



CHAMBER ACTION

The Committee on Business Regulation recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to corporate affairs; amending s. 617.01401, F.S.; defining the term "electronic transmission" for purposes of the Florida Not For Profit Corporation Act; amending s. 617.0141, F.S.; authorizing forms of electronic transmission of notice for domestic or foreign corporations; providing for a corporation member to revoke consent to receiving notice by electronic transmission; providing that an affidavit of notice by electronic transmission is, in the absence of fraud, prima facie evidence of the facts stated in the notice; creating s. 617.1801, F.S.; providing for domestication of foreign not-for-profit corporations; amending s. 702.09, F.S.; redefining "mortgage" for purposes of specified foreclosure proceedings to include liens created pursuant to covenants of a homeowners' association; amending s. 718.111, F.S.; revising condominium insurance requirements; providing for application of such requirements; requiring that a report be prepared for



29 | publication by the Office of Insurance Regulation of the
30 | Department of Financial Services; requiring certain
31 | coverage; revising recordkeeping requirements; providing
32 | that the association is not liable for accidentally or
33 | inadvertently disclosing certain address information;
34 | authorizing the association to provide certain information
35 | to prospective purchasers or lienholders under certain
36 | circumstances; providing for a fee for providing certain
37 | information; amending s. 718.112, F.S.; allowing use of
38 | limited proxies for votes taken to waive certain financial
39 | reporting requirements; providing for a condominium
40 | association to transmit electronic notices to unit owners;
41 | revising requirements for use of proxies for voting;
42 | authorizing the association to broadcast notice via a
43 | closed-circuit television system; prohibiting notice by
44 | electronic transmission for a recall of board members;
45 | providing for association bylaws to authorize the
46 | electronic transmission of notices; amending s. 718.116,
47 | F.S.; providing that a described fee may be charged for
48 | preparation of a certificate stating certain amounts owed;
49 | amending s. 718.303, F.S.; providing that certain actions
50 | with respect to obligations of condominium owners shall
51 | not be deemed actions for specific performance; amending
52 | s. 719.104, F.S.; revising recordkeeping requirements for
53 | cooperative associations; providing that the association
54 | is not liable for accidentally or inadvertently disclosing
55 | certain address information; authorizing the association
56 | to provide certain information to prospective purchasers



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57 | or lienholders under certain circumstances; providing for
58 | a fee for providing certain information; amending s.
59 | 719.106, F.S.; providing for a cooperative association to
60 | transmit electronic notices to unit owners; revising
61 | requirements for use of proxies for voting; authorizing
62 | the association to broadcast notice via a closed-circuit
63 | television system; prohibiting notice by electronic
64 | transmission for a recall of board members; providing for
65 | association bylaws to authorize the electronic
66 | transmission of notices; amending s. 719.108, F.S.;
67 | providing that a described fee may be charged for
68 | preparation of a certificate stating certain amounts owed;
69 | amending s. 719.303, F.S.; providing that certain actions
70 | with respect to the obligation of cooperative owners shall
71 | not be deemed actions for specific performance; amending
72 | s. 720.302, F.S.; clarifying that corporations not for
73 | profit that operate residential homeowners' associations
74 | are subject to the Florida Not For Profit Corporation Act;
75 | amending s. 720.303, F.S.; authorizing a homeowners'
76 | association to broadcast notice via a closed-circuit
77 | television system; providing that the association is not
78 | liable for accidentally or inadvertently disclosing
79 | certain address information; providing an effective date.

80 |
81 | Be It Enacted by the Legislature of the State of Florida:

82 |
83 | Section 1. Section 617.01401, Florida Statutes, is amended
84 | to read:



85 617.01401 Definitions.--As used in this act, unless the
86 context otherwise requires, the term:

87 (1) "Articles of incorporation" includes original,
88 amended, and restated articles of incorporation, articles of
89 consolidation, and articles of merger, and all amendments
90 thereto, including documents designated by the laws of this
91 state as charters, and, in the case of a foreign corporation,
92 documents equivalent to articles of incorporation in the
93 jurisdiction of incorporation.

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

98 (3) "Bylaws" means the code or codes of rules adopted for
99 the regulation or management of the affairs of the corporation
100 irrespective of the name or names by which such rules are
101 designated.

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

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

108 (6) "Electronic transmission" means any form of
109 communication, not directly involving the physical transmission
110 or transfer of paper, which creates a record that may be
111 retained, retrieved, and reviewed by a recipient thereof and
112 which may be directly reproduced in a comprehensible and legible



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113 paper form by such recipient through an automated process.
 114 Examples of electronic transmission include, but are not limited
 115 to, telegrams, facsimile transmissions of images, and text that
 116 is sent via electronic mail between computers.

117 (7)~~(6)~~ "Foreign corporation" means a corporation not for
 118 profit organized under laws other than the laws of this state.

