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## CHAMBER ACTION

The Committee on Judiciary recommends the following:

**Committee Substitute**

Remove the entire bill and insert:

A bill to be entitled

An act relating to homeowners' associations; amending s. 702.09, F.S.; redefining the term "mortgage" to include liens created pursuant to a homeowners' association as defined in s. 712.01, F.S.; amending s. 718.111, F.S.; revising language with respect to official records of the condominium association authorizing the association to provide certain information to prospective purchasers or lienholders under certain circumstances; providing for immunity from liability; authorizing fees; establishing insurance requirements for condominium associations and individual unit owners; amending s. 718.112, F.S.; revising language with respect to condominium bylaws to allow the use of limited proxies for votes taken to waive certain financial reporting requirements; prohibiting the requirement of retrofitting condominiums for enhanced fire protection systems under certain circumstances; amending s. 718.303, F.S.; providing that certain actions with respect to the obligation of condominium owners shall not



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29 | be deemed actions for specific performance; amending s.  
 30 | 719.104, F.S.; revising language with respect to official  
 31 | records of the cooperative association authorizing the  
 32 | association to provide certain information to prospective  
 33 | purchasers or lienholders under certain circumstances;  
 34 | providing for immunity from liability; authorizing fees;  
 35 | amending s. 719.303, F.S.; providing that certain actions  
 36 | with respect to the obligation of cooperative owners shall  
 37 | not be deemed actions for specific performance; amending  
 38 | s. 720.302, F.S.; providing that corporations not for  
 39 | profit that operate residential homeowners' associations  
 40 | shall be governed by and subject to the provisions of ch.  
 41 | 617, F.S.; amending s. 719.1055, F.S.; prohibiting the  
 42 | requirement of retrofitting cooperatives for enhanced fire  
 43 | protection under certain circumstances; providing an  
 44 | effective date.

45 |

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

47 |

48 | Section 1. Section 702.09, Florida Statutes, is amended to  
 49 | read:

50 | 702.09 Definitions.--For the purposes of ss. 702.07 and  
 51 | 702.08 the words "decree of foreclosure" shall include a  
 52 | judgment or order rendered or passed in the foreclosure  
 53 | proceedings in which the decree of foreclosure shall be  
 54 | rescinded, vacated, and set aside; the word "mortgage" shall  
 55 | mean any written instrument securing the payment of money or  
 56 | advances and includes liens to secure payment of assessments



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57 arising under chapters 718 and 719 and liens created pursuant to  
 58 the recorded covenants of a homeowners' association as defined  
 59 in s. 712.01; the word "debt" shall include promissory notes,  
 60 bonds, and all other written obligations given for the payment  
 61 of money; the words "foreclosure proceedings" shall embrace  
 62 every action in the circuit or county courts of this state  
 63 wherein it is sought to foreclose a mortgage and sell the  
 64 property covered by the same; and the word "property" shall mean  
 65 and include both real and personal property.

66 Section 2. Subsections (11) and (12) of section 718.111,  
 67 Florida Statutes, are amended to read:

68 718.111 The association.--

69 (11) INSURANCE.--In order to protect the safety, health,  
 70 and welfare of the citizens of the State of Florida and to  
 71 ensure consistency in the provision of insurance coverage to  
 72 condominiums and their unit owners, paragraphs (b) and (c) are  
 73 deemed to apply to every condominium in the state regardless of  
 74 the date of its declaration of condominium.

