whether the  
 727 cooperative property can be safely inhabited or occupied.  
 728 However, such determination is not conclusive as to any

729 determination of habitability pursuant to the declaration.

730 (i) Require the evacuation of the cooperative property in  
731 the event of a mandatory evacuation order in the area where the  
732 cooperative is located. If a unit owner or other occupant of a  
733 cooperative fails to evacuate the cooperative property for which  
734 the board has required evacuation, the association is immune  
735 from liability for injury to persons or property arising from  
736 such failure.

737 (j) Mitigate further damage, including taking action to  
738 contract for the removal of debris and to prevent or mitigate  
739 the spread of fungus, including mold or mildew, by removing and  
740 disposing of wet drywall, insulation, carpet, cabinetry, or  
741 other fixtures on or within the cooperative property, regardless  
742 of whether the unit owner is obligated by the declaration or law  
743 to insure or replace those fixtures and to remove personal  
744 property from a unit.

745 (k) Contract, on behalf of a unit owner, for items or  
746 services for which the owner is otherwise individually  
747 responsible, but which are necessary to prevent further damage  
748 to the cooperative property. In such event, the unit owner on  
749 whose behalf the board has contracted is responsible for  
750 reimbursing the association for the actual costs of the items or  
751 services, and the association may use its lien authority  
752 provided by s. 719.108 to enforce collection of the charges.  
753 Such items or services may include the drying of the unit, the  
754 boarding of broken windows or doors, and the replacement of a

755 damaged air conditioner or air handler to provide climate  
756 control in the unit or other portions of the property.

757 (l) Notwithstanding a provision to the contrary, and  
758 regardless of whether such authority does not specifically  
759 appear in the cooperative documents, levy special assessments  
760 without a vote of the owners.

761 (m) Without unit owners' approval, borrow money and pledge  
762 association assets as collateral to fund emergency repairs and  
763 carry out the duties of the association if operating funds are  
764 insufficient. This paragraph does not limit the general  
765 authority of the association to borrow money, subject to such  
766 restrictions contained in the cooperative documents.

767 (2) The authority granted under subsection (1) is limited  
768 to that time reasonably necessary to protect the health, safety,  
769 and welfare of the association and the unit owners and their  
770 family members, tenants, guests, agents, or invitees, and to  
771 mitigate further damage and make emergency repairs.

772 Section 9. Section 720.316, Florida Statutes, is created  
773 to read:

774 720.316 Association emergency powers.—

775 (1) To the extent allowed by law, unless specifically  
776 prohibited by the declaration or other recorded governing  
777 documents, and consistent with s. 617.0830, the board of  
778 directors, in response to damage caused by an event for which a  
779 state of emergency is declared pursuant to s. 252.36 in the area  
780 encompassed by the association, may exercise the following

781 powers:

782 (a) Conduct board or membership meetings after notice of  
 783 the meetings and board decisions is provided in as practicable a  
 784 manner as possible, including via publication, radio, United  
 785 States mail, the Internet, public service announcements,  
 786 conspicuous posting on the association property, or any other  
 787 means the board deems appropriate under the circumstances.

788 (b) Cancel and reschedule an association meeting.

789 (c) Designate assistant officers who are not directors. If  
 790 the executive officer is incapacitated or unavailable, the  
 791 assistant officer has the same authority during the state of  
 792 emergency as the executive officer he or she assists.

793 (d) Relocate the association's principal office or  
 794 designate an alternative principal office.

795 (e) Enter into agreements with counties and municipalities  
 796 to assist counties and municipalities with debris removal.

797 (f) Implement a disaster plan before or immediately  
 798 following the event for which a state of emergency is declared,  
 799 which may include, but is not limited to, turning on or shutting  
 800 off elevators; electricity; water, sewer, or security systems;  
 801 or air conditioners for association buildings.

802 (g) Based upon the advice of emergency management  
 803 officials or upon the advice of licensed professionals retained  
 804 by the board, determine any portion of the association property  
 805 unavailable for entry or occupancy by owners or their family  
 806 members, tenants, guests, agents, or invitees to protect their

807 health, safety, or welfare.

808 (h) Based upon the advice of emergency management  
809 officials or upon the advice of licensed professionals retained  
810 by the board, determine whether the association property can be  
811 safely inhabited or occupied. However, such determination is not  
812 conclusive as to any determination of habitability pursuant to  
813 the declaration.

814 (i) Mitigate further damage, including taking action to  
815 contract for the removal of debris and to prevent or mitigate  
816 the spread of fungus, including, , mold or mildew, by removing  
817 and disposing of wet drywall, insulation, carpet, cabinetry, or  
818 other fixtures on or within the association property.

819 (j) Notwithstanding a provision to the contrary, and  
820 regardless of whether such authority does not specifically  
821 appear in the declaration or other recorded governing documents,  
822 levy special assessments without a vote of the owners.

823 (k) Without owners' approval, borrow money and pledge  
824 association assets as collateral to fund emergency repairs and  
825 carry out the duties of the association if operating funds are  
826 insufficient. This paragraph does not limit the general  
827 authority of the association to borrow money, subject to such  
828 restrictions contained in the declaration or other recorded  
829 governing documents.

830 (2) The authority granted under subsection (1) is limited  
831 to that time reasonably necessary to protect the health, safety,  
832 and welfare of the association and the parcel owners and their



HB 807

2014

833 family members, tenants, guests, agents, or invitees, and to  
834 mitigate further damage and make emergency repairs.

835 Section 10. This act shall take effect July 1, 2014.