119 (8)~~(7)~~ "Insolvent" means the inability of a corporation to
 120 pay its debts as they become due in the usual course of its
 121 affairs.

122 (9)~~(8)~~ "Mail" means the United States mail, facsimile
 123 transmissions, and private mail carriers handling nationwide
 124 mail services.

125 (10)~~(9)~~ "Member" means one having membership rights in a
 126 corporation in accordance with the provisions of its articles of
 127 incorporation or bylaws or the provisions of this act.

128 (11)~~(10)~~ "Person" includes individual and entity.

129 Section 2. Section 617.0141, Florida Statutes, is amended
 130 to read:

131 617.0141 Notice.--

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

134 (a) Expressly authorized by the articles of incorporation
 135 or the bylaws; and

136 (b) Reasonable under the circumstances.

137 (2) Notice may be communicated in person; by
 138 telephone(where oral notice is permitted), telegraph, teletype,
 139 or other form of electronic transmission ~~communication~~; or by
 140 mail.



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

144 (a) When mailed, if mailed postpaid and correctly
145 addressed to the member's address shown in the corporation's
146 current record of members;

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

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

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

155 1. Such correct posting; or

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

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

161 (4) Consent by a member to receiving notice by electronic
162 transmission shall be revocable by the member by written notice
163 to the corporation. Any such consent shall be deemed revoked if:

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

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



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

172 ~~(5)(4)~~ Written notice to a domestic or foreign corporation
173 authorized to conduct its affairs in this state may be addressed
174 to its registered agent at its registered office or to the
175 corporation or its secretary at its principal office shown in
176 its most recent annual report or, in the case of a corporation
177 that has not yet delivered an annual report, in a domestic
178 corporation's articles of incorporation or in a foreign
179 corporation's application for certificate of authority.

180 ~~(6)(5)~~ Except as provided in subsection (3) or elsewhere
181 in this act, written notice, if in a comprehensible form, is
182 effective at the earliest date of the following:

183 (a) When received;

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

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

190 ~~(7)(6)~~ Oral notice is effective when communicated if
191 communicated directly to the person to be notified in a
192 comprehensible manner.

193 (8) An affidavit of the secretary, an assistant secretary,
194 the transfer agent, or other authorized agent of the corporation
195 that the notice has been given by a form of electronic



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196 transmission is, in the absence of fraud, prima facie evidence
197 of the facts stated in the notice.

198 (9)(7) If this act prescribes notice requirements for
199 particular circumstances, those requirements govern. If
200 articles of incorporation or bylaws prescribe notice
201 requirements not less stringent than the requirements of this
202 section or other provisions of this act, those requirements
203 govern.

204 Section 3. Section 617.1801, Florida Statutes, is created
205 to read:

206 617.1801 Domestication of foreign not-for-profit
207 corporations.--

208 (1) As used in this section, the term "not-for-profit
209 corporation" includes any not-for-profit incorporated
210 organization.

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

214 (a) A certificate of domestication which shall be executed
215 in accordance with subsection (7) and filed in accordance with
216 s. 617.01201; and

217 (b) Articles of incorporation which shall be executed and
218 filed in accordance with ss. 617.01201 and 617.0202.

219 (3) The certificate of domestication shall certify:

220 (a) The date on which and jurisdiction where the not-for-
221 profit corporation was first formed, incorporated, or otherwise
222 came into being;



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223 (b) The name of the not-for-profit corporation immediately
224 before the filing of the certificate of domestication;

225 (c) The name of the not-for-profit corporation as set
226 forth in its articles of incorporation, filed in accordance with
227 paragraph (2)(b); and

228 (d) The jurisdiction that constituted the seat, siege
229 social, or principal place of business or central administration
230 of the not-for-profit corporation, or any other equivalent
231 thereto under applicable law, immediately before the filing of
232 the certificate of domestication.

233 (4) Upon filing the certificate of domestication and
234 articles of incorporation with the Department of State, the not-
235 for-profit corporation shall be domesticated in this state, and
236 the not-for-profit corporation shall thereafter be subject to
237 this act, except that, notwithstanding the provisions of s.
238 617.0203, the existence of the not-for-profit corporation shall
239 be deemed to have commenced on the date the not-for-profit
240 corporation commenced its existence in the jurisdiction in which
241 the not-for-profit corporation was first formed, incorporated,
242 or otherwise came into being.

243 (5) The domestication of any not-for-profit corporation in
244 this state shall not be deemed to affect any obligations or
245 liabilities of the not-for-profit corporation incurred before
246 its domestication.

247 (6) The filing of a certificate of domestication shall not
248 affect the choice of law applicable to the not-for-profit
249 corporation, except that, from the date the certificate of
250 domestication is filed, the law of this state, including this



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251 act, shall apply to the not-for-profit corporation to the same
252 extent as if the not-for-profit corporation had been
253 incorporated as a not-for-profit corporation of this state on
254 that date.

