

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.; revising
18 provisions relating to insurance required for
19 condominium property; providing legislative
20 intent; authorizing the association to provide
21 certain information to prospective purchasers
22 or lienholders; authorizing fees; providing for
23 a condominium association to transmit
24 electronic notices to unit owners; providing
25 that the association is not liable for
26 erroneously disclosing certain address
27 information; revising requirements for use of
28 proxies for voting; authorizing the association
29 to broadcast notice via a closed-circuit
30 television system; prohibiting notice by
31 electronic transmission for a recall of board

1 members; providing for association bylaws to
2 authorize the electronic transmission of
3 notices; exempting certain condominiums,
4 associations, or unit owners from specified
5 retrofitting requirements pertaining to fire
6 safety systems; requiring a report; amending s.
7 719.1055, F.S.; exempting certain cooperatives
8 and unit owners from specified retrofitting
9 requirements pertaining to fire safety;
10 amending s. 718.116, F.S.; authorizing the
11 association to charge a fee for preparation of
12 the certificate of assessments and other moneys
13 due; amending ss. 719.104 and 719.106, F.S.;
14 revising provisions with respect to official
15 records of a cooperative association;
16 authorizing the association to provide certain
17 information to prospective purchasers or
18 lienholders; authorizing fees; providing for a
19 cooperative association to transmit electronic
20 notices to unit owners; providing that the
21 association is not liable for erroneously
22 disclosing certain address information;
23 revising requirements for use of proxies for
24 voting; authorizing the association to
25 broadcast notice via a closed-circuit
26 television system; prohibiting notice by
27 electronic transmission for a recall of board
28 members; providing for association bylaws to
29 authorize the electronic transmission of
30 notices; amending s. 719.108, F.S.; authorizing
31 the association to charge a fee for preparation

1 of the certificate of assessments and other
2 moneys due; amending s. 720.302, F.S.;
3 clarifying that corporations not for profit
4 that operate residential homeowners'
5 associations are subject to the Florida Not For
6 Profit Corporation Act; amending s. 720.303,
7 F.S.; authorizing a homeowners' association to
8 broadcast notice via a closed-circuit
9 television system; providing that the
10 association is not liable for erroneously
11 disclosing certain address information;
12 amending s. 702.09, F.S.; redefining the term
13 "mortgage" to include liens created pursuant to
14 a homeowners' association as defined in s.
15 712.01, F.S.; amending s. 718.303, F.S.;
16 providing that certain actions with respect to
17 the obligation of condominium owners shall not
18 be deemed actions for specific performance;
19 amending s. 719.303, F.S.; providing that
20 certain actions with respect to the obligation
21 of cooperative owners shall not be deemed
22 actions for specific performance; providing an
23 effective date.

24

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

26

27 Section 1. Section 617.01401, Florida Statutes, is
28 amended to read:29 617.01401 Definitions.--As used in this act, unless
30 the context otherwise requires, the term:

31

1 (1) "Articles of incorporation" includes original,
2 amended, and restated articles of incorporation, articles of
3 consolidation, and articles of merger, and all amendments
4 thereto, including documents designated by the laws of this
5 state as charters, and, in the case of a foreign corporation,
6 documents equivalent to articles of incorporation in the
7 jurisdiction of incorporation.

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

12 (3) "Bylaws" means the code or codes of rules adopted
13 for the regulation or management of the affairs of the
14 corporation irrespective of the name or names by which such
15 rules are designated.

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

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

22 (6) "Electronic transmission" means any form of
23 communication, not directly involving the physical
24 transmission or transfer of paper, which creates a record that
25 may be retained, retrieved, and reviewed by a recipient
26 thereof and which may be directly reproduced in a
27 comprehensible and legible paper form by such recipient
28 through an automated process. Examples of electronic
29 transmission include, but are not limited to, telegrams,
30 facsimile transmissions of images, and text that is sent via
31 electronic mail between computers.

1 ~~(7)(6)~~ "Foreign corporation" means a corporation not
2 for profit organized under laws other than the laws of this
3 state.

4 ~~(8)(7)~~ "Insolvent" means the inability of a
5 corporation to pay its debts as they become due in the usual
6 course of its affairs.

7 ~~(9)(8)~~ "Mail" means the United States mail, facsimile
8 transmissions, and private mail carriers handling nationwide
9 mail services.

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

14 ~~(11)(10)~~ "Person" includes individual and entity.

15 Section 2. Section 617.0141, Florida Statutes, is
16 amended to read:

17 617.0141 Notice.--

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

20 (a) Expressly authorized by the articles of
21 incorporation or the bylaws; and

22 (b) Reasonable under the circumstances.

23 (2) Notice may be communicated in person; by telephone
24 (where oral notice is permitted), telegraph, teletype, or
25 other form of electronic transmission ~~communication~~; or by
26 mail.

27 (3) Written notice by a domestic or foreign
28 corporation authorized to conduct its affairs in this state to
29 its member, if in a comprehensible form, is effective;
30
31

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

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

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

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

12 1. Such correct posting; or

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

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

18 (4) Consent by a member to receive notice by
19 electronic transmission shall be revocable by the member by
20 written notice to the corporation. Any such consent shall be
21 deemed revoked if:

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

25 (b) Such inability becomes known to the secretary or
26 an assistant secretary of the corporation, or other authorized
27 person responsible for the giving of notice. However, the
28 inadvertent failure to treat such inability as a revocation
29 does not invalidate any meeting or other action.

30 (5)(4) Written notice to a domestic or foreign
31 corporation authorized to conduct its affairs in this state

1 may be addressed to its registered agent at its registered
2 office or to the corporation or its secretary at its principal
3 office shown in its most recent annual report or, in the case
4 of a corporation that has not yet delivered an annual report,
5 in a domestic corporation's articles of incorporation or in a
6 foreign corporation's application for certificate of
7 authority.

8 ~~(6)(5)~~ Except as provided in subsection (3) or
9 elsewhere in this act, written notice, if in a comprehensible
10 form, is effective at the earliest date of the following:

11 (a) When received;

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

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

18 ~~(7)(6)~~ Oral notice is effective when communicated if
19 communicated directly to the person to be notified in a
20 comprehensible manner.

