

By the Committees on Regulated Industries; Commerce, Economic Opportunities, and Consumer Services; and Senator Geller

315-2007-03

1 A bill to be entitled
2 An act relating to corporate affairs; amending
3 s. 617.01401, F.S.; defining the term
4 "electronic transmission" for purposes of the
5 Florida Not For Profit Corporation Act;
6 amending s. 617.0141, F.S.; authorizing forms
7 of electronic transmission of notice for
8 domestic or foreign corporations; providing for
9 a corporation member to revoke consent to
10 receiving notice by electronic transmission;
11 providing that an affidavit of notice by
12 electronic transmission is, in the absence of
13 fraud, prima facie evidence of the facts stated
14 in the notice; creating s. 617.1803, F.S.;
15 providing procedures for the domestication of
16 foreign not-for-profit corporations; amending
17 ss. 718.111 and 718.112, F.S.; providing for a
18 condominium association to transmit electronic
19 notices to unit owners; providing that the
20 association is not liable for erroneously
21 disclosing certain address information;
22 revising requirements for use of proxies for
23 voting; authorizing the association to
24 broadcast notice via a closed-circuit
25 television system; prohibiting notice by
26 electronic transmission for a recall of board
27 members; providing for association bylaws to
28 authorize the electronic transmission of
29 notices; exempting certain condominiums,
30 associations, or unit owners from specified
31 retrofitting requirements pertaining to fire

1 safety systems; requiring a report; amending s.
2 718.116, F.S.; authorizing the association to
3 charge a fee for preparation of the certificate
4 of assessments and other moneys due; amending
5 ss. 719.104 and 719.106, F.S.; providing for a
6 cooperative association to transmit electronic
7 notices to unit owners; providing that the
8 association is not liable for erroneously
9 disclosing certain address information;
10 revising requirements for use of proxies for
11 voting; authorizing the association to
12 broadcast notice via a closed-circuit
13 television system; prohibiting notice by
14 electronic transmission for a recall of board
15 members; providing for association bylaws to
16 authorize the electronic transmission of
17 notices; amending s. 719.108, F.S.; authorizing
18 the association to charge a fee for preparation
19 of the certificate of assessments and other
20 moneys due; amending s. 720.302, F.S.;
21 clarifying that corporations not for profit
22 that operate residential homeowners'
23 associations are subject to the Florida Not For
24 Profit Corporation Act; amending s. 720.303,
25 F.S.; authorizing a homeowners' association to
26 broadcast notice via a closed-circuit
27 television system; providing that the
28 association is not liable for erroneously
29 disclosing certain address information;
30 providing an effective date.

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

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3 Section 1. Section 617.01401, Florida Statutes, is
4 amended to read:

5 617.01401 Definitions.--As used in this act, unless
6 the context otherwise requires, the term:

7 (1) "Articles of incorporation" includes original,
8 amended, and restated articles of incorporation, articles of
9 consolidation, and articles of merger, and all amendments
10 thereto, including documents designated by the laws of this
11 state as charters, and, in the case of a foreign corporation,
12 documents equivalent to articles of incorporation in the
13 jurisdiction of incorporation.

14 (2) "Board of directors" means the group of persons
15 vested with the management of the affairs of the corporation
16 irrespective of the name by which such group is designated,
17 including, but not limited to, managers or trustees.

18 (3) "Bylaws" means the code or codes of rules adopted
19 for the regulation or management of the affairs of the
20 corporation irrespective of the name or names by which such
21 rules are designated.

22 (4) "Corporation" or "domestic corporation" means a
23 corporation not for profit, subject to the provisions of this
24 act, except a foreign corporation.

25 (5) "Corporation not for profit" means a corporation
26 no part of the income or profit of which is distributable to
27 its members, directors, or officers.

28 (6) "Electronic transmission" means any form of
29 communication, not directly involving the physical
30 transmission or transfer of paper, which creates a record that
31 may be retained, retrieved, and reviewed by a recipient

1 thereof and which may be directly reproduced in a
2 comprehensible and legible paper form by such recipient
3 through an automated process. Examples of electronic
4 transmission include, but are not limited to, telegrams,
5 facsimile transmissions of images, and text that is sent via
6 electronic mail between computers.

7 (7)~~(6)~~ "Foreign corporation" means a corporation not
8 for profit organized under laws other than the laws of this
9 state.

10 (8)~~(7)~~ "Insolvent" means the inability of a
11 corporation to pay its debts as they become due in the usual
12 course of its affairs.

13 (9)~~(8)~~ "Mail" means the United States mail, facsimile
14 transmissions, and private mail carriers handling nationwide
15 mail services.

16 (10)~~(9)~~ "Member" means one having membership rights in
17 a corporation in accordance with the provisions of its
18 articles of incorporation or bylaws or the provisions of this
19 act.

20 (11)~~(10)~~ "Person" includes individual and entity.

21 Section 2. Section 617.0141, Florida Statutes, is
22 amended to read:

23 617.0141 Notice.--

24 (1) Notice under this act must be in writing, unless
25 oral notice is:

26 (a) Expressly authorized by the articles of
27 incorporation or the bylaws; and

28 (b) Reasonable under the circumstances.

29 (2) Notice may be communicated in person; by telephone
30 (where oral notice is permitted), telegraph, teletype, or

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1 other form of electronic transmission ~~communication~~; or by
2 mail.

3 (3) Written notice by a domestic or foreign
4 corporation authorized to conduct its affairs in this state to
5 its member, if in a comprehensible form, is effective:

6 (a) When mailed, if mailed postpaid and correctly
7 addressed to the member's address shown in the corporation's
8 current record of members;-

9 (b) When actually transmitted by facsimile
10 telecommunication, if correctly directed to a number at which
11 the member has consented to receive notice;

12 (c) When actually transmitted by electronic mail, if
13 correctly directed to an electronic mail address at which the
14 member has consented to receive notice;

15 (d) When posted on an electronic network that the
16 member has consented to consult, upon the later of:

17 1. Such correct posting; or

18 2. The giving of a separate notice to the member of
19 the fact of such specific posting; or

20 (e) When correctly transmitted to the member, if by
21 any other form of electronic transmission consented to by the
22 member to whom notice is given.

23 (4) Consent by a member to receive notice by
24 electronic transmission shall be revocable by the member by
25 written notice to the corporation. Any such consent shall be
26 deemed revoked if:

27 (a) The corporation is unable to deliver by electronic
28 transmission two consecutive notices given by the corporation
29 in accordance with such consent; and

30 (b) Such inability becomes known to the secretary or
31 an assistant secretary of the corporation, or other authorized

1 person responsible for the giving of notice. However, the
2 inadvertent failure to treat such inability as a revocation
3 does not invalidate any meeting or other action.

4 (5)~~(4)~~ Written notice to a domestic or foreign
5 corporation authorized to conduct its affairs in this state
6 may be addressed to its registered agent at its registered
7 office or to the corporation or its secretary at its principal
8 office shown in its most recent annual report or, in the case
9 of a corporation that has not yet delivered an annual report,
10 in a domestic corporation's articles of incorporation or in a
11 foreign corporation's application for certificate of
12 authority.

13 (6)~~(5)~~ Except as provided in subsection (3) or
14 elsewhere in this act, written notice, if in a comprehensible
15 form, is effective at the earliest date of the following:

16 (a) When received;

17 (b) Five days after its deposit in the United States
18 mail, as evidenced by the postmark, if mailed postpaid and
19 correctly addressed; or

20 (c) On the date shown on the return receipt, if sent
21 by registered or certified mail, return receipt requested, and
22 the receipt is signed by or on behalf of the addressee.

23 (7)~~(6)~~ Oral notice is effective when communicated if
24 communicated directly to the person to be notified in a
25 comprehensible manner.