255 (7) The certificate of domestication shall be signed by
256 any not-for-profit corporation officer, director, trustee,
257 manager, partner, or other person performing functions
258 equivalent to those of an officer or director, however named or
259 described, and who is authorized to sign the certificate of
260 domestication on behalf of the not-for-profit corporation.

261 Section 4. Section 702.09, Florida Statutes, is amended to
262 read:

263 702.09 Definitions.--For the purposes of ss. 702.07 and
264 702.08 the words "decree of foreclosure" shall include a
265 judgment or order rendered or passed in the foreclosure
266 proceedings in which the decree of foreclosure shall be
267 rescinded, vacated, and set aside; the word "mortgage" shall
268 mean any written instrument securing the payment of money or
269 advances and includes liens to secure payment of assessments
270 arising under chapters 718 and 719 and liens created pursuant to
271 the recorded covenants of a homeowners' association as defined
272 in s. 712.01; the word "debt" shall include promissory notes,
273 bonds, and all other written obligations given for the payment
274 of money; the words "foreclosure proceedings" shall embrace
275 every action in the circuit or county courts of this state
276 wherein it is sought to foreclose a mortgage and sell the
277 property covered by the same; and the word "property" shall mean
278 and include both real and personal property.



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279 Section 5. Subsections (11) and (12) of section 718.111,
280 Florida Statutes, are amended to read:

281 718.111 The association.--

282 (11) INSURANCE.--In order to protect the safety, health,
283 and welfare of the people of the state and to ensure consistency
284 in the provision of insurance coverage to condominiums and their
285 unit owners, paragraphs (b) and (c) are deemed to apply to every
286 condominium in the state, regardless of the date of its
287 declaration of condominium. It is the intent of the Legislature
288 to encourage lower or stable insurance premiums for associations
289 described in this section. Therefore, the Office of Insurance
290 Regulation of the Department of Financial Services shall prepare
291 a report for publication 18 months after the effective date of
292 this act evaluating premium increases or decreases for
293 associations, unit owner premium increases or decreases,
294 recommended changes to better define common areas, or any other
295 information the Office of Insurance Regulation deems
296 appropriate.

297 (a) A unit-owner controlled association shall use its best
298 efforts to obtain and maintain adequate insurance to protect the
299 association, the association property, the common elements, and
300 the condominium property required to be insured by the
301 association pursuant to paragraph (b). If the association is
302 developer controlled, the association shall exercise due
303 diligence to obtain and maintain such insurance. Failure to
304 obtain and maintain adequate insurance during any period of
305 developer control shall constitute a breach of fiduciary
306 responsibility by the developer-appointed members of the board



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307 of directors of the association, unless said members can show
308 that despite such failure, they have exercised due diligence.
309 The declaration of condominium as originally recorded or amended
310 pursuant to procedures provided therein may require that
311 condominium property consisting of freestanding buildings where
312 there is no more than one building in or on such unit need not
313 be insured by the association if the declaration requires the
314 unit owner to obtain adequate insurance for the condominium
315 property. An association may also obtain and maintain liability
316 insurance for directors and officers, insurance for the benefit
317 of association employees, and flood insurance for common
318 elements, association property, and units. Adequate insurance,
319 regardless of any requirement in the declaration of condominium
320 for coverage by the association for "full insurable value,"
321 "replacement cost," or the like, may include reasonable
322 deductibles as determined by the board. An association or group
323 of associations may self-insure against claims against the
324 association, the association property, and the condominium
325 property required to be insured by an association, upon
326 compliance with ss. 624.460-624.488. A copy of each policy of
327 insurance in effect shall be made available for inspection by
328 unit owners at reasonable times.

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

332 1. All portions of the condominium property located
333 outside the units;



334 2. The condominium property located inside the units as
 335 such property was initially installed or replacements thereof of
 336 like kind and quality and in accordance with the original plans
 337 and specifications or, if the original plans and specifications
 338 are not available, as they existed at the time the unit was
 339 initially conveyed; and

340 3. All portions of the condominium property for which the
 341 declaration of condominium requires coverage by the association.