21 (8) An affidavit of the secretary, an assistant
22 secretary, the transfer agent, or other authorized agent of
23 the corporation that the notice has been given by a form of
24 electronic transmission is, in the absence of fraud, prima
25 facie evidence of the facts stated in the notice.

26 ~~(9)(7)~~ If this act prescribes notice requirements for
27 particular circumstances, those requirements govern. If
28 articles of incorporation or bylaws prescribe notice
29 requirements not less stringent than the requirements of this
30 section or other provisions of this act, those requirements
31 govern.

1 Section 3. Section 617.1803, Florida Statutes, is
2 created to read:

3 617.1803 Domestication of foreign not-for-profit
4 corporations.--

5 (1) As used in this section, the term "not-for-profit
6 corporation" includes any not-for-profit incorporated
7 organization.

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

11 (a) A certificate of domestication, executed in
12 accordance with subsection (7) and filed in accordance with s.
13 617.01201; and

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

16 (3) The certificate of domestication shall certify:

17 (a) The date on which and the jurisdiction in which
18 the corporation was first formed, incorporated, or otherwise
19 came into being;

20 (b) The name of the corporation immediately before the
21 filing of the certificate of domestication;

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

24 (d) The jurisdiction that constituted the seat, siege
25 social, or principal place of business or central
26 administration of the corporation, or any other equivalent
27 jurisdiction under applicable law, immediately before the
28 filing of the certificate of domestication.

29 (4) Upon filing the certificate of domestication and
30 articles of incorporation, the corporation shall be
31 domesticated in this state and shall thereafter be subject to

1 this section, except that notwithstanding s. 617.0203, the
2 existence of the corporation shall be deemed to have commenced
3 on the date it commenced its existence in the jurisdiction in
4 which it was first formed, incorporated, or otherwise came
5 into being.

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

9 (6) The filing of a certificate of domestication does
10 not affect the choice of law applicable to the corporation,
11 except that, after the date the certificate of domestication
12 is filed, the law of this state, applies to the corporation to
13 the same extent as if it had been incorporated as a
14 not-for-profit corporation of this state on that date.

15 (7) The certificate of domestication shall be signed
16 by any corporate officer, director, trustee, manager, partner,
17 or other person performing functions equivalent to those of an
18 officer or director, however named or described, who is
19 authorized to sign the certificate of domestication on behalf
20 of the corporation.

21 Section 4. Subsections (11) and (12) of section
22 718.111, Florida Statutes, are amended to read:

23 718.111 The association.--

24 (11) INSURANCE.--In order to protect the safety,
25 health, and welfare of the people of the State of Florida and
26 to ensure consistency in the provision of insurance coverage
27 to condominiums and their unit owners, paragraphs (b) and (c)
28 are deemed to apply to every condominium in the state,
29 regardless of the date of its declaration of condominium. It
30 is the intent of the Legislature to encourage lower or stable
31 insurance premiums for associations described in this section.

1 Therefore, the Legislature requires a report to be prepared by
2 the Office of Insurance Regulation of the Department of
3 Financial Services for publication 18 months from the
4 effective date of this act, evaluating premium increases or
5 decreases for associations, unit owner premium increases or
6 decreases, recommended changes to better define common areas,
7 or any other information the Office of Insurance Regulation
8 deems appropriate.

9 (a) A unit-owner controlled association shall use its
10 best efforts to obtain and maintain adequate insurance to
11 protect the association, the association property, the common
12 elements, and the condominium property required to be insured
13 by the association pursuant to paragraph (b). If the
14 association is developer controlled, the association shall
15 exercise due diligence to obtain and maintain such insurance.
16 Failure to obtain and maintain adequate insurance during any
17 period of developer control shall constitute a breach of
18 fiduciary responsibility by the developer-appointed members of
19 the board of directors of the association, unless said members
20 can show that despite such failure, they have exercised due
21 diligence. The declaration of condominium as originally
22 recorded, or amended pursuant to procedures provided therein,
23 may require that condominium property consisting of
24 freestanding buildings where there is no more than one
25 building in or on such unit need not be insured by the
26 association if the declaration requires the unit owner to
27 obtain adequate insurance for the condominium property.An
28 association may also obtain and maintain liability insurance
29 for directors and officers, insurance for the benefit of
30 association employees, and flood insurance for common
31 elements, association property, and units. Adequate insurance,

1 regardless of any requirement in the declaration of
2 condominium for coverage by the association for "full
3 insurable value," "replacement cost," or the like, may include
4 reasonable deductibles as determined by the board.An
5 association or group of associations may self-insure against
6 claims against the association, the association property, and
7 the condominium property required to be insured by an
8 association, upon compliance with ss. 624.460-624.488. A copy
9 of each policy of insurance in effect shall be made available
10 for inspection by unit owners at reasonable times.

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

14 1. All portions of the condominium property located
15 outside the units;

16 2. The condominium property located inside the units
17 as such property was initially installed, or replacements
18 thereof of like kind and quality and in accordance with the
19 original plans and specifications or, if the original plans
20 and specifications are not available, as they existed at the
21 time the unit was initially conveyed; and

22 3. All portions of the condominium property for which
23 the declaration of condominium requires coverage by the
24 association.

25
26 Anything to the contrary notwithstanding, the terms
27 "condominium property," "building," "improvements," "insurable
28 improvements," "common elements," "association property," or
29 any other term found in the declaration of condominium which
30 defines the scope of property or casualty insurance that a
31 condominium association must obtain shall exclude all floor,