75 (a) A unit-owner controlled association shall use its best  
 76 efforts to obtain and maintain adequate insurance to protect the  
 77 association, the association property, the common elements, and  
 78 the condominium property required to be insured by the  
 79 association pursuant to paragraph (b). If the association is  
 80 developer controlled, the association shall exercise due  
 81 diligence to obtain and maintain such insurance. Failure to  
 82 obtain and maintain adequate insurance during any period of  
 83 developer control shall constitute a breach of fiduciary  
 84 responsibility by the developer-appointed members of the board



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85 of directors of the association, unless said members can show  
86 that despite such failure, they have exercised due diligence.  
87 The declaration of condominium as originally recorded, or  
88 amended pursuant to the procedures provided therein, may require  
89 that condominium property consisting of freestanding buildings,  
90 where there is no more than one building in or on such unit,  
91 need not be insured by the association if the declaration  
92 requires the unit owner to obtain adequate insurance for the  
93 condominium property. An association may also obtain and  
94 maintain liability insurance for directors and officers,  
95 insurance for the benefit of association employees, and flood  
96 insurance for common elements, association property, and units.  
97 Adequate insurance, regardless of any requirement in the  
98 declaration of condominium for coverage by the association for  
99 "full insurable value," "replacement cost," or the like, may  
100 include reasonable deductibles, as determined by the board. An  
101 association or group of associations may self-insure against  
102 claims against the association, the association property, and  
103 the condominium property required to be insured by an  
104 association, upon compliance with ss. 624.460-624.488. A copy of  
105 each policy of insurance in effect shall be made available for  
106 inspection by unit owners at reasonable times.

107 (b) Every hazard insurance policy ~~which is~~ issued or  
108 renewed on or after January 1, 2004, to protect the a  
109 condominium building shall provide primary coverage for:

110 1. Portions of the condominium property located outside  
111 the units;



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112        2. The condominium property located inside the units as  
113 such property was initially installed, or replacements thereof  
114 of like kind and quality, and in accordance with the original  
115 plans and specifications, or if the original plans and  
116 specifications are not available, as they existed at the time  
117 the unit was initially conveyed; and

118        3. Portions of the condominium property for which the  
119 declaration of condominium requires coverage by the association.

120  
121 Anything to the contrary notwithstanding, the terms "condominium  
122 property," "building," "improvements," "insurable improvements,"  
123 "common elements," "association property," and any other term  
124 found in the declaration of condominium which defines the scope  
125 of property or casualty insurance which a condominium  
126 association must obtain shall exclude all floor, wall, and  
127 ceiling coverings, that the word "building" wherever used in the  
128 policy include, but not necessarily be limited to, fixtures,  
129 installations, or additions comprising that part of the building  
130 within the unfinished interior surfaces of the perimeter walls,  
131 floors, and ceilings of the individual units initially  
132 installed, or replacements thereof of like kind or quality, in  
133 accordance with the original plans and specifications, or as  
134 they existed at the time the unit was initially conveyed if the  
135 original plans and specifications are not available. However,  
136 unless prior to October 1, 1986, the association is required by  
137 the declaration to provide coverage therefor, the word  
138 "building" does not include unit floor coverings, wall  
139 coverings, or ceiling coverings, and, as to contracts entered



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140 ~~into after July 1, 1992, does not include the following~~  
141 ~~equipment if it is located within a unit and the unit owner is~~  
142 ~~required to repair or replace such equipment:~~ electrical  
143 fixtures, appliances, air conditioner or heating equipment,  
144 water heaters, water filters, ~~or~~ built-in cabinets and  
145 countertops and window treatments, including curtains, drapes,  
146 blinds, hardware and similar window treatment components, or  
147 replacements of any of the foregoing, which are located within  
148 the boundaries of a unit and serve only one unit and all air  
149 conditioning compressors that service only an individual unit,  
150 whether or not located within the unit boundaries. The foregoing  
151 is intended to establish the property or casualty insuring  
152 responsibilities of the association and those of the individual  
153 unit owner and do not serve to broaden or extend the perils of  
154 coverage afforded by any insurance contract provided to the  
155 individual unit owner. From and after January 1, 2004, the  
156 association shall have the authority to amend the declaration of  
157 condominium, without regard to any requirement for mortgagee  
158 approval of amendments affecting insurance requirements, to  
159 conform the declaration of condominium to the coverage  
160 requirements of this section. With respect to the coverage  
161 ~~provided for by this paragraph, the unit owners shall be~~  
162 ~~considered additional insureds under the policy.~~

163 (c) Every hazard insurance policy issued or renewed on or  
164 after January 1, 2004, to an individual unit owner shall provide  
165 that the coverage afforded by such policy is excess over the  
166 amount recoverable under any other policy covering the same  
167 property. Every insurance policy issued to an individual unit



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168 | owner providing such coverage shall be without rights of  
169 | subrogation against the condominium association which operates  
170 | the condominium in which such unit owner's unit is located. All  
171 | real or personal property located within the boundaries of the  
172 | unit owner's unit which are excluded from the coverage to be  
173 | provided by the association as set forth in paragraph (b) are to  
174 | be insured by the individual unit owner.