342
 343 Anything to the contrary notwithstanding, the terms "condominium
 344 property," "building," "improvements," "insurable improvements,"
 345 "common elements," "association property," or any other term
 346 found in the declaration of condominium which defines the scope
 347 of property or casualty insurance that a condominium association
 348 must obtain shall exclude all floor, wall, and ceiling
 349 coverings, that the word "building" wherever used in the policy
 350 include, but not necessarily be limited to, fixtures,
 351 installations, or additions comprising that part of the building
 352 within the unfinished interior surfaces of the perimeter walls,
 353 floors, and ceilings of the individual units initially
 354 installed, or replacements thereof of like kind or quality, in
 355 accordance with the original plans and specifications, or as
 356 they existed at the time the unit was initially conveyed if the
 357 original plans and specifications are not available. However,
 358 unless prior to October 1, 1986, the association is required by
 359 the declaration to provide coverage therefor, the word
 360 "building" does not include unit floor coverings, wall
 361 coverings, or ceiling coverings, and, as to contracts entered



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362 ~~into after July 1, 1992, does not include the following~~
363 ~~equipment if it is located within a unit and the unit owner is~~
364 ~~required to repair or replace such equipment:~~ electrical
365 fixtures, appliances, air conditioner or heating equipment,
366 water heaters, water filters, ~~or~~ built-in cabinets and
367 countertops and window treatments, including curtains, drapes,
368 blinds, hardware, and similar window treatment components, or
369 replacements of any of the foregoing which are located within
370 the boundaries of a unit and serve only one unit and all air
371 conditioning compressors that service only an individual unit,
372 whether or not located within the unit boundaries. The foregoing
373 is intended to establish the property or casualty insuring
374 responsibilities of the association and those of the individual
375 unit owner and do not serve to broaden or extend the perils of
376 coverage afforded by any insurance contract provided to the
377 individual unit owner. Beginning January 1, 2004, the
378 association shall have the authority to amend the declaration of
379 condominium, without regard to any requirement for mortgagee
380 approval of amendments affecting insurance requirements, to
381 conform the declaration of condominium to the coverage
382 requirements of this section. ~~With respect to the coverage~~
383 ~~provided for by this paragraph, the unit owners shall be~~
384 ~~considered additional insureds under the policy.~~

385 (c) Every hazard insurance policy issued or renewed on or
386 after January 1, 2004, to an individual unit owner shall provide
387 that the coverage afforded by such policy is excess over the
388 amount recoverable under any other policy covering the same
389 property. Each insurance policy issued to an individual unit



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390 | owner providing such coverage shall be without rights of
391 | subrogation against the condominium association that operates
392 | the condominium in which such unit owner's unit is located. All
393 | real or personal property located within the boundaries of the
394 | unit owner's unit which is excluded from the coverage to be
395 | provided by the association as set forth in paragraph (b) shall
396 | be insured by the individual unit owner.

397 | (d) The association shall obtain and maintain adequate
398 | insurance or fidelity bonding of all persons who control or
399 | disburse funds of the association. The insurance policy or
400 | fidelity bond must cover the maximum funds that will be in the
401 | custody of the association or its management agent at any one
402 | time. As used in this paragraph, the term "persons who control
403 | or disburse funds of the association" includes, but is not
404 | limited to, those individuals authorized to sign checks and the
405 | president, secretary, and treasurer of the association. The
406 | association shall bear the cost of bonding.

407 | (12) OFFICIAL RECORDS.--

408 | (a) From the inception of the association, the association
409 | shall maintain each of the following items, when applicable,
410 | which shall constitute the official records of the association:

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

413 | 2. A photocopy of the recorded declaration of condominium
414 | of each condominium operated by the association and of each
415 | amendment to each declaration.

416 | 3. A photocopy of the recorded bylaws of the association
417 | and of each amendment to the bylaws.



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418 4. A certified copy of the articles of incorporation of
419 the association, or other documents creating the association,
420 and of each amendment thereto.

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

422 6. A book or books which contain the minutes of all
423 meetings of the association, of the board of directors, and of
424 unit owners, which minutes shall be retained for a period of not
425 less than 7 years.

426 7. A current roster of all unit owners and their postal
427 and electronic mailing addresses, unit identifications, voting
428 certifications, and, if known, telephone numbers. Upon the
429 request of the unit owner in writing, the electronic mail
430 address and the number designated by the unit owner for
431 receiving electronic transmission of notices shall not be
432 included in the official records of the association. However,
433 the association is not liable for an accidental or inadvertent
434 disclosure of the electronic mail address or the number for
435 receiving electronic transmission of notices unless such
436 disclosure is made in reckless disregard of the private nature
437 of the electronic mail address or the number.

438 8. All current insurance policies of the association and
439 condominiums operated by the association.

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

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



446 11. Accounting records for the association and separate
447 accounting records for each condominium which the association
448 operates. All accounting records shall be maintained for a
449 period of not less than 7 years. The accounting records shall
450 include, but are not limited to:

451 a. Accurate, itemized, and detailed records of all
452 receipts and expenditures.

453 b. A current account and a monthly, bimonthly, or
454 quarterly statement of the account for each unit designating the
455 name of the unit owner, the due date and amount of each
456 assessment, the amount paid upon the account, and the balance
457 due.