1 wall, and ceiling coverings,~~that the word "building" wherever~~
2 ~~used in the policy include, but not necessarily be limited to,~~
3 ~~fixtures, installations, or additions comprising that part of~~
4 ~~the building within the unfinished interior surfaces of the~~
5 ~~perimeter walls, floors, and ceilings of the individual units~~
6 ~~initially installed, or replacements thereof of like kind or~~
7 ~~quality, in accordance with the original plans and~~
8 ~~specifications, or as they existed at the time the unit was~~
9 ~~initially conveyed if the original plans and specifications~~
10 ~~are not available. However, unless prior to October 1, 1986,~~
11 ~~the association is required by the declaration to provide~~
12 ~~coverage therefor, the word "building" does not include unit~~
13 ~~floor coverings, wall coverings, or ceiling coverings, and, as~~
14 ~~to contracts entered into after July 1, 1992, does not include~~
15 ~~the following equipment if it is located within a unit and the~~
16 ~~unit owner is required to repair or replace such equipment:~~
17 ~~electrical fixtures, appliances, air conditioner or heating~~
18 ~~equipment, water heaters, water filters, or built-in cabinets~~
19 ~~and countertops, and window treatments, including curtains,~~
20 ~~drapes, blinds, hardware, and similar window treatment~~
21 ~~components, or replacements of any of the foregoing which are~~
22 ~~located within the boundaries of a unit and serve only one~~
23 ~~unit and all air conditioning compressors that service only an~~
24 ~~individual unit, whether or not located within the unit~~
25 ~~boundaries. The foregoing is intended to establish the~~
26 ~~property or casualty insuring responsibilities of the~~
27 ~~association and those of the individual unit owner and do not~~
28 ~~serve to broaden or extend the perils of coverage afforded by~~
29 ~~any insurance contract provided to the individual unit owner.~~
30 ~~Beginning January 1, 2004, the association shall have the~~
31 ~~authority to amend the declaration of condominium, without~~

1 regard to any requirement for mortgagee approval of amendments
2 affecting insurance requirements, to conform the declaration
3 of condominium to the coverage requirements of this section.
4 ~~With respect to the coverage provided for by this paragraph,~~
5 ~~the unit owners shall be considered additional insureds under~~
6 ~~the policy.~~

7 (c) Every hazard insurance policy issued or renewed on
8 or after January 1, 2004, to an individual unit owner shall
9 provide that the coverage afforded by such policy is excess
10 over the amount recoverable under any other policy covering
11 the same property. Each insurance policy issued to an
12 individual unit owner providing such coverage shall be without
13 rights of subrogation against the condominium association that
14 operates the condominium in which such unit owner's unit is
15 located. All real or personal property located within the
16 boundaries of the unit owner's unit which is excluded from the
17 coverage to be provided by the association as set forth in
18 paragraph (b) shall be insured by the individual unit owner.

19 (d) The association shall obtain and maintain adequate
20 insurance or fidelity bonding of all persons who control or
21 disburse funds of the association. The insurance policy or
22 fidelity bond must cover the maximum funds that will be in the
23 custody of the association or its management agent at any one
24 time. As used in this paragraph, the term "persons who control
25 or disburse funds of the association" includes, but is not
26 limited to, those individuals authorized to sign checks and
27 the president, secretary, and treasurer of the association.
28 The association shall bear the cost of bonding.

29 (12) OFFICIAL RECORDS.--

30 (a) From the inception of the association, the
31 association shall maintain each of the following items, when

1 applicable, which shall constitute the official records of the
2 association:

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

5 2. A photocopy of the recorded declaration of
6 condominium of each condominium operated by the association
7 and of each amendment to each declaration.

8 3. A photocopy of the recorded bylaws of the
9 association and of each amendment to the bylaws.

10 4. A certified copy of the articles of incorporation
11 of the association, or other documents creating the
12 association, and of each amendment thereto.

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

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

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

1 8. All current insurance policies of the association
2 and condominiums operated by the association.

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

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

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

14 a. Accurate, itemized, and detailed records of all
15 receipts and expenditures.

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

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

23 d. All contracts for work to be performed. Bids for
24 work to be performed shall also be considered official records
25 and shall be maintained for a period of 1 year.

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

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

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

3 15. All other records of the association not
4 specifically included in the foregoing which are related to
5 the operation of the association.

6 (b) The official records of the association shall be
7 maintained within the state. The records of the association
8 shall be made available to a unit owner within 5 working days
9 after receipt of written request by the board or its designee.
10 This paragraph may be complied with by having a copy of the
11 official records of the association available for inspection
12 or copying on the condominium property or association
13 property.

14 (c) The official records of the association are open
15 to inspection by any association member or the authorized
16 representative of such member at all reasonable times. The
17 right to inspect the records includes the right to make or
18 obtain copies, at the reasonable expense, if any, of the
19 association member. The association may adopt reasonable rules
20 regarding the frequency, time, location, notice, and manner of
21 record inspections and copying. The failure of an association
22 to provide the records within 10 working days after receipt of
23 a written request shall create a rebuttable presumption that
24 the association willfully failed to comply with this
25 paragraph. A unit owner who is denied access to official
26 records is entitled to the actual damages or minimum damages
27 for the association's willful failure to comply with this
28 paragraph. The minimum damages shall be \$50 per calendar day
29 up to 10 days, the calculation to begin on the 11th working
30 day after receipt of the written request. The failure to
31 permit inspection of the association records as provided

1 herein entitles any person prevailing in an enforcement action
2 to recover reasonable attorney's fees from the person in
3 control of the records who, directly or indirectly, knowingly
4 denied access to the records for inspection. The association
5 shall maintain an adequate number of copies of the
6 declaration, articles of incorporation, bylaws, and rules, and
7 all amendments to each of the foregoing, as well as the
8 question and answer sheet provided for in s. 718.504 and
9 year-end financial information required in this section on the
10 condominium property to ensure their availability to unit
11 owners and prospective purchasers, and may charge its actual
12 costs for preparing and furnishing these documents to those
13 requesting the same. Notwithstanding the provisions of this
14 paragraph, the following records shall not be accessible to
15 unit owners:

16 1. Any record protected by the lawyer-client privilege
17 as described in s. 90.502; and any record protected by the
18 work-product privilege, including any record prepared by an
19 association attorney or prepared at the attorney's express
20 direction; which reflects a mental impression, conclusion,
21 litigation strategy, or legal theory of the attorney or the
22 association, and which was prepared exclusively for civil or
23 criminal litigation or for adversarial administrative
24 proceedings, or which was prepared in anticipation of imminent
25 civil or criminal litigation or imminent adversarial
26 administrative proceedings until the conclusion of the
27 litigation or adversarial administrative proceedings.

28 2. Information obtained by an association in
29 connection with the approval of the lease, sale, or other
30 transfer of a unit.

31 3. Medical records of unit owners.