26 (8) An affidavit of the secretary, an assistant
27 secretary, the transfer agent, or other authorized agent of
28 the corporation that the notice has been given by a form of
29 electronic transmission is, in the absence of fraud, prima
30 facie evidence of the facts stated in the notice.

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1 ~~(9)(7)~~ If this act prescribes notice requirements for
2 particular circumstances, those requirements govern. If
3 articles of incorporation or bylaws prescribe notice
4 requirements not less stringent than the requirements of this
5 section or other provisions of this act, those requirements
6 govern.

7 Section 3. Section 617.1803, Florida Statutes, is
8 created to read:

9 617.1803 Domestication of foreign not-for-profit
10 corporations.--

11 (1) As used in this section, the term "not-for-profit
12 corporation" includes any not-for-profit incorporated
13 organization, private law corporation, public law corporation,
14 partnership, proprietorship, joint venture, foundation, trust,
15 or association.

16 (2) Any foreign not-for-profit corporation may become
17 domesticated in this state by filing with the Department of
18 State:

19 (a) A certificate of domestication, executed in
20 accordance with subsection (7) and filed in accordance with s.
21 617.01201; and

22 (b) Articles of incorporation, executed and filed in
23 accordance with ss. 617.01201 and 617.0202.

24 (3) The certificate of domestication shall certify:

25 (a) The date on which and the jurisdiction in which
26 the corporation was first formed, incorporated, or otherwise
27 came into being;

28 (b) The name of the corporation immediately before the
29 filing of the certificate of domestication;

30 (c) The name of the corporation, as set forth in its
31 articles of incorporation; and

1 (d) The jurisdiction that constituted the seat, siege
2 social, or principal place of business or central
3 administration of the corporation, or any other equivalent
4 jurisdiction under applicable law, immediately before the
5 filing of the certificate of domestication.

6 (4) Upon filing the certificate of domestication and
7 articles of incorporation, the corporation shall be
8 domesticated in this state and shall thereafter be subject to
9 this section, except that notwithstanding s. 617.0203, the
10 existence of the corporation shall be deemed to have commenced
11 on the date it commenced its existence in the jurisdiction in
12 which it was first formed, incorporated, or otherwise came
13 into being.

14 (5) The domestication of any not-for-profit
15 corporation in this state does not affect any obligations or
16 liabilities that it incurred before its domestication.

17 (6) The filing of a certificate of domestication does
18 not affect the choice of law applicable to the corporation,
19 except that, after the date the certificate of domestication
20 is filed, the law of this state, applies to the corporation to
21 the same extent as if it had been incorporated as a
22 not-for-profit corporation of this state on that date.

23 (7) The certificate of domestication shall be signed
24 by any corporate officer, director, trustee, manager, partner,
25 or other person performing functions equivalent to those of an
26 officer or director, however named or described, who is
27 authorized to sign the certificate of domestication on behalf
28 of the corporation.

29 Section 4. Paragraph (a) of subsection (12) of section
30 718.111, Florida Statutes, is amended to read:

31 718.111 The association.--

1 (12) OFFICIAL RECORDS.--

2 (a) From the inception of the association, the
3 association shall maintain each of the following items, when
4 applicable, which shall constitute the official records of the
5 association:

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

8 2. A photocopy of the recorded declaration of
9 condominium of each condominium operated by the association
10 and of each amendment to each declaration.

11 3. A photocopy of the recorded bylaws of the
12 association and of each amendment to the bylaws.

13 4. A certified copy of the articles of incorporation
14 of the association, or other documents creating the
15 association, and of each amendment thereto.

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

17 6. A book or books which contain the minutes of all
18 meetings of the association, of the board of directors, and of
19 unit owners, which minutes shall be retained for a period of
20 not less than 7 years.

21 7. A current roster of all unit owners and their
22 mailing addresses, unit identifications, voting
23 certifications, and, if known, telephone numbers. The
24 association shall also maintain the electronic mailing
25 addresses and the numbers designated by unit owners for
26 receiving notice sent by electronic transmission of those unit
27 owners consenting to receive notice by electronic
28 transmission. The electronic mailing addresses and numbers
29 provided by unit owners to receive notice by electronic
30 transmission shall be removed from association records when
31 consent to receive notice by electronic transmission is

1 revoked. However, the association is not liable for an
2 erroneous disclosure of the electronic mail address or the
3 number for receiving electronic transmission of notices.

4 8. All current insurance policies of the association
5 and condominiums operated by the association.

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

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

12 11. Accounting records for the association and
13 separate accounting records for each condominium which the
14 association operates. All accounting records shall be
15 maintained for a period of not less than 7 years. The
16 accounting records shall include, but are not limited to:

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

19 b. A current account and a monthly, bimonthly, or
20 quarterly statement of the account for each unit designating
21 the name of the unit owner, the due date and amount of each
22 assessment, the amount paid upon the account, and the balance
23 due.

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

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

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

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

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

7 15. All other records of the association not
8 specifically included in the foregoing which are related to
9 the operation of the association.

10 Section 5. Paragraphs (b), (c), (d), (e), (j), and (l)
11 of subsection (2) and subsection (3) of section 718.112,
12 Florida Statutes, are amended to read:

13 718.112 Bylaws.--

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

17 (b) Quorum; voting requirements; proxies.--

18 1. Unless a lower number is provided in the bylaws,
19 the percentage of voting interests required to constitute a
20 quorum at a meeting of the members shall be a majority of the
21 voting interests. Unless otherwise provided in this chapter
22 or in the declaration, articles of incorporation, or bylaws,
23 and except as provided in subparagraph (d)3., decisions shall
24 be made by owners of a majority of the voting interests
25 represented at a meeting at which a quorum is present.

26 2. Except as specifically otherwise provided herein,
27 after January 1, 1992, unit owners may not vote by general
28 proxy, but may vote by limited proxies substantially
29 conforming to a limited proxy form adopted by the division.
30 Limited proxies and general proxies may be used to establish a
31 quorum. Limited proxies shall be used for votes taken to

1 waive or reduce reserves in accordance with subparagraph
2 (f)2.; for votes taken in accordance with s. 718.111(13)(d);
3 for votes taken to amend the declaration pursuant to s.
4 718.110; for votes taken to amend the articles of
5 incorporation or bylaws pursuant to this section; and for any
6 other matter for which this chapter requires or permits a vote
7 of the unit owners. Except as provided in paragraph (d),
8 after January 1, 1992, no proxy, limited or general, shall be
9 used in the election of board members. General proxies may be
10 used for other matters for which limited proxies are not
11 required, and may also be used in voting for nonsubstantive
12 changes to items for which a limited proxy is required and
13 given. Notwithstanding the provisions of this subparagraph,
14 unit owners may vote in person at unit owner meetings.
15 Nothing contained herein shall limit the use of general
16 proxies or require the use of limited proxies for any agenda
17 item or election at any meeting of a timeshare condominium
18 association.

19 3. Any proxy given shall be effective only for the
20 specific meeting for which originally given and any lawfully
21 adjourned meetings thereof. In no event shall any proxy be
22 valid for a period longer than 90 days after the date of the
23 first meeting for which it was given. Every proxy is
24 revocable at any time at the pleasure of the unit owner
25 executing it.

26 4. A member of the board of administration or a
27 committee may submit in writing his or her agreement or
28 disagreement with any action taken at a meeting that the
29 member did not attend. This agreement or disagreement may not
30 be used as a vote for or against the action taken and may not
31 be used for the purposes of creating a quorum.

1 5. When any of the board or committee members meet by
2 telephone conference, those board or committee members
3 attending by telephone conference may be counted toward
4 obtaining a quorum and may vote by telephone. A telephone
5 speaker must be used so that the conversation of those board
6 or committee members attending by telephone may be heard by
7 the board or committee members attending in person as well as
8 by any unit owners present at a meeting.