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

460 d. All contracts for work to be performed. Bids for work
461 to be performed shall also be considered official records and
462 shall be maintained for a period of 1 year.

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

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

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

471 15. All other records of the association not specifically
472 included in the foregoing which are related to the operation of
473 the association.



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474 (b) The official records of the association shall be
475 maintained within the state. The records of the association
476 shall be made available to a unit owner within 5 working days
477 after receipt of written request by the board or its designee.
478 This paragraph may be complied with by having a copy of the
479 official records of the association available for inspection or
480 copying on the condominium property or association property.

481 (c) The official records of the association are open to
482 inspection by any association member or the authorized
483 representative of such member at all reasonable times. The right
484 to inspect the records includes the right to make or obtain
485 copies, at the reasonable expense, if any, of the association
486 member. The association may adopt reasonable rules regarding the
487 frequency, time, location, notice, and manner of record
488 inspections and copying. The failure of an association to
489 provide the records within 10 working days after receipt of a
490 written request shall create a rebuttable presumption that the
491 association willfully failed to comply with this paragraph. A
492 unit owner who is denied access to official records is entitled
493 to the actual damages or minimum damages for the association's
494 willful failure to comply with this paragraph. The minimum
495 damages shall be \$50 per calendar day up to 10 days, the
496 calculation to begin on the 11th working day after receipt of
497 the written request. The failure to permit inspection of the
498 association records as provided herein entitles any person
499 prevailing in an enforcement action to recover reasonable
500 attorney's fees from the person in control of the records who,
501 directly or indirectly, knowingly denied access to the records



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502 for inspection. The association shall maintain an adequate
503 number of copies of the declaration, articles of incorporation,
504 bylaws, and rules, and all amendments to each of the foregoing,
505 as well as the question and answer sheet provided for in s.
506 718.504 and year-end financial information required in this
507 section on the condominium property to ensure their availability
508 to unit owners and prospective purchasers, and may charge its
509 actual costs for preparing and furnishing these documents to
510 those requesting the same. Notwithstanding the provisions of
511 this paragraph, the following records shall not be accessible to
512 unit owners:

513 1. Any record protected by the lawyer-client privilege as
514 described in s. 90.502; and any record protected by the work-
515 product privilege, including any record prepared by an
516 association attorney or prepared at the attorney's express
517 direction; which reflects a mental impression, conclusion,
518 litigation strategy, or legal theory of the attorney or the
519 association, and which was prepared exclusively for civil or
520 criminal litigation or for adversarial administrative
521 proceedings, or which was prepared in anticipation of imminent
522 civil or criminal litigation or imminent adversarial
523 administrative proceedings until the conclusion of the
524 litigation or adversarial administrative proceedings.

525 2. Information obtained by an association in connection
526 with the approval of the lease, sale, or other transfer of a
527 unit.

528 3. Medical records of unit owners.



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

531 (e) The association or its authorized agent shall not be
532 required to provide a prospective purchaser or lienholder with
533 information about the condominium or the association other than
534 information or documents required by this chapter to be made
535 available or disclosed.

536 (f) The association or its authorized agent shall be
537 entitled to charge a reasonable fee to the prospective
538 purchaser, lienholder, or the current unit owner for its time in
539 providing good faith responses to requests for information by or
540 on behalf of a prospective purchaser or lienholder, other than
541 that required by law, provided that such fee shall not exceed
542 \$150 plus the reasonable cost of photocopying and any attorney's
543 fees incurred by the association in connection with the
544 association's response.

545 Section 6. Paragraphs (b), (c), (d), (e), (j), and (l) of
546 subsection (2) and subsection (3) of section 718.112, Florida
547 Statutes, are amended to read:

548 718.112 Bylaws.--

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

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

553 1. Unless a lower number is provided in the bylaws, the
554 percentage of voting interests required to constitute a quorum
555 at a meeting of the members shall be a majority of the voting
556 interests. Unless otherwise provided in this chapter or in the



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557 | declaration, articles of incorporation, or bylaws, and except as
558 | provided in subparagraph (d)3., decisions shall be made by
559 | owners of a majority of the voting interests represented at a
560 | meeting at which a quorum is present.

561 | 2. Except as specifically otherwise provided herein, after
562 | January 1, 1992, unit owners may not vote by general proxy, but
563 | may vote by limited proxies substantially conforming to a
564 | limited proxy form adopted by the division. Limited proxies and
565 | general proxies may be used to establish a quorum. Limited
566 | proxies shall be used for votes taken to waive or reduce
567 | reserves in accordance with subparagraph (f)2.; for votes taken
568 | to waive the financial reporting requirements of s. 718.111(13);
569 | for votes taken to amend the declaration pursuant to s. 718.110;
570 | for votes taken to amend the articles of incorporation or bylaws
571 | pursuant to this section; and for any other matter for which
572 | this chapter requires or permits a vote of the unit owners.
573 | Except as provided in paragraph (d), after January 1, 1992, no
574 | proxy, limited or general, shall be used in the election of
575 | board members. General proxies may be used for other matters for
576 | which limited proxies are not required, and may also be used in
577 | voting for nonsubstantive changes to items for which a limited
578 | proxy is required and given. Notwithstanding the provisions of
579 | this subparagraph, unit owners may vote in person at unit owner
580 | meetings. Nothing contained herein shall limit the use of
581 | general proxies or require the use of limited proxies for any
582 | agenda item or election at any meeting of a timeshare
583 | condominium association.