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

4 (e) The association or its authorized agent shall not
5 be required to provide a prospective purchaser or lienholder
6 with information about the condominium or the association
7 other than information or documents required by this chapter
8 to be made available or disclosed. The association or its
9 authorized agent shall be entitled to charge a reasonable fee
10 to the prospective purchaser, lienholder, or the current unit
11 owner for its time in providing good faith responses to
12 requests for information by or on behalf of a prospective
13 purchaser or lienholder, other than that required by law,
14 provided that such fee shall not exceed \$150 plus the
15 reasonable cost of photocopying and any attorney's fees
16 incurred by the association in connection with the
17 association's response.

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

21 718.112 Bylaws.--

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

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

26 1. Unless a lower number is provided in the bylaws,
27 the percentage of voting interests required to constitute a
28 quorum at a meeting of the members shall be a majority of the
29 voting interests. Unless otherwise provided in this chapter
30 or in the declaration, articles of incorporation, or bylaws,
31 and except as provided in subparagraph (d)3., decisions shall

1 be made by owners of a majority of the voting interests
2 represented at a meeting at which a quorum is present.

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

27 3. Any proxy given shall be effective only for the
28 specific meeting for which originally given and any lawfully
29 adjourned meetings thereof. In no event shall any proxy be
30 valid for a period longer than 90 days after the date of the
31 first meeting for which it was given. Every proxy is

1 revocable at any time at the pleasure of the unit owner
2 executing it.

3 4. A member of the board of administration or a
4 committee may submit in writing his or her agreement or
5 disagreement with any action taken at a meeting that the
6 member did not attend. This agreement or disagreement may not
7 be used as a vote for or against the action taken and may not
8 be used for the purposes of creating a quorum.

9 5. When any of the board or committee members meet by
10 telephone conference, those board or committee members
11 attending by telephone conference may be counted toward
12 obtaining a quorum and may vote by telephone. A telephone
13 speaker must be used so that the conversation of those board
14 or committee members attending by telephone may be heard by
15 the board or committee members attending in person as well as
16 by any unit owners present at a meeting.

17 (c) Board of administration meetings.--Meetings of the
18 board of administration at which a quorum of the members is
19 present shall be open to all unit owners. Any unit owner may
20 tape record or videotape meetings of the board of
21 administration. The right to attend such meetings includes the
22 right to speak at such meetings with reference to all
23 designated agenda items. The division shall adopt reasonable
24 rules governing the tape recording and videotaping of the
25 meeting. The association may adopt written reasonable rules
26 governing the frequency, duration, and manner of unit owner
27 statements. Adequate notice of all meetings, which notice
28 shall specifically incorporate an identification of agenda
29 items, shall be posted conspicuously on the condominium
30 property at least 48 continuous hours preceding the meeting
31 except in an emergency. Any item not included on the notice

1 may be taken up on an emergency basis by at least a majority
2 plus one of the members of the board. Such emergency action
3 shall be noticed and ratified at the next regular meeting of
4 the board. However, written notice of any meeting at which
5 nonemergency special assessments, or at which amendment to
6 rules regarding unit use, will be considered shall be mailed,
7 ~~or delivered,~~ or electronically transmitted to the unit owners
8 and posted conspicuously on the condominium property not less
9 than 14 days prior to the meeting. Evidence of compliance with
10 this 14-day notice shall be made by an affidavit executed by
11 the person providing the notice and filed among the official
12 records of the association. Upon notice to the unit owners,
13 the board shall by duly adopted rule designate a specific
14 location on the condominium property or association property
15 upon which all notices of board meetings shall be posted. If
16 there is no condominium property or association property upon
17 which notices can be posted, notices of board meetings shall
18 be mailed,~~or delivered,~~ or electronically transmitted at
19 least 14 days before the meeting to the owner of each unit. In
20 lieu of or in addition to the physical posting of notice of
21 any meeting of the board of administration on the condominium
22 property, the association may, by reasonable rule, adopt a
23 procedure for conspicuously posting and repeatedly
24 broadcasting the notice and the agenda on a closed-circuit
25 cable television system serving the condominium association.
26 However, if broadcast notice is used in lieu of a notice
27 posted physically on the condominium property, the notice and
28 agenda must be broadcast at least four times every broadcast
29 hour of each day that a posted notice is otherwise required
30 under this section. When broadcast notice is provided, the
31 notice and agenda must be broadcast in a manner and for a

1 sufficient continuous length of time so as to allow an average
2 reader to observe the notice and read and comprehend the
3 entire content of the notice and the agenda.Notice of any
4 meeting in which regular assessments against unit owners are
5 to be considered for any reason shall specifically contain a
6 statement that assessments will be considered and the nature
7 of any such assessments. Meetings of a committee to take final
8 action on behalf of the board or make recommendations to the
9 board regarding the association budget are subject to the
10 provisions of this paragraph. Meetings of a committee that
11 does not take final action on behalf of the board or make
12 recommendations to the board regarding the association budget
13 are subject to the provisions of this section, unless those
14 meetings are exempted from this section by the bylaws of the
15 association. Notwithstanding any other law, the requirement
16 that board meetings and committee meetings be open to the unit
17 owners is inapplicable to meetings between the board or a
18 committee and the association's attorney, with respect to
19 proposed or pending litigation, when the meeting is held for
20 the purpose of seeking or rendering legal advice.

21 (d) Unit owner meetings.--

22 1. There shall be an annual meeting of the unit
23 owners. Unless the bylaws provide otherwise, a vacancy on the
24 board caused by the expiration of a director's term shall be
25 filled by electing a new board member, and the election shall
26 be by secret ballot; however, if the number of vacancies
27 equals or exceeds the number of candidates, no election is
28 required. If there is no provision in the bylaws for terms of
29 the members of the board, the terms of all members of the
30 board shall expire upon the election of their successors at
31 the annual meeting. Any unit owner desiring to be a candidate

1 for board membership shall comply with subparagraph 3. A
2 person who has been convicted of any felony by any court of
3 record in the United States and who has not had his or her
4 right to vote restored pursuant to law in the jurisdiction of
5 his or her residence is not eligible for board membership. The
6 validity of an action by the board is not affected if it is
7 later determined that a member of the board is ineligible for
8 board membership due to having been convicted of a felony.