9 (c) Board of administration meetings.--Meetings of the
10 board of administration at which a quorum of the members is
11 present shall be open to all unit owners. Any unit owner may
12 tape record or videotape meetings of the board of
13 administration. The right to attend such meetings includes
14 the right to speak at such meetings with reference to all
15 designated agenda items. The division shall adopt reasonable
16 rules governing the tape recording and videotaping of the
17 meeting. The association may adopt written reasonable rules
18 governing the frequency, duration, and manner of unit owner
19 statements. Adequate notice of all meetings, which notice
20 shall specifically incorporate an identification of agenda
21 items, shall be posted conspicuously on the condominium
22 property at least 48 continuous hours preceding the meeting
23 except in an emergency. Any item not included on the notice
24 may be taken up on an emergency basis by at least a majority
25 plus one of the members of the board. Such emergency action
26 shall be noticed and ratified at the next regular meeting of
27 the board. However, written notice of any meeting at which
28 nonemergency special assessments, or at which amendment to
29 rules regarding unit use, will be considered shall be mailed,
30 ~~or delivered,~~ or electronically transmitted to the unit owners
31 and posted conspicuously on the condominium property not less

1 than 14 days prior to the meeting. Evidence of compliance with
2 this 14-day notice shall be made by an affidavit executed by
3 the person providing the notice and filed among the official
4 records of the association. Upon notice to the unit owners,
5 the board shall by duly adopted rule designate a specific
6 location on the condominium property or association property
7 upon which all notices of board meetings shall be posted. If
8 there is no condominium property or association property upon
9 which notices can be posted, notices of board meetings shall
10 be mailed,~~or delivered,~~ or electronically transmitted at
11 least 14 days before the meeting to the owner of each unit. In
12 lieu of or in addition to the physical posting of notice of
13 any meeting of the board of administration on the condominium
14 property, the association may, by reasonable rule, adopt a
15 procedure for conspicuously posting and repeatedly
16 broadcasting the notice and the agenda on a closed-circuit
17 cable television system serving the condominium association.
18 However, if broadcast notice is used in lieu of a notice
19 posted physically on the condominium property, the notice and
20 agenda must be broadcast at least four times every broadcast
21 hour of each day that a posted notice is otherwise required
22 under this section. When broadcast notice is provided, the
23 notice and agenda must be broadcast in a manner and for a
24 sufficient continuous length of time so as to allow an average
25 reader to observe the notice and read and comprehend the
26 entire content of the notice and the agenda.Notice of any
27 meeting in which regular assessments against unit owners are
28 to be considered for any reason shall specifically contain a
29 statement that assessments will be considered and the nature
30 of any such assessments. Meetings of a committee to take final
31 action on behalf of the board or make recommendations to the

1 board regarding the association budget are subject to the
2 provisions of this paragraph. Meetings of a committee that
3 does not take final action on behalf of the board or make
4 recommendations to the board regarding the association budget
5 are subject to the provisions of this section, unless those
6 meetings are exempted from this section by the bylaws of the
7 association. Notwithstanding any other law, the requirement
8 that board meetings and committee meetings be open to the unit
9 owners is inapplicable to meetings between the board or a
10 committee and the association's attorney, with respect to
11 proposed or pending litigation, when the meeting is held for
12 the purpose of seeking or rendering legal advice.

13 (d) Unit owner meetings.--

14 1. There shall be an annual meeting of the unit
15 owners. Unless the bylaws provide otherwise, a vacancy on the
16 board caused by the expiration of a director's term shall be
17 filled by electing a new board member, and the election shall
18 be by secret ballot; however, if the number of vacancies
19 equals or exceeds the number of candidates, no election is
20 required. If there is no provision in the bylaws for terms of
21 the members of the board, the terms of all members of the
22 board shall expire upon the election of their successors at
23 the annual meeting. Any unit owner desiring to be a candidate
24 for board membership shall comply with subparagraph 3. A
25 person who has been convicted of any felony by any court of
26 record in the United States and who has not had his or her
27 right to vote restored pursuant to law in the jurisdiction of
28 his or her residence is not eligible for board membership. The
29 validity of an action by the board is not affected if it is
30 later determined that a member of the board is ineligible for
31 board membership due to having been convicted of a felony.

1 2. The bylaws shall provide the method of calling
2 meetings of unit owners, including annual meetings. Written
3 notice, which notice must include an agenda, shall be mailed,
4 ~~or hand delivered,~~ or electronically transmitted to each unit
5 owner at least 14 days prior to the annual meeting and shall
6 be posted in a conspicuous place on the condominium property
7 at least 14 continuous days preceding the annual meeting. Upon
8 notice to the unit owners, the board shall by duly adopted
9 rule designate a specific location on the condominium property
10 or association property upon which all notices of unit owner
11 meetings shall be posted; however, if there is no condominium
12 property or association property upon which notices can be
13 posted, this requirement does not apply. In lieu of or in
14 addition to the physical posting of notice of any meeting of
15 the unit owners on the condominium property, the association
16 may, by reasonable rule, adopt a procedure for conspicuously
17 posting and repeatedly broadcasting the notice and the agenda
18 on a closed-circuit cable television system serving the
19 condominium association. However, if broadcast notice is used
20 in lieu of a notice posted physically on the condominium
21 property, the notice and agenda must be broadcast at least
22 four times every broadcast hour of each day that a posted
23 notice is otherwise required under this section. When
24 broadcast notice is provided, the notice and agenda must be
25 broadcast in a manner and for a sufficient continuous length
26 of time so as to allow an average reader to observe the notice
27 and read and comprehend the entire content of the notice and
28 the agenda.Unless a unit owner waives in writing the right to
29 receive notice of the annual meeting, such notice shall be
30 hand delivered,~~or mailed,~~ or electronically transmitted to
31 each unit owner. Notice for meetings and notice for all other

1 purposes shall be mailed to each unit owner at the address
2 last furnished to the association by the unit owner, or hand
3 delivered to each unit owner. However, if a unit is owned by
4 more than one person, the association shall provide notice,
5 for meetings and all other purposes, to that one address which
6 the developer initially identifies for that purpose and
7 thereafter as one or more of the owners of the unit shall so
8 advise the association in writing, or if no address is given
9 or the owners of the unit do not agree, to the address
10 provided on the deed of record. An officer of the association,
11 or the manager or other person providing notice of the
12 association meeting, shall provide an affidavit or United
13 States Postal Service certificate of mailing, to be included
14 in the official records of the association affirming that the
15 notice was mailed or hand delivered, in accordance with this
16 provision.

17 3. The members of the board shall be elected by
18 written ballot or voting machine. Proxies shall in no event be
19 used in electing the board, either in general elections or
20 elections to fill vacancies caused by recall, resignation, or
21 otherwise, unless otherwise provided in this chapter. Not less
22 than 60 days before a scheduled election, the association
23 shall mail, ~~or deliver,~~ or electronically transmit, whether by
24 separate association mailing or included in another
25 association mailing, ~~or delivery,~~ or transmission, including
26 regularly published newsletters, to each unit owner entitled
27 to a vote, a first notice of the date of the election. Any
28 unit owner or other eligible person desiring to be a candidate
29 for the board must give written notice to the association not
30 less than 40 days before a scheduled election. Together with
31 the written notice and agenda as set forth in subparagraph 2.,

1 the association shall mail,~~or~~ deliver, or electronically
2 transmit a second notice of the election to all unit owners
3 entitled to vote therein, together with a ballot which shall
4 list all candidates. Upon request of a candidate, the
5 association shall include an information sheet, no larger than
6 8 1/2 inches by 11 inches, which must be furnished by the
7 candidate not less than 35 days before the election, to be
8 included with the mailing, delivery, or transmission of the
9 ballot, with the costs of mailing,~~or~~ delivery, or electronic
10 transmission and copying to be borne by the association. The
11 association is not liable for the contents of the information
12 sheets prepared by the candidates. In order to reduce costs,
13 the association may print or duplicate the information sheets
14 on both sides of the paper. The division shall by rule
15 establish voting procedures consistent with the provisions
16 contained herein, including rules establishing procedures for
17 giving notice by electronic transmission and rules providing
18 for the secrecy of ballots. Elections shall be decided by a
19 plurality of those ballots cast. There shall be no quorum
20 requirement; however, at least 20 percent of the eligible
21 voters must cast a ballot in order to have a valid election of
22 members of the board. No unit owner shall permit any other
23 person to vote his or her ballot, and any such ballots
24 improperly cast shall be deemed invalid, provided any unit
25 owner who violates this provision may be fined by the
26 association in accordance with s. 718.303. A unit owner who
27 needs assistance in casting the ballot for the reasons stated
28 in s. 101.051 may obtain assistance in casting the ballot. The
29 regular election shall occur on the date of the annual
30 meeting. The provisions of this subparagraph shall not apply
31 to timeshare condominium associations. Notwithstanding the

1 provisions of this subparagraph, an election is not required
2 unless more candidates file notices of intent to run or are
3 nominated than board vacancies exist.