175 | (d) The association shall obtain and maintain adequate  
176 | insurance or fidelity bonding of all persons who control or  
177 | disburse funds of the association. The insurance policy or  
178 | fidelity bond must cover the maximum funds that will be in the  
179 | custody of the association or its management agent at any one  
180 | time. As used in this paragraph, the term "persons who control  
181 | or disburse funds of the association" includes, but is not  
182 | limited to, those individuals authorized to sign checks and the  
183 | president, secretary, and treasurer of the association. The  
184 | association shall bear the cost of bonding.

185 | (12) OFFICIAL RECORDS.--

186 | (a) From the inception of the association, the association  
187 | shall maintain each of the following items, when applicable,  
188 | which shall constitute the official records of the association:

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

191 | 2. A photocopy of the recorded declaration of condominium  
192 | of each condominium operated by the association and of each  
193 | amendment to each declaration.

194 | 3. A photocopy of the recorded bylaws of the association  
195 | and of each amendment to the bylaws.



196 4. A certified copy of the articles of incorporation of  
197 the association, or other documents creating the association,  
198 and of each amendment thereto.

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

200 6. A book or books which contain the minutes of all  
201 meetings of the association, of the board of directors, and of  
202 unit owners, which minutes shall be retained for a period of not  
203 less than 7 years.

204 7. A current roster of all unit owners and their mailing  
205 addresses, unit identifications, voting certifications, and, if  
206 known, telephone numbers.

207 8. All current insurance policies of the association and  
208 condominiums operated by the association.

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

213 10. Bills of sale or transfer for all property owned by  
214 the association.

215 11. Accounting records for the association and separate  
216 accounting records for each condominium which the association  
217 operates. All accounting records shall be maintained for a  
218 period of not less than 7 years. The accounting records shall  
219 include, but are not limited to:

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

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





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

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

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

232 12. Ballots, sign-in sheets, voting proxies, and all other  
 233 papers relating to voting by unit owners, which shall be  
 234 maintained for a period of 1 year from the date of the election,  
 235 vote, or meeting to which the document relates.

236 13. All rental records, when the association is acting as  
 237 agent for the rental of condominium units.

238 14. A copy of the current question and answer sheet as  
 239 described by s. 718.504.

240 15. All other records of the association not specifically  
 241 included in the foregoing which are related to the operation of  
 242 the association.

243 (b) The official records of the association shall be  
 244 maintained within the state. The records of the association  
 245 shall be made available to a unit owner within 5 working days  
 246 after receipt of written request by the board or its designee.  
 247 This paragraph may be complied with by having a copy of the  
 248 official records of the association available for inspection or  
 249 copying on the condominium property or association property.

250 (c) The official records of the association are open to  
 251 inspection by any association member or the authorized