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

1 broadcast notice is provided, the notice and agenda must be
2 broadcast in a manner and for a sufficient continuous length
3 of time so as to allow an average reader to observe the notice
4 and read and comprehend the entire content of the notice and
5 the agenda.Unless a unit owner waives in writing the right to
6 receive notice of the annual meeting, such notice shall be
7 hand delivered,~~or~~ mailed, or electronically transmitted to
8 each unit owner. Notice for meetings and notice for all other
9 purposes shall be mailed to each unit owner at the address
10 last furnished to the association by the unit owner, or hand
11 delivered to each unit owner. However, if a unit is owned by
12 more than one person, the association shall provide notice,
13 for meetings and all other purposes, to that one address which
14 the developer initially identifies for that purpose and
15 thereafter as one or more of the owners of the unit shall so
16 advise the association in writing, or if no address is given
17 or the owners of the unit do not agree, to the address
18 provided on the deed of record. An officer of the association,
19 or the manager or other person providing notice of the
20 association meeting, shall provide an affidavit or United
21 States Postal Service certificate of mailing, to be included
22 in the official records of the association affirming that the
23 notice was mailed or hand delivered, in accordance with this
24 provision.

25 3. The members of the board shall be elected by
26 written ballot or voting machine. Proxies shall in no event be
27 used in electing the board, either in general elections or
28 elections to fill vacancies caused by recall, resignation, or
29 otherwise, unless otherwise provided in this chapter. Not less
30 than 60 days before a scheduled election, the association
31 shall mail,~~or~~ deliver, or electronically transmit, whether by

1 separate association mailing or included in another
2 association mailing,~~or~~ delivery, or transmission, including
3 regularly published newsletters, to each unit owner entitled
4 to a vote, a first notice of the date of the election. Any
5 unit owner or other eligible person desiring to be a candidate
6 for the board must give written notice to the association not
7 less than 40 days before a scheduled election. Together with
8 the written notice and agenda as set forth in subparagraph 2.,
9 the association shall mail,~~or~~ deliver, or electronically
10 transmit a second notice of the election to all unit owners
11 entitled to vote therein, together with a ballot which shall
12 list all candidates. Upon request of a candidate, the
13 association shall include an information sheet, no larger than
14 8 1/2 inches by 11 inches, which must be furnished by the
15 candidate not less than 35 days before the election, to be
16 included with the mailing, delivery, or transmission of the
17 ballot, with the costs of mailing,~~or~~ delivery, or electronic
18 transmission and copying to be borne by the association. The
19 association is not liable for the contents of the information
20 sheets prepared by the candidates. In order to reduce costs,
21 the association may print or duplicate the information sheets
22 on both sides of the paper. The division shall by rule
23 establish voting procedures consistent with the provisions
24 contained herein, including rules establishing procedures for
25 giving notice by electronic transmission and rules providing
26 for the secrecy of ballots. Elections shall be decided by a
27 plurality of those ballots cast. There shall be no quorum
28 requirement; however, at least 20 percent of the eligible
29 voters must cast a ballot in order to have a valid election of
30 members of the board. No unit owner shall permit any other
31 person to vote his or her ballot, and any such ballots

1 improperly cast shall be deemed invalid, provided any unit
2 owner who violates this provision may be fined by the
3 association in accordance with s. 718.303. A unit owner who
4 needs assistance in casting the ballot for the reasons stated
5 in s. 101.051 may obtain assistance in casting the ballot. The
6 regular election shall occur on the date of the annual
7 meeting. The provisions of this subparagraph shall not apply
8 to timeshare condominium associations. Notwithstanding the
9 provisions of this subparagraph, an election is not required
10 unless more candidates file notices of intent to run or are
11 nominated than board vacancies exist.

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

23 5. Unit owners may waive notice of specific meetings
24 if allowed by the applicable bylaws or declaration or any
25 statute. If authorized by the bylaws, notice of meetings of
26 the board of administration, unit owner meetings, except unit
27 owner meetings called to recall board members under s.
28 718.112(2)(j), and committee meetings may be given by
29 electronic transmission to unit owners who consent to receive
30 notice by electronic transmission.

31

1 6. Unit owners shall have the right to participate in
2 meetings of unit owners with reference to all designated
3 agenda items. However, the association may adopt reasonable
4 rules governing the frequency, duration, and manner of unit
5 owner participation.

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

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

24
25 Notwithstanding subparagraphs (b)2. and (d)3., an association
26 may, by the affirmative vote of a majority of the total voting
27 interests, provide for different voting and election
28 procedures in its bylaws, which vote may be by a proxy
29 specifically delineating the different voting and election
30 procedures. The different voting and election procedures may
31

1 provide for elections to be conducted by limited or general
2 proxy.

3 (e) Budget meeting.--

4 1. Any meeting at which a proposed annual budget of an
5 association will be considered by the board or unit owners
6 shall be open to all unit owners. At least 14 days prior to
7 such a meeting, the board shall hand deliver to each unit
8 owner, ~~or~~ mail to each unit owner at the address last
9 furnished to the association by the unit owner, or
10 electronically transmit to the location furnished by the unit
11 owner for that purpose a notice of such meeting and a copy of
12 the proposed annual budget. An officer or manager of the
13 association, or other person providing notice of such meeting,
14 shall execute an affidavit evidencing compliance with such
15 notice requirement, and such affidavit shall be filed among
16 the official records of the association.

17 2.a. If a board adopts in any fiscal year an annual
18 budget which requires assessments against unit owners which
19 exceed 115 percent of assessments for the preceding fiscal
20 year, the board shall conduct a special meeting of the unit
21 owners to consider a substitute budget if the board receives,
22 within 21 days after adoption of the annual budget, a written
23 request for a special meeting from at least 10 percent of all
24 voting interests. The special meeting shall be conducted
25 within 60 days after adoption of the annual budget. At least
26 14 days prior to such special meeting, the board shall hand
27 deliver to each unit owner, or mail to each unit owner at the
28 address last furnished to the association, a notice of the
29 meeting. An officer or manager of the association, or other
30 person providing notice of such meeting shall execute an
31 affidavit evidencing compliance with this notice requirement,

1 and such affidavit shall be filed among the official records
2 of the association. Unit owners may consider and adopt a
3 substitute budget at the special meeting. A substitute budget
4 is adopted if approved by a majority of all voting interests
5 unless the bylaws require adoption by a greater percentage of
6 voting interests. If there is not a quorum at the special
7 meeting or a substitute budget is not adopted, the annual
8 budget previously adopted by the board shall take effect as
9 scheduled.