4 4. Any approval by unit owners called for by this
5 chapter or the applicable declaration or bylaws, including,
6 but not limited to, the approval requirement in s. 718.111(8),
7 shall be made at a duly noticed meeting of unit owners and
8 shall be subject to all requirements of this chapter or the
9 applicable condominium documents relating to unit owner
10 decisionmaking, except that unit owners may take action by
11 written agreement, without meetings, on matters for which
12 action by written agreement without meetings is expressly
13 allowed by the applicable bylaws or declaration or any statute
14 that provides for such action.

15 5. Unit owners may waive notice of specific meetings
16 if allowed by the applicable bylaws or declaration or any
17 statute. If authorized by the bylaws, notice of meetings of
18 the board of administration, unit owner meetings, except unit
19 owner meetings called to recall board members under s.
20 718.112(2)(j), and committee meetings may be given by
21 electronic transmission to unit owners who consent to receive
22 notice by electronic transmission.

23 6. Unit owners shall have the right to participate in
24 meetings of unit owners with reference to all designated
25 agenda items. However, the association may adopt reasonable
26 rules governing the frequency, duration, and manner of unit
27 owner participation.

28 7. Any unit owner may tape record or videotape a
29 meeting of the unit owners subject to reasonable rules adopted
30 by the division.

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1 8. Unless otherwise provided in the bylaws, any
2 vacancy occurring on the board before the expiration of a term
3 may be filled by the affirmative vote of the majority of the
4 remaining directors, even if the remaining directors
5 constitute less than a quorum, or by the sole remaining
6 director. In the alternative, a board may hold an election to
7 fill the vacancy, in which case the election procedures must
8 conform to the requirements of subparagraph 3. unless the
9 association has opted out of the statutory election process,
10 in which case the bylaws of the association control. Unless
11 otherwise provided in the bylaws, a board member appointed or
12 elected under this section shall fill the vacancy for the
13 unexpired term of the seat being filled. Filling vacancies
14 created by recall is governed by paragraph (j) and rules
15 adopted by the division.

16
17 Notwithstanding subparagraphs (b)2. and (d)3., an association
18 may, by the affirmative vote of a majority of the total voting
19 interests, provide for different voting and election
20 procedures in its bylaws, which vote may be by a proxy
21 specifically delineating the different voting and election
22 procedures. The different voting and election procedures may
23 provide for elections to be conducted by limited or general
24 proxy.

25 (e) Budget meeting.--

26 1. Any meeting at which a proposed annual budget of an
27 association will be considered by the board or unit owners
28 shall be open to all unit owners. At least 14 days prior to
29 such a meeting, the board shall hand deliver to each unit
30 owner, ~~or~~ mail to each unit owner at the address last
31 furnished to the association by the unit owner, or

1 electronically transmit to the location furnished by the unit
2 owner for that purpose a notice of such meeting and a copy of
3 the proposed annual budget. An officer or manager of the
4 association, or other person providing notice of such meeting,
5 shall execute an affidavit evidencing compliance with such
6 notice requirement, and such affidavit shall be filed among
7 the official records of the association.

8 2.a. If a board adopts in any fiscal year an annual
9 budget which requires assessments against unit owners which
10 exceed 115 percent of assessments for the preceding fiscal
11 year, the board shall conduct a special meeting of the unit
12 owners to consider a substitute budget if the board receives,
13 within 21 days after adoption of the annual budget, a written
14 request for a special meeting from at least 10 percent of all
15 voting interests. The special meeting shall be conducted
16 within 60 days after adoption of the annual budget. At least
17 14 days prior to such special meeting, the board shall hand
18 deliver to each unit owner, or mail to each unit owner at the
19 address last furnished to the association, a notice of the
20 meeting. An officer or manager of the association, or other
21 person providing notice of such meeting shall execute an
22 affidavit evidencing compliance with this notice requirement,
23 and such affidavit shall be filed among the official records
24 of the association. Unit owners may consider and adopt a
25 substitute budget at the special meeting. A substitute budget
26 is adopted if approved by a majority of all voting interests
27 unless the bylaws require adoption by a greater percentage of
28 voting interests. If there is not a quorum at the special
29 meeting or a substitute budget is not adopted, the annual
30 budget previously adopted by the board shall take effect as
31 scheduled.

1 b. Any determination of whether assessments exceed 115
2 percent of assessments for the prior fiscal year shall exclude
3 any authorized provision for reasonable reserves for repair or
4 replacement of the condominium property, anticipated expenses
5 of the association which the board does not expect to be
6 incurred on a regular or annual basis, or assessments for
7 betterments to the condominium property.

8 c. If the developer controls the board, assessments
9 shall not exceed 115 percent of assessments for the prior
10 fiscal year unless approved by a majority of all voting
11 interests.

12 (j) Recall of board members.--Subject to the
13 provisions of s. 718.301, any member of the board of
14 administration may be recalled and removed from office with or
15 without cause by the vote or agreement in writing by a
16 majority of all the voting interests. A special meeting of the
17 unit owners to recall a member or members of the board of
18 administration may be called by 10 percent of the voting
19 interests giving notice of the meeting as required for a
20 meeting of unit owners, and the notice shall state the purpose
21 of the meeting. Electronic transmission may not be used as a
22 method of giving notice of a meeting called in whole or in
23 part for this purpose.

24 1. If the recall is approved by a majority of all
25 voting interests by a vote at a meeting, the recall will be
26 effective as provided herein. The board shall duly notice and
27 hold a board meeting within 5 full business days of the
28 adjournment of the unit owner meeting to recall one or more
29 board members. At the meeting, the board shall either certify
30 the recall, in which case such member or members shall be
31 recalled effective immediately and shall turn over to the

1 board within 5 full business days any and all records and
2 property of the association in their possession, or shall
3 proceed as set forth in subparagraph 3.

4 2. If the proposed recall is by an agreement in
5 writing by a majority of all voting interests, the agreement
6 in writing or a copy thereof shall be served on the
7 association by certified mail or by personal service in the
8 manner authorized by chapter 48 and the Florida Rules of Civil
9 Procedure. The board of administration shall duly notice and
10 hold a meeting of the board within 5 full business days after
11 receipt of the agreement in writing. At the meeting, the board
12 shall either certify the written agreement to recall a member
13 or members of the board, in which case such member or members
14 shall be recalled effective immediately and shall turn over to
15 the board within 5 full business days any and all records and
16 property of the association in their possession, or proceed as
17 described in subparagraph 3.