252 representative of such member at all reasonable times. The right  
 253 to inspect the records includes the right to make or obtain  
 254 copies, at the reasonable expense, if any, of the association  
 255 member. The association may adopt reasonable rules regarding the  
 256 frequency, time, location, notice, and manner of record  
 257 inspections and copying. The failure of an association to  
 258 provide the records within 10 working days after receipt of a  
 259 written request shall create a rebuttable presumption that the  
 260 association willfully failed to comply with this paragraph. A  
 261 unit owner who is denied access to official records is entitled  
 262 to the actual damages or minimum damages for the association's  
 263 willful failure to comply with this paragraph. The minimum  
 264 damages shall be \$50 per calendar day up to 10 days, the  
 265 calculation to begin on the 11th working day after receipt of  
 266 the written request. The failure to permit inspection of the  
 267 association records as provided herein entitles any person  
 268 prevailing in an enforcement action to recover reasonable  
 269 attorney's fees from the person in control of the records who,  
 270 directly or indirectly, knowingly denied access to the records  
 271 for inspection. The association shall maintain an adequate  
 272 number of copies of the declaration, articles of incorporation,  
 273 bylaws, and rules, and all amendments to each of the foregoing,  
 274 as well as the question and answer sheet provided for in s.  
 275 718.504 and year-end financial information required in this  
 276 section on the condominium property to ensure their availability  
 277 to unit owners and prospective purchasers, and may charge its  
 278 actual costs for preparing and furnishing these documents to  
 279 those requesting the same. Notwithstanding the provisions of



280 | this paragraph, the following records shall not be accessible to  
281 | unit owners:

282 |       1. Any record protected by the lawyer-client privilege as  
283 | described in s. 90.502; and any record protected by the work-  
284 | product privilege, including any record prepared by an  
285 | association attorney or prepared at the attorney's express  
286 | direction; which reflects a mental impression, conclusion,  
287 | litigation strategy, or legal theory of the attorney or the  
288 | association, and which was prepared exclusively for civil or  
289 | criminal litigation or for adversarial administrative  
290 | proceedings, or which was prepared in anticipation of imminent  
291 | civil or criminal litigation or imminent adversarial  
292 | administrative proceedings until the conclusion of the  
293 | litigation or adversarial administrative proceedings.

294 |       2. Information obtained by an association in connection  
295 | with the approval of the lease, sale, or other transfer of a  
296 | unit.

297 |       3. Medical records of unit owners.

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

300 |       (e) The association or its authorized agent shall not be  
301 | required to provide a prospective purchaser or lienholder with  
302 | information about the condominium or the association other than  
303 | information or documents required by this chapter to be made  
304 | available or disclosed.

305 |       1. If, for the convenience of the members, the association  
306 | elects to provide requested information not required by law to  
307 | be made available or disclosed to prospective purchasers or



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308 lienholders, the association may do so, and the association and  
309 its authorized agent shall be immune from suit by any person or  
310 entity for information given in good faith if the association or  
311 its authorized agent accompanies such information with a written  
312 statement in substantially the following form:

313  
314 The information contained herein, to the extent not  
315 required to be provided by the Florida Condominium  
316 Act, is provided without warranty or certification of  
317 any sort. Reliance on the accuracy of this  
318 information, if provided in good faith, is at the sole  
319 risk of the person or entity choosing to rely thereon.  
320 You are encouraged to review original documentation  
321 that may be available rather than relying on  
322 summaries, compilations, statements of opinion, or  
323 anecdotal information which may be the source of our  
324 information. Florida law provides immunity from suit  
325 for good faith information, even if it is later  
326 determined to be inaccurate.

327  
328 2. The association or its authorized agent shall be  
329 entitled to charge a reasonable fee to the prospective  
330 purchaser, lienholder, or the current unit owner for its time in  
331 providing good faith responses to requests for information by or  
332 on behalf of a prospective purchaser or lienholder, other than  
333 that required by law, provided that such fee shall not exceed  
334 \$150 plus the reasonable cost of photocopying and any attorney's  
335 fees incurred by the association.



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336 Section 3. Paragraphs (b) and (1) of subsection (2) of  
337 section 718.112, Florida Statutes, are amended to read:

338 718.112 Bylaws.--

339 (2) REQUIRED PROVISIONS.--The bylaws shall provide for the  
340 following and, if they do not do so, shall be deemed to include  
341 the following:

342 (b) *Quorum; voting requirements; proxies.*--

343 1. Unless a lower number is provided in the bylaws, the  
344 percentage of voting interests required to constitute a quorum  
345 at a meeting of the members shall be a majority of the voting  
346 interests. Unless otherwise provided in this chapter or in the  
347 declaration, articles of incorporation, or bylaws, and except as  
348 provided in subparagraph (d)3., decisions shall be made by  
349 owners of a majority of the voting interests represented at a  
350 meeting at which a quorum is present.