10 b. Any determination of whether assessments exceed 115
11 percent of assessments for the prior fiscal year shall exclude
12 any authorized provision for reasonable reserves for repair or
13 replacement of the condominium property, anticipated expenses
14 of the association which the board does not expect to be
15 incurred on a regular or annual basis, or assessments for
16 betterments to the condominium property.

17 c. If the developer controls the board, assessments
18 shall not exceed 115 percent of assessments for the prior
19 fiscal year unless approved by a majority of all voting
20 interests.

21 (j) Recall of board members.--Subject to the
22 provisions of s. 718.301, any member of the board of
23 administration may be recalled and removed from office with or
24 without cause by the vote or agreement in writing by a
25 majority of all the voting interests. A special meeting of the
26 unit owners to recall a member or members of the board of
27 administration may be called by 10 percent of the voting
28 interests giving notice of the meeting as required for a
29 meeting of unit owners, and the notice shall state the purpose
30 of the meeting. Electronic transmission may not be used as a
31

1 method of giving notice of a meeting called in whole or in
2 part for this purpose.

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

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

28 3. If the board determines not to certify the written
29 agreement to recall a member or members of the board, or does
30 not certify the recall by a vote at a meeting, the board
31 shall, within 5 full business days after the meeting, file

1 with the division a petition for arbitration pursuant to the
2 procedures in s. 718.1255. For the purposes of this section,
3 the unit owners who voted at the meeting or who executed the
4 agreement in writing shall constitute one party under the
5 petition for arbitration. If the arbitrator certifies the
6 recall as to any member or members of the board, the recall
7 will be effective upon mailing of the final order of
8 arbitration to the association. If the association fails to
9 comply with the order of the arbitrator, the division may take
10 action pursuant to s. 718.501. Any member or members so
11 recalled shall deliver to the board any and all records of the
12 association in their possession within 5 full business days of
13 the effective date of the recall.

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

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

1 well as the operation of the association during the period
2 after a recall but prior to the recall election.

3 (1) Certificate of compliance.--There shall be a
4 provision that a certificate of compliance from a licensed
5 electrical contractor or electrician may be accepted by the
6 association's board as evidence of compliance of the
7 condominium units with ~~to~~ the applicable fire and life safety
8 code. Notwithstanding the provisions of chapter 633 or of any
9 other code, statute, ordinance, administrative rule, or
10 regulation, or any interpretation of the foregoing, an
11 association, condominium, or unit owner is not obligated to
12 retrofit the common elements or units of a residential
13 condominium with a fire sprinkler system or other engineered
14 life safety system in a building that has been certified for
15 occupancy by the applicable governmental entity, if the unit
16 owners have voted to forego such retrofitting and engineered
17 life safety system by the affirmative vote of two-thirds of
18 all voting interests in the affected condominium. However, a
19 condominium association may not vote to forego the
20 retrofitting with a fire sprinkler system of common areas in a
21 high-rise building. For purposes of this subsection, the term
22 "high-rise building" means a building that is greater than 75
23 feet in height where the building height is measured from the
24 lowest level of fire department access to the floor of the
25 highest occupiable story. For purposes of this subsection, the
26 term "common areas" means any enclosed hallway, corridor,
27 lobby, stairwell, or entryway. In no event shall the local
28 authority having jurisdiction require completion of
29 retrofitting of common areas with a sprinkler system before
30 the end of 2014.

31

1 1. A vote to forego retrofitting may not be obtained
2 by general proxy or limited proxy, but shall be obtained by a
3 vote personally cast at a duly called membership meeting, or
4 by execution of a written consent by the member, and shall be
5 effective upon the recording of a certificate attesting to
6 such vote in the public records of the county where the
7 condominium is located. The association shall provide each
8 unit owner written notice of the vote to forego retrofitting
9 of the required fire sprinkler system, in at least 16-point
10 bold type, by certified mail, within 20 days after the
11 association's vote. After such notice is provided to each
12 owner, a copy of such notice shall be provided by the current
13 owner to a new owner prior to closing and shall be provided by
14 a unit owner to a renter prior to signing a lease.

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

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

26 (a) A method of adopting and amending administrative
27 rules and regulations governing the details of the operation
28 and use of the common elements.

29 (b) Restrictions on and requirements for the use,
30 maintenance, and appearance of the units and the use of the
31 common elements.

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

5 ~~(d)(e)~~ Other provisions which are not inconsistent
6 with this chapter or with the declaration, as may be desired.

7 Section 6. Subsection (5) is added to section
8 719.1055, Florida Statutes, to read:

9 719.1055 Amendment of cooperative documents;
10 alteration and acquisition of property.--

11 (5) Notwithstanding the provisions of chapter 633 or
12 of any other code statute, ordinance, administrative rule, or
13 regulation, or any interpretation of the foregoing, a
14 cooperative or unit owner is not obligated to retrofit the
15 common elements or units of a residential cooperative with a
16 fire sprinkler system or other engineered life safety system
17 in a building that has been certified for occupancy by the
18 applicable governmental entity, if the unit owners have voted
19 to forego such retrofitting and engineered life safety system
20 by the affirmative vote of two-thirds of all voting interests
21 in the affected cooperative. However, a cooperative may not
22 forego the retrofitting with a fire sprinkler system of common
23 areas in a high-rise building. For purposes of this
24 subsection, the term "high-rise building" means a building
25 that is greater than 75 feet in height where the building
26 height is measured from the lowest level of fire department
27 access to the floor of the highest occupiable story. For
28 purposes of this subsection, the term "common areas" means any
29 enclosed hallway, corridor, lobby, stairwell, or entryway. In
30 no event shall the local authority having jurisdiction require

31

1 completion of retrofitting of common areas with a sprinkler
2 system before the end of 2014.

3 (a) A vote to forego retrofitting may not be obtained
4 by general proxy or limited proxy, but shall be obtained by a
5 vote personally cast at a duly called membership meeting, or
6 by execution of a written consent by the member, and shall be
7 effective upon the recording of a certificate attesting to
8 such vote in the public records of the county where the
9 cooperative is located. The association shall provide each
10 unit owner written notice of the vote to forego retrofitting
11 of the required fire sprinkler system, in at least 16-point
12 bold type, by certified mail, within 20 days after the
13 association's vote. After such notice is provided to each
14 owner, a copy of such notice shall be provided by the current
15 owner to a new owner prior to closing and shall be provided by
16 a unit owner to a renter prior to signing a lease.