18 3. If the board determines not to certify the written
19 agreement to recall a member or members of the board, or does
20 not certify the recall by a vote at a meeting, the board
21 shall, within 5 full business days after the meeting, file
22 with the division a petition for arbitration pursuant to the
23 procedures in s. 718.1255. For the purposes of this section,
24 the unit owners who voted at the meeting or who executed the
25 agreement in writing shall constitute one party under the
26 petition for arbitration. If the arbitrator certifies the
27 recall as to any member or members of the board, the recall
28 will be effective upon mailing of the final order of
29 arbitration to the association. If the association fails to
30 comply with the order of the arbitrator, the division may take
31 action pursuant to s. 718.501. Any member or members so

1 recalled shall deliver to the board any and all records of the
2 association in their possession within 5 full business days of
3 the effective date of the recall.

4 4. If the board fails to duly notice and hold a board
5 meeting within 5 full business days of service of an agreement
6 in writing or within 5 full business days of the adjournment
7 of the unit owner recall meeting, the recall shall be deemed
8 effective and the board members so recalled shall immediately
9 turn over to the board any and all records and property of the
10 association.

11 5. If a vacancy occurs on the board as a result of a
12 recall and less than a majority of the board members are
13 removed, the vacancy may be filled by the affirmative vote of
14 a majority of the remaining directors, notwithstanding any
15 provision to the contrary contained in this subsection. If
16 vacancies occur on the board as a result of a recall and a
17 majority or more of the board members are removed, the
18 vacancies shall be filled in accordance with procedural rules
19 to be adopted by the division, which rules need not be
20 consistent with this subsection. The rules must provide
21 procedures governing the conduct of the recall election as
22 well as the operation of the association during the period
23 after a recall but prior to the recall election.

24 (1) Certificate of compliance.--There shall be a
25 provision that a certificate of compliance from a licensed
26 electrical contractor or electrician may be accepted by the
27 association's board as evidence of compliance of the
28 condominium units to the applicable fire and life safety code.
29 Notwithstanding chapter 633 or any other statute, ordinance,
30 administrative rule or regulation, or any interpretation of
31 the foregoing, an association, condominium, or unit owner is

1 not obligated to retrofit the common elements or units of a
2 residential condominium with a fire sprinkler system or other
3 enhanced fire protection system in a building that has been
4 certified for occupancy by the applicable governmental entity,
5 if:

6 1. The municipality, county, or special district with
7 firesafety authority by a majority vote exempts all
8 associations, condominiums, or unit owners from such
9 retrofitting requirement; and

10 2. The unit owners vote to forego such retrofitting by
11 an affirmative vote of two-thirds of all members present. Such
12 vote may be taken at a noticed meeting, or by written consent
13 without a meeting, and is effective upon the recording of a
14 certificate attesting to such vote in the public records of
15 the county where the condominium is located. Proxy voting is
16 allowed.

17
18 As part of the information collected annually from
19 condominiums, the division shall require condominium
20 associations to report the membership vote and recording of a
21 certificate under this subsection and, if retrofitting has
22 been undertaken, the per-unit cost of such work. The division
23 shall annually report to the Division of State Fire Marshal in
24 the Department of Financial Services the number of
25 condominiums that have elected to forego retrofitting.

26 (3) OPTIONAL PROVISIONS.--The bylaws as originally
27 recorded or as amended under the procedures provided therein
28 may provide for the following:

29 (a) A method of adopting and amending administrative
30 rules and regulations governing the details of the operation
31 and use of the common elements.

1 (b) Restrictions on and requirements for the use,
2 maintenance, and appearance of the units and the use of the
3 common elements.

4 (c) Provisions for giving notice by electronic
5 transmission in a manner authorized by law of meetings of the
6 board of directors and committees and of annual and special
7 meetings of the members.

8 (d)~~(c)~~ Other provisions which are not inconsistent
9 with this chapter or with the declaration, as may be desired.

10 Section 6. Subsection (8) of section 718.116, Florida
11 Statutes, is amended to read:

12 718.116 Assessments; liability; lien and priority;
13 interest; collection.--

14 (8) Within 15 days after receiving a written request
15 therefor from a unit owner purchaser, or mortgagee, the
16 association shall provide a certificate signed by an officer
17 or agent of the association stating all assessments and other
18 moneys owed to the association by the unit owner with respect
19 to the condominium parcel. Any person other than the owner who
20 relies upon such certificate shall be protected thereby. A
21 summary proceeding pursuant to s. 51.011 may be brought to
22 compel compliance with this subsection, and in any such action
23 the prevailing party is entitled to recover reasonable
24 attorney's fees. Notwithstanding any limitation on transfer
25 fees contained in s. 718.112(2)(i), the association or its
26 authorized agent may charge a reasonable fee for the
27 preparation of the certificate.

28 Section 7. Paragraph (a) of subsection (2) of section
29 719.104, Florida Statutes, is amended to read:

30 719.104 Cooperatives; access to units; records;
31 financial reports; assessments; purchase of leases.--

1 (2) OFFICIAL RECORDS.--

2 (a) From the inception of the association, the
3 association shall maintain a copy of each of the following,
4 where applicable, which shall constitute the official records
5 of the association:

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

8 2. A photocopy of the cooperative documents.

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

10 4. A book or books containing the minutes of all
11 meetings of the association, of the board of directors, and of
12 the unit owners, which minutes shall be retained for a period
13 of not less than 7 years.

14 5. A current roster of all unit owners and their
15 mailing addresses, unit identifications, voting
16 certifications, and, if known, telephone numbers. The
17 association shall also maintain the electronic mailing
18 addresses and the numbers designated by unit owners for
19 receiving notice sent by electronic transmission of those unit
20 owners consenting to receive notice by electronic
21 transmission. The electronic mailing addresses and numbers
22 provided by unit owners to receive notice by electronic
23 transmission shall be removed from association records when
24 consent to receive notice by electronic transmission is
25 revoked. However, the association is not liable for an
26 erroneous disclosure of the electronic mail address or the
27 number for receiving electronic transmission of notices.

28 6. All current insurance policies of the association.

29 7. A current copy of any management agreement, lease,
30 or other contract to which the association is a party or under
31

1 | which the association or the unit owners have an obligation or
2 | responsibility.
3 | 8. Bills of sale or transfer for all property owned by
4 | the association.
5 | 9. Accounting records for the association and separate
6 | accounting records for each unit it operates, according to
7 | good accounting practices. All accounting records shall be
8 | maintained for a period of not less than 7 years. The
9 | accounting records shall include, but not be limited to:
10 | a. Accurate, itemized, and detailed records of all
11 | receipts and expenditures.
12 | b. A current account and a monthly, bimonthly, or
13 | quarterly statement of the account for each unit designating
14 | the name of the unit owner, the due date and amount of each
15 | assessment, the amount paid upon the account, and the balance
16 | due.
17 | c. All audits, reviews, accounting statements, and
18 | financial reports of the association.
19 | d. All contracts for work to be performed. Bids for
20 | work to be performed shall also be considered official records
21 | and shall be maintained for a period of 1 year.
22 | 10. Ballots, sign-in sheets, voting proxies, and all
23 | other papers relating to voting by unit owners, which shall be
24 | maintained for a period of 1 year after the date of the
25 | election, vote, or meeting to which the document relates.
26 | 11. All rental records where the association is acting
27 | as agent for the rental of units.
28 | 12. A copy of the current question and answer sheet as
29 | described in s. 719.504.
30 |
31 |

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

4 Section 8. Paragraphs (b), (c), (d), (e), and (f) of
5 subsection (1) and subsection (2) of section 719.106, Florida
6 Statutes, are amended to read:

7 719.106 Bylaws; cooperative ownership.--

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

11 (b) Quorum; voting requirements; proxies.--

12 1. Unless otherwise provided in the bylaws, the
13 percentage of voting interests required to constitute a quorum
14 at a meeting of the members shall be a majority of voting
15 interests, and decisions shall be made by owners of a majority
16 of the voting interests. Unless otherwise provided in this
17 chapter, or in the articles of incorporation, bylaws, or other
18 cooperative documents, and except as provided in subparagraph
19 (d)1., decisions shall be made by owners of a majority of the
20 voting interests represented at a meeting at which a quorum is
21 present.