351 2. Except as specifically otherwise provided herein, after  
352 January 1, 1992, unit owners may not vote by general proxy, but  
353 may vote by limited proxies substantially conforming to a  
354 limited proxy form adopted by the division. Limited proxies and  
355 general proxies may be used to establish a quorum. Limited  
356 proxies shall be used for votes taken to waive or reduce  
357 reserves in accordance with subparagraph (f)2.; for votes taken  
358 to waive the financial reporting requirements of s. 718.111(13);  
359 for votes taken to amend the declaration pursuant to s. 718.110;  
360 for votes taken to amend the articles of incorporation or bylaws  
361 pursuant to this section; and for any other matter for which  
362 this chapter requires or permits a vote of the unit owners.  
363 Except as provided in paragraph (d), after January 1, 1992, no



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364 proxy, limited or general, shall be used in the election of  
365 board members. General proxies may be used for other matters for  
366 which limited proxies are not required, and may also be used in  
367 voting for nonsubstantive changes to items for which a limited  
368 proxy is required and given. Notwithstanding the provisions of  
369 this subparagraph, unit owners may vote in person at unit owner  
370 meetings. Nothing contained herein shall limit the use of  
371 general proxies or require the use of limited proxies for any  
372 agenda item or election at any meeting of a timeshare  
373 condominium association.

374 3. Any proxy given shall be effective only for the  
375 specific meeting for which originally given and any lawfully  
376 adjourned meetings thereof. In no event shall any proxy be valid  
377 for a period longer than 90 days after the date of the first  
378 meeting for which it was given. Every proxy is revocable at any  
379 time at the pleasure of the unit owner executing it.

380 4. A member of the board of administration or a committee  
381 may submit in writing his or her agreement or disagreement with  
382 any action taken at a meeting that the member did not attend.  
383 This agreement or disagreement may not be used as a vote for or  
384 against the action taken and may not be used for the purposes of  
385 creating a quorum.

386 5. When any of the board or committee members meet by  
387 telephone conference, those board or committee members attending  
388 by telephone conference may be counted toward obtaining a quorum  
389 and may vote by telephone. A telephone speaker must be used so  
390 that the conversation of those board or committee members  
391 attending by telephone may be heard by the board or committee



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392 members attending in person as well as by any unit owners  
393 present at a meeting.

394 (1) *Certificate of compliance.*--There shall be a provision  
395 that a certificate of compliance from a licensed electrical  
396 contractor or electrician may be accepted by the association's  
397 board as evidence of compliance of the condominium units to the  
398 applicable fire and life safety code. Notwithstanding the  
399 provisions of chapter 633 or of any other statute, ordinance,  
400 administrative rule, or regulation, or any interpretation of the  
401 foregoing, no association, condominium, or unit owner shall be  
402 obligated to retrofit the common elements or units of a  
403 residential condominium with a fire sprinkler system in a  
404 building that has been certified for occupancy by the applicable  
405 governmental entity, provided that the unit owners have voted to  
406 forego such retrofitting by the affirmative vote of two-thirds  
407 of all voting interests. Such vote may be taken at a duly  
408 noticed meeting or by written consent without a meeting, and  
409 shall be effective upon the recording of a duly executed  
410 certificate attesting to such vote in the public records for the  
411 county where the condominium is located. Such vote shall be held  
412 biannually or, by majority vote of the board of directors of the  
413 condominium association, at the next annual meeting. As part of  
414 the information collected annually from condominiums by the  
415 division, it shall require condominium associations to report  
416 the membership vote and recording of a certificate under this  
417 subsection and, if retrofitting has been undertaken, the per-  
418 unit cost of such work. The division shall annually report to



419 | the Department of Insurance, State Fire Marshal's Office, the  
 420 | number of condominiums that have elected to forego retrofitting.