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

25 Section 7. Subsection (8) of section 718.116, Florida
26 Statutes, is amended to read:

27 718.116 Assessments; liability; lien and priority;
28 interest; collection.--

29 (8) Within 15 days after receiving a written request
30 therefor from a unit owner purchaser, or mortgagee, the
31 association shall provide a certificate signed by an officer

1 or agent of the association stating all assessments and other
2 moneys owed to the association by the unit owner with respect
3 to the condominium parcel. Any person other than the owner who
4 relies upon such certificate shall be protected thereby. A
5 summary proceeding pursuant to s. 51.011 may be brought to
6 compel compliance with this subsection, and in any such action
7 the prevailing party is entitled to recover reasonable
8 attorney's fees. Notwithstanding any limitation on transfer
9 fees contained in s. 718.112(2)(i), the association or its
10 authorized agent may charge a reasonable fee for the
11 preparation of the certificate.

12 Section 8. Paragraph (a) of subsection (2) of section
13 719.104, Florida Statutes, is amended, and paragraph (d) is
14 added to that subsection, to read:

15 719.104 Cooperatives; access to units; records;
16 financial reports; assessments; purchase of leases.--

17 (2) OFFICIAL RECORDS.--

18 (a) From the inception of the association, the
19 association shall maintain a copy of each of the following,
20 where applicable, which shall constitute the official records
21 of the association:

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

24 2. A photocopy of the cooperative documents.

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

26 4. A book or books containing the minutes of all
27 meetings of the association, of the board of directors, and of
28 the unit owners, which minutes shall be retained for a period
29 of not less than 7 years.

30 5. A current roster of all unit owners and their
31 mailing addresses, unit identifications, voting

1 certifications, and, if known, telephone numbers. The
2 association shall also maintain the electronic mailing
3 addresses and the numbers designated by unit owners for
4 receiving notice sent by electronic transmission of those unit
5 owners consenting to receive notice by electronic
6 transmission. The electronic mailing addresses and numbers
7 provided by unit owners to receive notice by electronic
8 transmission shall be removed from association records when
9 consent to receive notice by electronic transmission is
10 revoked. However, the association is not liable for an
11 erroneous disclosure of the electronic mail address or the
12 number for receiving electronic transmission of notices.

13 6. All current insurance policies of the association.

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

18 8. Bills of sale or transfer for all property owned by
19 the association.

20 9. Accounting records for the association and separate
21 accounting records for each unit it operates, according to
22 good accounting practices. All accounting records shall be
23 maintained for a period of not less than 7 years. The
24 accounting records shall include, but not be limited to:

25 a. Accurate, itemized, and detailed records of all
26 receipts and expenditures.

27 b. A current account and a monthly, bimonthly, or
28 quarterly statement of the account for each unit designating
29 the name of the unit owner, the due date and amount of each
30 assessment, the amount paid upon the account, and the balance
31 due.

1 c. All audits, reviews, accounting statements, and
2 financial reports of the association.

3 d. All contracts for work to be performed. Bids for
4 work to be performed shall also be considered official records
5 and shall be maintained for a period of 1 year.

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

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

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

14 13. All other records of the association not
15 specifically included in the foregoing which are related to
16 the operation of the association.

17 (d) The association or its authorized agent shall not
18 be required to provide a prospective purchaser or lienholder
19 with information about the cooperative or association other
20 than the information or documents required by this chapter to
21 be made available or disclosed. The association or its
22 authorized agent shall be entitled to charge a reasonable fee
23 to the prospective purchaser, lienholder, or the current unit
24 owner for its time in providing good-faith responses to
25 requests for information by or on behalf of a prospective
26 purchaser or lienholder, other than that required by law,
27 provided that such fee shall not exceed \$150 plus the
28 reasonable cost of photocopying and any attorney's fees
29 incurred by the association in connection with the
30 association's response.

31

1 Section 9. Paragraphs (b), (c), (d), (e), and (f) of
2 subsection (1) and subsection (2) of section 719.106, Florida
3 Statutes, are amended to read:

4 719.106 Bylaws; cooperative ownership.--

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

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

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

19 2. Except as specifically otherwise provided herein,
20 after January 1, 1992, unit owners may not vote by general
21 proxy, but may vote by limited proxies substantially
22 conforming to a limited proxy form adopted by the division.
23 Limited proxies and general proxies may be used to establish a
24 quorum. Limited proxies shall be used for votes taken to
25 waive or reduce reserves in accordance with subparagraph
26 (j)2., for votes taken to waive the financial reporting
27 requirements of s. 719.104(4)(b), for votes taken to amend the
28 articles of incorporation or bylaws pursuant to this section,
29 and for any other matter for which this chapter requires or
30 permits a vote of the unit owners. Except as provided in
31 paragraph (d), after January 1, 1992, no proxy, limited or

1 general, shall be used in the election of board members.
2 General proxies may be used for other matters for which
3 limited proxies are not required, and may also be used in
4 voting for nonsubstantive changes to items for which a limited
5 proxy is required and given. Notwithstanding the provisions of
6 this section, unit owners may vote in person at unit owner
7 meetings. Nothing contained herein shall limit the use of
8 general proxies or require the use of limited proxies or
9 require the use of limited proxies for any agenda item or
10 election at any meeting of a timeshare cooperative.

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

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

24 5. When some or all of the board or committee members
25 meet by telephone conference, those board or committee members
26 attending by telephone conference may be counted toward
27 obtaining a quorum and may vote by telephone. A telephone
28 speaker shall be utilized so that the conversation of those
29 board or committee members attending by telephone may be heard
30 by the board or committee members attending in person, as well
31 as by unit owners present at a meeting.

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

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

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

1 notice of the annual meeting, the notice of the annual meeting
2 shall be sent by mail, hand delivered, or electronically
3 transmitted to each unit owner. An officer of the association
4 shall provide an affidavit or United States Postal Service
5 certificate of mailing, to be included in the official records
6 of the association, affirming that notices of the association
7 meeting were mailed, ~~or~~ hand delivered, or electronically
8 transmitted, in accordance with this provision, to each unit
9 owner at the address last furnished to the association.