22 2. Except as specifically otherwise provided herein,
23 after January 1, 1992, unit owners may not vote by general
24 proxy, but may vote by limited proxies substantially
25 conforming to a limited proxy form adopted by the division.
26 Limited proxies and general proxies may be used to establish a
27 quorum. Limited proxies shall be used for votes taken to
28 waive or reduce reserves in accordance with subparagraph
29 (j)2., for votes taken to waive the financial reporting
30 requirements of s. 719.104(4)(b), for votes taken to amend the
31 articles of incorporation or bylaws pursuant to this section,

1 and for any other matter for which this chapter requires or
2 permits a vote of the unit owners. Except as provided in
3 paragraph (d), after January 1, 1992, no proxy, limited or
4 general, shall be used in the election of board members.
5 General proxies may be used for other matters for which
6 limited proxies are not required, and may also be used in
7 voting for nonsubstantive changes to items for which a limited
8 proxy is required and given. Notwithstanding the provisions of
9 this section, unit owners may vote in person at unit owner
10 meetings. Nothing contained herein shall limit the use of
11 general proxies or require the use of limited proxies or
12 require the use of limited proxies for any agenda item or
13 election at any meeting of a timeshare cooperative.

14 3. Any proxy given shall be effective only for the
15 specific meeting for which originally given and any lawfully
16 adjourned meetings thereof. In no event shall any proxy be
17 valid for a period longer than 90 days after the date of the
18 first meeting for which it was given. Every proxy shall be
19 revocable at any time at the pleasure of the unit owner
20 executing it.

21 4. A member of the board of administration or a
22 committee may submit in writing his or her agreement or
23 disagreement with any action taken at a meeting that the
24 member did not attend. This agreement or disagreement may not
25 be used as a vote for or against the action taken and may not
26 be used for the purposes of creating a quorum.

27 5. When some or all of the board or committee members
28 meet by telephone conference, those board or committee members
29 attending by telephone conference may be counted toward
30 obtaining a quorum and may vote by telephone. A telephone
31 speaker shall be utilized so that the conversation of those

1 board or committee members attending by telephone may be heard
2 by the board or committee members attending in person, as well
3 as by unit owners present at a meeting.

4 (c) Board of administration meetings.--Meetings of the
5 board of administration at which a quorum of the members is
6 present shall be open to all unit owners. Any unit owner may
7 tape record or videotape meetings of the board of
8 administration. The right to attend such meetings includes
9 the right to speak at such meetings with reference to all
10 designated agenda items. The division shall adopt reasonable
11 rules governing the tape recording and videotaping of the
12 meeting. The association may adopt reasonable written rules
13 governing the frequency, duration, and manner of unit owner
14 statements. Adequate notice of all meetings shall be posted in
15 a conspicuous place upon the cooperative property at least 48
16 continuous hours preceding the meeting, except in an
17 emergency. Any item not included on the notice may be taken
18 up on an emergency basis by at least a majority plus one of
19 the members of the board. Such emergency action shall be
20 noticed and ratified at the next regular meeting of the board.
21 However, written notice of any meeting at which nonemergency
22 special assessments, or at which amendment to rules regarding
23 unit use, will be considered shall be mailed, ~~or~~ delivered, or
24 electronically transmitted to the unit owners and posted
25 conspicuously on the cooperative property not less than 14
26 days prior to the meeting. Evidence of compliance with this
27 14-day notice shall be made by an affidavit executed by the
28 person providing the notice and filed among the official
29 records of the association. Upon notice to the unit owners,
30 the board shall by duly adopted rule designate a specific
31 location on the cooperative property upon which all notices of

1 board meetings shall be posted. In lieu of or in addition to
2 the physical posting of notice of any meeting of the board of
3 administration on the cooperative property, the association
4 may, by reasonable rule, adopt a procedure for conspicuously
5 posting and repeatedly broadcasting the notice and the agenda
6 on a closed-circuit cable television system serving the
7 cooperative association. However, if broadcast notice is used
8 in lieu of a notice posted physically on the cooperative
9 property, the notice and agenda must be broadcast at least
10 four times every broadcast hour of each day that a posted
11 notice is otherwise required under this section. When
12 broadcast notice is provided, the notice and agenda must be
13 broadcast in a manner and for a sufficient continuous length
14 of time so as to allow an average reader to observe the notice
15 and read and comprehend the entire content of the notice and
16 the agenda. Notice of any meeting in which regular assessments
17 against unit owners are to be considered for any reason shall
18 specifically contain a statement that assessments will be
19 considered and the nature of any such assessments. Meetings of
20 a committee to take final action on behalf of the board or to
21 make recommendations to the board regarding the association
22 budget are subject to the provisions of this paragraph.
23 Meetings of a committee that does not take final action on
24 behalf of the board or make recommendations to the board
25 regarding the association budget are subject to the provisions
26 of this section, unless those meetings are exempted from this
27 section by the bylaws of the association. Notwithstanding any
28 other law to the contrary, the requirement that board meetings
29 and committee meetings be open to the unit owners is
30 inapplicable to meetings between the board or a committee and
31 the association's attorney, with respect to proposed or

1 pending litigation, when the meeting is held for the purpose
2 of seeking or rendering legal advice.

3 (d) Shareholder meetings.--There shall be an annual
4 meeting of the shareholders. All members of the board of
5 administration shall be elected at the annual meeting unless
6 the bylaws provide for staggered election terms or for their
7 election at another meeting. Any unit owner desiring to be a
8 candidate for board membership shall comply with subparagraph
9 1. The bylaws shall provide the method for calling meetings,
10 including annual meetings. Written notice, which notice shall
11 incorporate an identification of agenda items, shall be given
12 to each unit owner at least 14 days prior to the annual
13 meeting and shall be posted in a conspicuous place on the
14 cooperative property at least 14 continuous days preceding the
15 annual meeting. Upon notice to the unit owners, the board
16 shall by duly adopted rule designate a specific location on
17 the cooperative property upon which all notice of unit owner
18 meetings shall be posted. In lieu of or in addition to the
19 physical posting of notice of any meeting of the shareholders
20 on the cooperative property, the association may, by
21 reasonable rule, adopt a procedure for conspicuously posting
22 and repeatedly broadcasting the notice and the agenda on a
23 closed-circuit cable television system serving the cooperative
24 association. However, if broadcast notice is used in lieu of a
25 notice posted physically on the cooperative property, the
26 notice and agenda must be broadcast at least four times every
27 broadcast hour of each day that a posted notice is otherwise
28 required under this section. When broadcast notice is
29 provided, the notice and agenda must be broadcast in a manner
30 and for a sufficient continuous length of time so as to allow
31 an average reader to observe the notice and read and

1 comprehend the entire content of the notice and the agenda.
2 Unless a unit owner waives in writing the right to receive
3 notice of the annual meeting, the notice of the annual meeting
4 shall be sent by mail, hand delivered, or electronically
5 transmitted to each unit owner. An officer of the association
6 shall provide an affidavit or United States Postal Service
7 certificate of mailing, to be included in the official records
8 of the association, affirming that notices of the association
9 meeting were mailed, ~~or~~ hand delivered, or electronically
10 transmitted, in accordance with this provision, to each unit
11 owner at the address last furnished to the association.
12 1. After January 1, 1992, the board of administration
13 shall be elected by written ballot or voting machine. Proxies
14 shall in no event be used in electing the board of
15 administration, either in general elections or elections to
16 fill vacancies caused by recall, resignation, or otherwise
17 unless otherwise provided in this chapter. Not less than 60
18 days before a scheduled election, the association shall mail,
19 ~~or~~ deliver, or transmit, whether by separate association
20 mailing, delivery, or electronic transmission or included in
21 another association mailing, ~~or~~ delivery, or electronic
22 transmission, including regularly published newsletters, to
23 each unit owner entitled to vote, a first notice of the date
24 of the election. Any unit owner or other eligible person
25 desiring to be a candidate for the board of administration
26 shall give written notice to the association not less than 40
27 days before a scheduled election. Together with the written
28 notice and agenda as set forth in this section, the
29 association shall mail, deliver, or electronically transmit a
30 second notice of election to all unit owners entitled to vote
31 therein, together with a ballot which shall list all