421 | Section 4. Subsection (1) of section 718.303, Florida  
 422 | Statutes, is amended to read:

423 | 718.303 Obligations of owners; waiver; levy of fine  
 424 | against unit by association.--

425 | (1) Each unit owner, each tenant and other invitee, and  
 426 | each association shall be governed by, and shall comply with the  
 427 | provisions of, this chapter, the declaration, the documents  
 428 | creating the association, and the association bylaws and the  
 429 | provisions thereof shall be deemed expressly incorporated into  
 430 | any lease of a unit. Actions for damages or for injunctive  
 431 | relief, or both, for failure to comply with these provisions may  
 432 | be brought by the association or by a unit owner against:

433 | (a) The association.

434 | (b) A unit owner.

435 | (c) Directors designated by the developer, for actions  
 436 | taken by them prior to the time control of the association is  
 437 | assumed by unit owners other than the developer.

438 | (d) Any director who willfully and knowingly fails to  
 439 | comply with these provisions.

440 | (e) Any tenant leasing a unit, and any other invitee  
 441 | occupying a unit.

442 |  
 443 | The prevailing party in any such action or in any action in  
 444 | which the purchaser claims a right of voidability based upon  
 445 | contractual provisions as required in s. 718.503(1)(a) is  
 446 | entitled to recover reasonable attorney's fees. A unit owner





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447 prevailing in an action between the association and the unit  
 448 owner under this section, in addition to recovering his or her  
 449 reasonable attorney's fees, may recover additional amounts as  
 450 determined by the court to be necessary to reimburse the unit  
 451 owner for his or her share of assessments levied by the  
 452 association to fund its expenses of the litigation. This relief  
 453 does not exclude other remedies provided by law. Actions arising  
 454 under this subsection shall not be deemed to be actions for  
 455 specific performance.

456 Section 5. Subsection (2) of section 719.104, Florida  
 457 Statutes, is amended to read:

458 719.104 Cooperatives; access to units; records; financial  
 459 reports; assessments; purchase of leases.--

460 (2) OFFICIAL RECORDS.--

461 (a) From the inception of the association, the association  
 462 shall maintain a copy of each of the following, where  
 463 applicable, which shall constitute the official records of the  
 464 association:

- 465 1. The plans, permits, warranties, and other items  
 466 provided by the developer pursuant to s. 719.301(4).
- 467 2. A photocopy of the cooperative documents.
- 468 3. A copy of the current rules of the association.
- 469 4. A book or books containing the minutes of all meetings  
 470 of the association, of the board of directors, and of the unit  
 471 owners, which minutes shall be retained for a period of not less  
 472 than 7 years.



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473           5. A current roster of all unit owners and their mailing  
474 addresses, unit identifications, voting certifications, and, if  
475 known, telephone numbers.

476           6. All current insurance policies of the association.

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

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

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

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

490           b. A current account and a monthly, bimonthly, or  
491 quarterly statement of the account for each unit designating the  
492 name of the unit owner, the due date and amount of each  
493 assessment, the amount paid upon the account, and the balance  
494 due.

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

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



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

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

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

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

511 (b) The official records of the association shall be  
512 maintained within the state. The records of the association  
513 shall be made available to a unit owner within 5 working days  
514 after receipt of written request by the board or its designee.  
515 This paragraph may be complied with by having a copy of the  
516 official records available for inspection or copying on the  
517 cooperative property.

518 (c) The official records of the association shall be open  
519 to inspection by any association member or the authorized  
520 representative of such member at all reasonable times. Failure  
521 to permit inspection of the association records as provided  
522 herein entitles any person prevailing in an enforcement action  
523 to recover reasonable attorney's fees from the person in control  
524 of the records who, directly or indirectly, knowingly denies  
525 access to the records for inspection. The right to inspect the  
526 records includes the right to make or obtain copies, at the  
527 reasonable expense, if any, of the association member. The