10 1. After January 1, 1992, the board of administration
11 shall be elected by written ballot or voting machine. Proxies
12 shall in no event be used in electing the board of
13 administration, either in general elections or elections to
14 fill vacancies caused by recall, resignation, or otherwise
15 unless otherwise provided in this chapter. Not less than 60
16 days before a scheduled election, the association shall mail,
17 ~~or~~ deliver, or transmit, whether by separate association
18 mailing, delivery, or electronic transmission or included in
19 another association mailing, ~~or~~ delivery, or electronic
20 transmission, including regularly published newsletters, to
21 each unit owner entitled to vote, a first notice of the date
22 of the election. Any unit owner or other eligible person
23 desiring to be a candidate for the board of administration
24 shall give written notice to the association not less than 40
25 days before a scheduled election. Together with the written
26 notice and agenda as set forth in this section, the
27 association shall mail, deliver, or electronically transmit a
28 second notice of election to all unit owners entitled to vote
29 therein, together with a ballot which shall list all
30 candidates. Upon request of a candidate, the association shall
31 include an information sheet, no larger than 8 1/2 inches by

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

30 2. Any approval by unit owners called for by this
31 chapter, or the applicable cooperative documents, shall be

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

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

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

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

25
26 Notwithstanding subparagraphs (b)2. and (d)1., an association
27 may, by the affirmative vote of a majority of the total voting
28 interests, provide for a different voting and election
29 procedure in its bylaws, which vote may be by a proxy
30 specifically delineating the different voting and election
31 procedures. The different voting and election procedures may

1 provide for elections to be conducted by limited or general
2 proxy.

3 (e) Budget procedures.--

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

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

26 3. The board of administration may, in any event,
27 propose a budget to the unit owners at a meeting of members or
28 by writing, and if the budget or proposed budget is approved
29 by the unit owners at the meeting or by a majority of all
30 voting interests in writing, the budget is adopted. If a
31 meeting of the unit owners has been called and a quorum is not

1 attained or a substitute budget is not adopted by the unit
2 owners, the budget adopted by the board of directors goes into
3 effect as scheduled.

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

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

28 1. If the recall is approved by a majority of all
29 voting interests by a vote at a meeting, the recall shall be
30 effective as provided herein. The board shall duly notice and
31 hold a board meeting within 5 full business days of the

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

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

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

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

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

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

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

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

17 Section 10. 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 11. 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 chapters 617 and 720. This subsection is
16 intended to clarify existing law.

17 Section 12. 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 13. Section 702.09, Florida Statutes, is
23 amended to read:

24 702.09 Definitions.--For the purposes of ss. 702.07
25 and 702.08 the words "decree of foreclosure" shall include a
26 judgment or order rendered or passed in the foreclosure
27 proceedings in which the decree of foreclosure shall be
28 rescinded, vacated, and set aside; the word "mortgage" shall
29 mean any written instrument securing the payment of money or
30 advances and includes liens to secure payment of assessments
31 arising under chapters 718 and 719 and liens created pursuant

1 to the recorded covenants of a homeowners' association as
2 defined in s. 712.01; the word "debt" shall include promissory
3 notes, bonds, and all other written obligations given for the
4 payment of money; the words "foreclosure proceedings" shall
5 embrace every action in the circuit or county courts of this
6 state wherein it is sought to foreclose a mortgage and sell
7 the property covered by the same; and the word "property"
8 shall mean and include both real and personal property.

9 Section 14. Subsection (1) of section 718.303, Florida
10 Statutes, is amended to read:

11 718.303 Obligations of owners; waiver; levy of fine
12 against unit by association.--

13 (1) Each unit owner, each tenant and other invitee,
14 and each association shall be governed by, and shall comply
15 with the provisions of, this chapter, the declaration, the
16 documents creating the association, and the association bylaws
17 and the provisions thereof shall be deemed expressly
18 incorporated into any lease of a unit. Actions for damages or
19 for injunctive relief, or both, for failure to comply with
20 these provisions may be brought by the association or by a
21 unit owner against:

22 (a) The association.

23 (b) A unit owner.

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

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

29 (e) Any tenant leasing a unit, and any other invitee
30 occupying a unit.

31

1 The prevailing party in any such action or in any action in
2 which the purchaser claims a right of voidability based upon
3 contractual provisions as required in s. 718.503(1)(a) is
4 entitled to recover reasonable attorney's fees. A unit owner
5 prevailing in an action between the association and the unit
6 owner under this section, in addition to recovering his or her
7 reasonable attorney's fees, may recover additional amounts as
8 determined by the court to be necessary to reimburse the unit
9 owner for his or her share of assessments levied by the
10 association to fund its expenses of the litigation. This
11 relief does not exclude other remedies provided by law.
12 Actions arising under this subsection shall not be deemed to
13 be actions for specific performance.

14 Section 15. Subsection (1) of section 719.303, Florida
15 Statutes, is amended to read:

16 719.303 Obligations of owners.--

17 (1) Each unit owner, each tenant and other invitee,
18 and each association shall be governed by, and shall comply
19 with the provisions of, this chapter, the cooperative
20 documents, the documents creating the association, and the
21 association bylaws, and the provisions thereof shall be deemed
22 expressly incorporated into any lease of a unit. Actions for
23 damages or for injunctive relief, or both, for failure to
24 comply with these provisions may be brought by the association
25 or by a unit owner against:

26 (a) The association.

27 (b) A unit owner.

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

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

3 (e) Any tenant leasing a unit, and any other invitee
4 occupying a unit.

5
6 The prevailing party in any such action or in any action in
7 which the purchaser claims a right of voidability based upon
8 contractual provisions as required in s. 719.503(1)(a) is
9 entitled to recover reasonable attorney' s fees. A unit owner
10 prevailing in an action between the association and the unit
11 owner under this section, in addition to recovering his or her
12 reasonable attorney's fees, may recover additional amounts as
13 determined by the court to be necessary to reimburse the unit
14 owner for his or her share of assessments levied by the
15 association to fund its expenses of the litigation. This
16 relief does not exclude other remedies provided by law.
17 Actions arising under this subsection shall not be deemed to
18 be actions for specific performance.

19 Section 16. This act shall take effect upon becoming a
20 law.

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