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584 3. Any proxy given shall be effective only for the
585 specific meeting for which originally given and any lawfully
586 adjourned meetings thereof. In no event shall any proxy be
587 valid for a period longer than 90 days after the date of the
588 first meeting for which it was given. Every proxy is revocable
589 at any time at the pleasure of the unit owner executing it.

590 4. A member of the board of administration or a committee
591 may submit in writing his or her agreement or disagreement with
592 any action taken at a meeting that the member did not attend.
593 This agreement or disagreement may not be used as a vote for or
594 against the action taken and may not be used for the purposes of
595 creating a quorum.

596 5. When any of the board or committee members meet by
597 telephone conference, those board or committee members attending
598 by telephone conference may be counted toward obtaining a quorum
599 and may vote by telephone. A telephone speaker must be used so
600 that the conversation of those board or committee members
601 attending by telephone may be heard by the board or committee
602 members attending in person as well as by any unit owners
603 present at a meeting.

604 (c) Board of administration meetings.--Meetings of the
605 board of administration at which a quorum of the members is
606 present shall be open to all unit owners. Any unit owner may
607 tape record or videotape meetings of the board of
608 administration. The right to attend such meetings includes the
609 right to speak at such meetings with reference to all designated
610 agenda items. The division shall adopt reasonable rules
611 governing the tape recording and videotaping of the meeting.



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612 The association may adopt written reasonable rules governing the
613 frequency, duration, and manner of unit owner statements.
614 Adequate notice of all meetings, which notice shall specifically
615 incorporate an identification of agenda items, shall be posted
616 conspicuously on the condominium property at least 48 continuous
617 hours preceding the meeting except in an emergency. Any item
618 not included on the notice may be taken up on an emergency basis
619 by at least a majority plus one of the members of the board.
620 Such emergency action shall be noticed and ratified at the next
621 regular meeting of the board. However, written notice of any
622 meeting at which nonemergency special assessments, or at which
623 amendment to rules regarding unit use, will be considered shall
624 be mailed, ~~or delivered,~~ or electronically transmitted to the
625 unit owners and posted conspicuously on the condominium property
626 not less than 14 days prior to the meeting. Evidence of
627 compliance with this 14-day notice shall be made by an affidavit
628 executed by the person providing the notice and filed among the
629 official records of the association. Upon notice to the unit
630 owners, the board shall by duly adopted rule designate a
631 specific location on the condominium property or association
632 property upon which all notices of board meetings shall be
633 posted. If there is no condominium property or association
634 property upon which notices can be posted, notices of board
635 meetings shall be mailed, ~~or delivered,~~ or electronically
636 transmitted at least 14 days before the meeting to the owner of
637 each unit. In lieu of or in addition to the physical posting of
638 notice of any meeting of the board of administration on the
639 condominium property, the association may, by reasonable rule,



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640 adopt a procedure for conspicuously posting and repeatedly
641 broadcasting the notice and the agenda on a closed-circuit cable
642 television system serving the condominium association. However,
643 if broadcast notice is used in lieu of a notice posted
644 physically on the condominium property, the notice and agenda
645 must be broadcast at least four times every broadcast hour of
646 each day that a posted notice is otherwise required under this
647 section. When broadcast notice is provided, the notice and
648 agenda must be broadcast in a manner and for a sufficient
649 continuous length of time so as to allow an average reader to
650 observe the notice and read and comprehend the entire content of
651 the notice and the agenda. Notice of any meeting in which
652 regular assessments against unit owners are to be considered for
653 any reason shall specifically contain a statement that
654 assessments will be considered and the nature of any such
655 assessments. Meetings of a committee to take final action on
656 behalf of the board or make recommendations to the board
657 regarding the association budget are subject to the provisions
658 of this paragraph. Meetings of a committee that does not take
659 final action on behalf of the board or make recommendations to
660 the board regarding the association budget are subject to the
661 provisions of this section, unless those meetings are exempted
662 from this section by the bylaws of the association.
663 Notwithstanding any other law, the requirement that board
664 meetings and committee meetings be open to the unit owners is
665 inapplicable to meetings between the board or a committee and
666 the association's attorney, with respect to proposed or pending



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667 litigation, when the meeting is held for the purpose of seeking
668 or rendering legal advice.