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528 association may adopt reasonable rules regarding the frequency,  
529 time, location, notice, and manner of record inspections and  
530 copying. The failure of an association to provide the records  
531 within 10 working days after receipt of a written request  
532 creates a rebuttable presumption that the association willfully  
533 failed to comply with this paragraph. A unit owner who is denied  
534 access to official records is entitled to the actual damages or  
535 minimum damages for the association's willful failure to comply  
536 with this paragraph. The minimum damages shall be \$50 per  
537 calendar day up to 10 days, the calculation to begin on the 11th  
538 day after receipt of the written request. The association shall  
539 maintain an adequate number of copies of the declaration,  
540 articles of incorporation, bylaws, and rules, and all amendments  
541 to each of the foregoing, as well as the question and answer  
542 sheet provided for in s. 719.504, on the cooperative property to  
543 ensure their availability to unit owners and prospective  
544 purchasers, and may charge its actual costs for preparing and  
545 furnishing these documents to those requesting the same.  
546 Notwithstanding the provisions of this paragraph, the following  
547 records shall not be accessible to unit owners:

548 1. A record that was prepared by an association attorney  
549 or prepared at the attorney's express direction; that reflects a  
550 mental impression, conclusion, litigation strategy, or legal  
551 theory of the attorney or the association; or that was prepared  
552 exclusively for civil or criminal litigation or for adversarial  
553 administrative proceedings or in anticipation of imminent civil  
554 or criminal litigation or imminent adversarial administrative



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555 proceedings, until the conclusion of the litigation or  
556 adversarial administrative proceedings.

557 2. Information obtained by an association in connection  
558 with the approval of the lease, sale, or other transfer of a  
559 unit.

560 3. Medical records of unit owners.

561 (d) The association or its authorized agent shall not be  
562 required to provide a prospective purchaser or lienholder with  
563 information about the cooperative or association other than the  
564 information or documents required by this chapter to be made  
565 available or disclosed.

566 1. If, for the convenience of the members, the association  
567 elects to provide requested information not required by law to  
568 be made available or disclosed to prospective purchasers or  
569 lienholders, the association may do so, and the association and  
570 its authorized agent shall be immune from suit by any person or  
571 entity for information given in good faith if the association or  
572 its authorized agent accompanies such information with a written  
573 statement in substantially the following form:

574  
575 The information contained herein, to the extent not  
576 required to be provided by the Florida Cooperative  
577 Act, is provided without warranty or certification of  
578 any sort. Reliance on the accuracy of this  
579 information, if provided in good faith, is at the sole  
580 risk of the person or entity choosing to rely thereon.  
581 You are encouraged to review original documentation  
582 that may be available rather than relying on



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583 summaries, compilations, statements of opinion, or  
584 anecdotal information which may be the source of our  
585 information. Florida law provides immunity from suit  
586 for good faith information, even if it is later  
587 determined to be inaccurate.

588  
589 2. The association or its authorized agent shall be  
590 entitled to charge a reasonable fee to the prospective  
591 purchaser, lienholder, or the current unit owner for its time in  
592 providing good faith responses to requests for information by or  
593 on behalf of a prospective purchaser or lienholder, other than  
594 that required by law, provided that such fee shall not exceed  
595 \$150 plus the reasonable cost of photocopying and any attorney's  
596 fees incurred by the association.

597 Section 6. Subsection (1) of section 719.303, Florida  
598 Statutes, is amended to read:

599 719.303 Obligations of owners.--

600 (1) Each unit owner, each tenant and other invitee, and  
601 each association shall be governed by, and shall comply with the  
602 provisions of, this chapter, the cooperative documents, the  
603 documents creating the association, and the association bylaws,  
604 and the provisions thereof shall be deemed expressly  
605 incorporated into any lease of a unit. Actions for damages or  
606 for injunctive relief, or both, for failure to comply with these  
607 provisions may be brought by the association or by a unit owner  
608 against:

609 (a) The association.

610 (b) A unit owner.



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611 (c) Directors designated by the developer, for actions  
612 taken by them prior to the time control of the association is  
613 assumed by unit owners other than the developer.