1 candidates. Upon request of a candidate, the association shall
2 include an information sheet, no larger than 8 1/2 inches by
3 11 inches, which must be furnished by the candidate not less
4 than 35 days prior to the election, to be included with the
5 mailing, delivery, or electronic transmission of the ballot,
6 with the costs of mailing, ~~or delivery, or transmission~~ and
7 copying to be borne by the association. The association has no
8 liability for the contents of the information sheets provided
9 by the candidates. In order to reduce costs, the association
10 may print or duplicate the information sheets on both sides of
11 the paper. The division shall by rule establish voting
12 procedures consistent with the provisions contained herein,
13 including rules establishing procedures for giving notice by
14 electronic transmission and rules providing for the secrecy of
15 ballots. Elections shall be decided by a plurality of those
16 ballots cast. There shall be no quorum requirement. However,
17 at least 20 percent of the eligible voters must cast a ballot
18 in order to have a valid election of members of the board of
19 administration. No unit owner shall permit any other person
20 to vote his or her ballot, and any such ballots improperly
21 cast shall be deemed invalid. A unit owner who needs
22 assistance in casting the ballot for the reasons stated in s.
23 101.051 may obtain assistance in casting the ballot. Any unit
24 owner violating this provision may be fined by the association
25 in accordance with s. 719.303. The regular election shall
26 occur on the date of the annual meeting. The provisions of
27 this subparagraph shall not apply to timeshare cooperatives.
28 Notwithstanding the provisions of this subparagraph, an
29 election and balloting are not required unless more candidates
30 file a notice of intent to run or are nominated than vacancies
31 exist on the board.

1 2. Any approval by unit owners called for by this
2 chapter, or the applicable cooperative documents, shall be
3 made at a duly noticed meeting of unit owners and shall be
4 subject to all requirements of this chapter or the applicable
5 cooperative documents relating to unit owner decisionmaking,
6 except that unit owners may take action by written agreement,
7 without meetings, on matters for which action by written
8 agreement without meetings is expressly allowed by the
9 applicable cooperative documents or any Florida statute which
10 provides for the unit owner action.

11 3. Unit owners may waive notice of specific meetings
12 if allowed by the applicable cooperative documents or any
13 Florida statute. If authorized by the bylaws, notice of
14 meetings of the board of administration, shareholder meetings,
15 except shareholder meetings called to recall board members
16 under s. 719.106(1)(f), and committee meetings may be given by
17 electronic transmission to unit owners who consent to receive
18 notice by electronic transmission.

19 4. Unit owners shall have the right to participate in
20 meetings of unit owners with reference to all designated
21 agenda items. However, the association may adopt reasonable
22 rules governing the frequency, duration, and manner of unit
23 owner participation.

24 5. Any unit owner may tape record or videotape
25 meetings of the unit owners subject to reasonable rules
26 adopted by the division.

27
28 Notwithstanding subparagraphs (b)2. and (d)1., an association
29 may, by the affirmative vote of a majority of the total voting
30 interests, provide for a different voting and election
31 procedure in its bylaws, which vote may be by a proxy

1 specifically delineating the different voting and election
2 procedures. The different voting and election procedures may
3 provide for elections to be conducted by limited or general
4 proxy.

5 (e) Budget procedures.--

6 1. The board of administration shall mail, ~~or~~ hand
7 deliver, or electronically transmit to each unit owner at the
8 address last furnished to the association, a meeting notice
9 and copies of the proposed annual budget of common expenses to
10 the unit owners not less than 14 days prior to the meeting at
11 which the budget will be considered. Evidence of compliance
12 with this 14-day notice must be made by an affidavit executed
13 by an officer of the association or the manager or other
14 person providing notice of the meeting and filed among the
15 official records of the association. The meeting must be open
16 to the unit owners.

17 2. If an adopted budget requires assessment against
18 the unit owners in any fiscal or calendar year which exceeds
19 115 percent of the assessments for the preceding year, the
20 board upon written application of 10 percent of the voting
21 interests to the board, shall call a special meeting of the
22 unit owners within 30 days, upon not less than 10 days'
23 written notice to each unit owner. At the special meeting,
24 unit owners shall consider and enact a budget. Unless the
25 bylaws require a larger vote, the adoption of the budget
26 requires a vote of not less than a majority of all the voting
27 interests.

28 3. The board of administration may, in any event,
29 propose a budget to the unit owners at a meeting of members or
30 by writing, and if the budget or proposed budget is approved
31 by the unit owners at the meeting or by a majority of all

1 voting interests in writing, the budget is adopted. If a
2 meeting of the unit owners has been called and a quorum is not
3 attained or a substitute budget is not adopted by the unit
4 owners, the budget adopted by the board of directors goes into
5 effect as scheduled.

6 4. In determining whether assessments exceed 115
7 percent of similar assessments for prior years, any authorized
8 provisions for reasonable reserves for repair or replacement
9 of cooperative property, anticipated expenses by the
10 association which are not anticipated to be incurred on a
11 regular or annual basis, or assessments for betterments to the
12 cooperative property must be excluded from computation.
13 However, as long as the developer is in control of the board
14 of administration, the board may not impose an assessment for
15 any year greater than 115 percent of the prior fiscal or
16 calendar year's assessment without approval of a majority of
17 all voting interests.

18 (f) Recall of board members.--Subject to the
19 provisions of s. 719.301, any member of the board of
20 administration may be recalled and removed from office with or
21 without cause by the vote or agreement in writing by a
22 majority of all the voting interests. A special meeting of the
23 voting interests to recall any member of the board of
24 administration may be called by 10 percent of the unit owners
25 giving notice of the meeting as required for a meeting of unit
26 owners, and the notice shall state the purpose of the meeting.
27 Electronic transmission may not be used as a method of giving
28 notice of a meeting called in whole or in part for this
29 purpose.

30 1. If the recall is approved by a majority of all
31 voting interests by a vote at a meeting, the recall shall be

1 effective as provided herein. The board shall duly notice and
2 hold a board meeting within 5 full business days of the
3 adjournment of the unit owner meeting to recall one or more
4 board members. At the meeting, the board shall either certify
5 the recall, in which case such member or members shall be
6 recalled effective immediately and shall turn over to the
7 board within 5 full business days any and all records and
8 property of the association in their possession, or shall
9 proceed as set forth in subparagraph 3.

10 2. If the proposed recall is by an agreement in
11 writing by a majority of all voting interests, the agreement
12 in writing or a copy thereof shall be served on the
13 association by certified mail or by personal service in the
14 manner authorized by chapter 48 and the Florida Rules of Civil
15 Procedure. The board of administration shall duly notice and
16 hold a meeting of the board within 5 full business days after
17 receipt of the agreement in writing. At the meeting, the board
18 shall either certify the written agreement to recall members
19 of the board, in which case such members shall be recalled
20 effective immediately and shall turn over to the board, within
21 5 full business days, any and all records and property of the
22 association in their possession, or proceed as described in
23 subparagraph 3.