669 (d) Unit owner meetings.--

670 1. There shall be an annual meeting of the unit owners.
671 Unless the bylaws provide otherwise, a vacancy on the board
672 caused by the expiration of a director's term shall be filled by
673 electing a new board member, and the election shall be by secret
674 ballot; however, if the number of vacancies equals or exceeds
675 the number of candidates, no election is required. If there is
676 no provision in the bylaws for terms of the members of the
677 board, the terms of all members of the board shall expire upon
678 the election of their successors at the annual meeting. Any unit
679 owner desiring to be a candidate for board membership shall
680 comply with subparagraph 3. A person who has been convicted of
681 any felony by any court of record in the United States and who
682 has not had his or her right to vote restored pursuant to law in
683 the jurisdiction of his or her residence is not eligible for
684 board membership. The validity of an action by the board is not
685 affected if it is later determined that a member of the board is
686 ineligible for board membership due to having been convicted of
687 a felony.

688 2. The bylaws shall provide the method of calling meetings
689 of unit owners, including annual meetings. Written notice, which
690 notice must include an agenda, shall be mailed, ~~or~~ hand
691 delivered, or electronically transmitted to each unit owner at
692 least 14 days prior to the annual meeting and shall be posted in
693 a conspicuous place on the condominium property at least 14
694 continuous days preceding the annual meeting. Upon notice to the



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695 unit owners, the board shall by duly adopted rule designate a
696 specific location on the condominium property or association
697 property upon which all notices of unit owner meetings shall be
698 posted; however, if there is no condominium property or
699 association property upon which notices can be posted, this
700 requirement does not apply. In lieu of or in addition to the
701 physical posting of notice of any meeting of the unit owners on
702 the condominium property, the association may, by reasonable
703 rule, adopt a procedure for conspicuously posting and repeatedly
704 broadcasting the notice and the agenda on a closed-circuit cable
705 television system serving the condominium association. However,
706 if broadcast notice is used in lieu of a notice posted
707 physically on the condominium property, the notice and agenda
708 must be broadcast at least four times every broadcast hour of
709 each day that a posted notice is otherwise required under this
710 section. When broadcast notice is provided, the notice and
711 agenda must be broadcast in a manner and for a sufficient
712 continuous length of time so as to allow an average reader to
713 observe the notice and read and comprehend the entire content of
714 the notice and the agenda. Unless a unit owner waives in writing
715 the right to receive notice of the annual meeting, such notice
716 shall be hand delivered, ~~or mailed,~~ or electronically
717 transmitted to each unit owner. Notice for meetings and notice
718 for all other purposes shall be mailed to each unit owner at the
719 address last furnished to the association by the unit owner, or
720 hand delivered to each unit owner. However, if a unit is owned
721 by more than one person, the association shall provide notice,
722 for meetings and all other purposes, to that one address which



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723 the developer initially identifies for that purpose and
724 thereafter as one or more of the owners of the unit shall so
725 advise the association in writing, or if no address is given or
726 the owners of the unit do not agree, to the address provided on
727 the deed of record. An officer of the association, or the
728 manager or other person providing notice of the association
729 meeting, shall provide an affidavit or United States Postal
730 Service certificate of mailing, to be included in the official
731 records of the association affirming that the notice was mailed
732 or hand delivered, in accordance with this provision.

733 3. The members of the board shall be elected by written
734 ballot or voting machine. Proxies shall in no event be used in
735 electing the board, either in general elections or elections to
736 fill vacancies caused by recall, resignation, or otherwise,
737 unless otherwise provided in this chapter. Not less than 60 days
738 before a scheduled election, the association shall mail, ~~or~~
739 deliver, or electronically transmit, whether by separate
740 association mailing or included in another association mailing,
741 ~~or delivery~~, or transmission, including regularly published
742 newsletters, to each unit owner entitled to a vote, a first
743 notice of the date of the election. Any unit owner or other
744 eligible person desiring to be a candidate for the board must
745 give written notice to the association not less than 40 days
746 before a scheduled election. Together with the written notice
747 and agenda as set forth in subparagraph 2., the association
748 shall mail, ~~or deliver~~, or electronically transmit a second
749 notice of the election to all unit owners entitled to vote
750 therein, together with a ballot which shall list all candidates.