614 (d) Any director who willfully and knowingly fails to  
615 comply with these provisions.

616 (e) Any tenant leasing a unit, and any other invitee  
617 occupying a unit.

618

619 The prevailing party in any such action or in any action in  
620 which the purchaser claims a right of voidability based upon  
621 contractual provisions as required in s. 719.503(1)(a) is  
622 entitled to recover reasonable attorney's fees. A unit owner  
623 prevailing in an action between the association and the unit  
624 owner under this section, in addition to recovering his or her  
625 reasonable attorney's fees, may recover additional amounts as  
626 determined by the court to be necessary to reimburse the unit  
627 owner for his or her share of assessments levied by the  
628 association to fund its expenses of the litigation. This relief  
629 does not exclude other remedies provided by law. Actions arising  
630 under this subsection shall not be deemed to be actions for  
631 specific performance.

632 Section 7. Section 720.302, Florida Statutes, is amended  
633 to read:

634 720.302 Purposes, scope, and application.--

635 (1) The purposes of ss. 720.301-720.312 are to give  
636 statutory recognition to corporations not for profit that  
637 operate residential communities in this state, to provide  
638 procedures for operating homeowners' associations, and to



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639 protect the rights of association members without unduly  
640 impairing the ability of such associations to perform their  
641 functions.

642 (2) The Legislature recognizes that it is not in the best  
643 interest of homeowners' associations or the individual  
644 association members thereof to create or impose a bureau or  
645 other agency of state government to regulate the affairs of  
646 homeowners' associations. Further, the Legislature recognizes  
647 that certain contract rights have been created for the benefit  
648 of homeowners' associations and members thereof before the  
649 effective date of this act and that ss. 720.301-720.312 are not  
650 intended to impair such contract rights, including, but not  
651 limited to, the rights of the developer to complete the  
652 community as initially contemplated.

653 (3) Sections 720.301-720.312 do not apply to:

654 (a) A community that is composed of property primarily  
655 intended for commercial, industrial, or other nonresidential  
656 use; or

657 (b) The commercial or industrial parcels in a community  
658 that contains both residential parcels and parcels intended for  
659 commercial or industrial use.

660 (4) Sections 720.301-720.312 do not apply to any  
661 association that is subject to regulation under chapter 718,  
662 chapter 719, or chapter 721; or to any nonmandatory association  
663 formed under chapter 723.

664 (5) Unless expressly stated to the contrary, corporations  
665 not for profit that operate residential homeowners' associations  
666 in this state shall be governed by and subject to the provisions





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667 of chapter 617. This provision is intended to clarify existing  
668 law.

669 Section 8. Subsection (5) is added to section 719.1055,  
670 Florida Statutes, to read:

671 719.1055 Amendment of cooperative documents; alteration  
672 and acquisition of property.--

673 (5) Notwithstanding the provisions of chapter 633 or of  
674 any other statute, ordinance, administrative rule, or  
675 regulation, or any interpretation of the foregoing, no  
676 association, cooperative, or unit owner shall be obligated to  
677 retrofit the common areas or units of a residential cooperative  
678 with a fire sprinkler system or other enhanced fire protection  
679 system in a building that has been certified for occupancy by  
680 the applicable governmental entity, provided that the unit  
681 owners have voted to forego such retrofitting by the affirmative  
682 vote of two-thirds of all voting interests. Such vote may be  
683 taken at a duly noticed meeting or by written consent without a  
684 meeting, and shall be effective upon the recording of a duly  
685 executed certificate attesting to such vote in the public  
686 records for the county where the cooperative is located. As part  
687 of the information collected from cooperatives by the division,  
688 it shall require cooperative associations to report the  
689 membership vote and recording of a certificate under this  
690 subsection and, if retrofitting has been undertaken, the per-  
691 unit cost of such work. The division shall annually report to  
692 the Department of Financial Services, Division of State Fire  
693 Marshal, the number of cooperatives that have elected to forego  
694 retrofitting.



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Section 9. This act shall take effect upon becoming a law.