24 3. If the board determines not to certify the written
25 agreement to recall members of the board, or does not certify
26 the recall by a vote at a meeting, the board shall, within 5
27 full business days after the board meeting, file with the
28 division a petition for binding arbitration pursuant to the
29 procedures of s. 719.1255. For purposes of this paragraph, the
30 unit owners who voted at the meeting or who executed the
31 agreement in writing shall constitute one party under the

1 petition for arbitration. If the arbitrator certifies the
2 recall as to any member of the board, the recall shall be
3 effective upon mailing of the final order of arbitration to
4 the association. If the association fails to comply with the
5 order of the arbitrator, the division may take action pursuant
6 to s. 719.501. Any member so recalled shall deliver to the
7 board any and all records and property of the association in
8 the member's possession within 5 full business days of the
9 effective date of the recall.

10 4. If the board fails to duly notice and hold a board
11 meeting within 5 full business days of service of an agreement
12 in writing or within 5 full business days of the adjournment
13 of the unit owner recall meeting, the recall shall be deemed
14 effective and the board members so recalled shall immediately
15 turn over to the board any and all records and property of the
16 association.

17 5. If a vacancy occurs on the board as a result of a
18 recall and less than a majority of the board members are
19 removed, the vacancy may be filled by the affirmative vote of
20 a majority of the remaining directors, notwithstanding any
21 provision to the contrary contained in this chapter. If
22 vacancies occur on the board as a result of a recall and a
23 majority or more of the board members are removed, the
24 vacancies shall be filled in accordance with procedural rules
25 to be adopted by the division, which rules need not be
26 consistent with this chapter. The rules must provide
27 procedures governing the conduct of the recall election as
28 well as the operation of the association during the period
29 after a recall but prior to the recall election.

30 (2) OPTIONAL PROVISIONS.--The bylaws may provide for
31 the following:

1 (a) Administrative rules.--A method of adopting and of
2 amending administrative rules and regulations governing the
3 details of the operation and use of the common areas.

4 (b) Use and maintenance restrictions.--Restrictions
5 on, and requirements for, the use, maintenance, and appearance
6 of the units and the use of the common areas, not inconsistent
7 with the cooperative documents, designed to prevent
8 unreasonable interference with the use of the units and common
9 areas.

10 (c) Notice of meetings.--Provisions for giving notice
11 by electronic transmissions in a manner authorized by law of
12 meetings of the board of directors and committees and of
13 annual and special meetings of the members.

14 (d)~~(e)~~ Other matters.--Other provisions not
15 inconsistent with this chapter or with the cooperative
16 documents as may be desired.

17 Section 9. Subsection (6) of section 719.108, Florida
18 Statutes, is amended to read:

19 719.108 Rents and assessments; liability; lien and
20 priority; interest; collection; cooperative ownership.--

21 (6) Within 15 days after request by a unit owner or
22 mortgagee, the association shall provide a certificate stating
23 all assessments and other moneys owed to the association by
24 the unit owner with respect to the cooperative parcel. Any
25 person other than the unit owner who relies upon such
26 certificate shall be protected thereby. Notwithstanding any
27 limitation on transfer fees contained in s. 719.106(1)(i), the
28 association or its authorized agent may charge a reasonable
29 fee for the preparation of the certificate.

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1 Section 10. Subsection (1) of section 720.302, Florida
2 Statutes, is amended, and subsection (5) is added to that
3 section to read:

4 720.302 Purposes, scope, and application.--

5 (1) The purposes of ss. 720.301-720.312 are to give
6 statutory recognition to corporations not for profit that
7 operate residential communities in this state, to provide
8 procedures for operating homeowners' associations, and to
9 protect the rights of association members without unduly
10 impairing the ability of such associations to perform their
11 functions.

12 (5) Unless expressly stated to the contrary,
13 corporations not for profit that operate residential
14 homeowners' associations in this state shall be governed by
15 and subject to chapter 617. This subsection is intended to
16 clarify existing law.

17 Section 11. Subsection (2) and paragraph (g) of
18 subsection (4) of section 720.303, Florida Statutes, are
19 amended to read:

20 720.303 Association powers and duties; meetings of
21 board; official records; budgets; financial reporting.--

22 (2) BOARD MEETINGS.--A meeting of the board of
23 directors of an association occurs whenever a quorum of the
24 board gathers to conduct association business. All meetings
25 of the board must be open to all members except for meetings
26 between the board and its attorney with respect to proposed or
27 pending litigation where the contents of the discussion would
28 otherwise be governed by the attorney-client privilege.
29 Notices of all board meetings must be posted in a conspicuous
30 place in the community at least 48 hours in advance of a
31 meeting, except in an emergency. In the alternative, if

1 notice is not posted in a conspicuous place in the community,
2 notice of each board meeting must be mailed or delivered to
3 each member at least 7 days before the meeting, except in an
4 emergency. Notwithstanding this general notice requirement,
5 for communities with more than 100 members, the bylaws may
6 provide for a reasonable alternative to posting or mailing of
7 notice for each board meeting, including publication of
8 notice, or provision of a schedule of board meetings, or the
9 conspicuous posting and repeated broadcasting of the notice on
10 a closed-circuit cable television system serving the
11 homeowners association. However, if broadcast notice is used
12 in lieu of a notice posted physically in the community, the
13 notice must be broadcast at least four times every broadcast
14 hour of each day that a posted notice is otherwise required.
15 When broadcast notice is provided, the notice and agenda must
16 be broadcast in a manner and for a sufficient continuous
17 length of time so as to allow an average reader to observe the
18 notice and read and comprehend the entire content of the
19 notice and the agenda. The bylaws or amended bylaws may
20 provide for giving notice by electronic transmission in a
21 manner authorized by law for meetings of the board of
22 directors, committee meetings requiring notice under this
23 section, and annual and special meetings of the members;
24 however, a member must consent in writing to receiving notice
25 by electronic transmission. An assessment may not be levied
26 at a board meeting unless the notice of the meeting includes a
27 statement that assessments will be considered and the nature
28 of the assessments. Directors may not vote by proxy or by
29 secret ballot at board meetings, except that secret ballots
30 may be used in the election of officers. This subsection also
31 applies to the meetings of any committee or other similar

1 body, when a final decision will be made regarding the
2 expenditure of association funds, and to any body vested with
3 the power to approve or disapprove architectural decisions
4 with respect to a specific parcel of residential property
5 owned by a member of the community.

6 (4) OFFICIAL RECORDS.--The association shall maintain
7 each of the following items, when applicable, which constitute
8 the official records of the association:

9 (g) A current roster of all members and their mailing
10 addresses and parcel identifications. The association shall
11 also maintain the electronic mailing addresses and the numbers
12 designated by members for receiving notice sent by electronic
13 transmission of those members consenting to receive notice by
14 electronic transmission. The electronic mailing addresses and
15 numbers provided by unit owners to receive notice by
16 electronic transmission shall be removed from association
17 records when consent to receive notice by electronic
18 transmission is revoked. However, the association is not
19 liable for an erroneous disclosure of the electronic mail
20 address or the number for receiving electronic transmission of
21 notices.

22 Section 12. This act shall take effect upon becoming a
23 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS/SB 592

Members of condominiums, cooperatives, and homeowner's association may consent to receive notice of association meetings by electronic transmission, such as facsimile or email. Notice of condominium, cooperative, or homeowners association meetings may be broadcast on a closed circuit cable television system serving the association in lieu of posting a conspicuous meeting notice on association property. Condominium associations, cooperative associations, and homeowners' associations are required to maintain the email addresses of their members. The associations are not liable for the inadvertent disclosure of their members' email addresses and facsimile numbers. Condominium unit owners and cooperative shareholders may vote by limited proxy to waive financial reporting requirements. Condominium and cooperative associations may charge a reasonable fee for issuing certificates detailing the status of assessments against a condominium or cooperative unit. Condominium associations and condominium unit owners may be able to exempt themselves from the requirement to retrofit any common element or units of an association with a fire sprinkler system or other enhanced fire protection system, if the condominium association unit owners and the local authority responsible for firesafety consent to such an exemption. Foreign not-for-profit corporations may become domesticated in this state using a procedure similar to that set forth for the domestication of foreign business corporations.