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751 Upon request of a candidate, the association shall include an
752 information sheet, no larger than 8 1/2 inches by 11 inches,
753 which must be furnished by the candidate not less than 35 days
754 before the election, to be included with the mailing, delivery,
755 or transmission of the ballot, with the costs of mailing, ~~or~~
756 delivery, or electronic transmission and copying to be borne by
757 the association. The association is not liable for the contents
758 of the information sheets prepared by the candidates. In order
759 to reduce costs, the association may print or duplicate the
760 information sheets on both sides of the paper. The division
761 shall by rule establish voting procedures consistent with the
762 provisions contained herein, including rules providing for
763 giving notice to the members by electronic transmission in a
764 manner authorized by law and for the secrecy of ballots.
765 Elections shall be decided by a plurality of those ballots cast.
766 There shall be no quorum requirement; however, at least 20
767 percent of the eligible voters must cast a ballot in order to
768 have a valid election of members of the board. No unit owner
769 shall permit any other person to vote his or her ballot, and any
770 such ballots improperly cast shall be deemed invalid, provided
771 any unit owner who violates this provision may be fined by the
772 association in accordance with s. 718.303. A unit owner who
773 needs assistance in casting the ballot for the reasons stated in
774 s. 101.051 may obtain assistance in casting the ballot. The
775 regular election shall occur on the date of the annual meeting.
776 The provisions of this subparagraph shall not apply to timeshare
777 condominium associations. Notwithstanding the provisions of this
778 subparagraph, an election is not required unless more candidates



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779 file notices of intent to run or are nominated than board
780 vacancies exist.

781 4. Any approval by unit owners called for by this chapter
782 or the applicable declaration or bylaws, including, but not
783 limited to, the approval requirement in s. 718.111(8), shall be
784 made at a duly noticed meeting of unit owners and shall be
785 subject to all requirements of this chapter or the applicable
786 condominium documents relating to unit owner decisionmaking,
787 except that unit owners may take action by written agreement,
788 without meetings, on matters for which action by written
789 agreement without meetings is expressly allowed by the
790 applicable bylaws or declaration or any statute that provides
791 for such action.

792 5. Unit owners may waive notice of specific meetings if
793 allowed by the applicable bylaws or declaration or any statute.
794 Unit owners may consent to receiving notice of board, committee,
795 and membership meetings by electronic transmission if the bylaws
796 provide a method for giving notice by electronic transmission.

797 6. Unit owners shall have the right to participate in
798 meetings of unit owners with reference to all designated agenda
799 items. However, the association may adopt reasonable rules
800 governing the frequency, duration, and manner of unit owner
801 participation.

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

805 8. Unless otherwise provided in the bylaws, any vacancy
806 occurring on the board before the expiration of a term may be



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807 filled by the affirmative vote of the majority of the remaining
808 directors, even if the remaining directors constitute less than
809 a quorum, or by the sole remaining director. In the alternative,
810 a board may hold an election to fill the vacancy, in which case
811 the election procedures must conform to the requirements of
812 subparagraph 3. unless the association has opted out of the
813 statutory election process, in which case the bylaws of the
814 association control. Unless otherwise provided in the bylaws, a
815 board member appointed or elected under this section shall fill
816 the vacancy for the unexpired term of the seat being filled.
817 Filling vacancies created by recall is governed by paragraph(j)
818 and rules adopted by the division.

819
820 Notwithstanding subparagraphs (b)2. and (d)3., an association
821 may, by the affirmative vote of a majority of the total voting
822 interests, provide for different voting and election procedures
823 in its bylaws, which vote may be by a proxy specifically
824 delineating the different voting and election procedures. The
825 different voting and election procedures may provide for
826 elections to be conducted by limited or general proxy.

827 (e) Budget meeting.--

828 1. Any meeting at which a proposed annual budget of an
829 association will be considered by the board or unit owners shall
830 be open to all unit owners. At least 14 days prior to such a
831 meeting, the board shall hand deliver to each unit owner, ~~or~~
832 mail to each unit owner at the address last furnished to the
833 association by the unit owner, or electronically transmit to the
834 location furnished by the unit owner for that purpose a notice



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835 of such meeting and a copy of the proposed annual budget. An
836 officer or manager of the association, or other person providing
837 notice of such meeting, shall execute an affidavit evidencing
838 compliance with such notice requirement, and such affidavit
839 shall be filed among the official records of the association.

840 2.a. If a board adopts in any fiscal year an annual budget
841 which requires assessments against unit owners which exceed 115
842 percent of assessments for the preceding fiscal year, the board
843 shall conduct a special meeting of the unit owners to consider a
844 substitute budget if the board receives, within 21 days after
845 adoption of the annual budget, a written request for a special
846 meeting from at least 10 percent of all voting interests. The
847 special meeting shall be conducted within 60 days after adoption
848 of the annual budget. At least 14 days prior to such special
849 meeting, the board shall hand deliver to each unit owner, or
850 mail to each unit owner at the address last furnished to the
851 association, a notice of the meeting. An officer or manager of
852 the association, or other person providing notice of such
853 meeting shall execute an affidavit evidencing compliance with
854 this notice requirement, and such affidavit shall be filed among
855 the official records of the association. Unit owners may
856 consider and adopt a substitute budget at the special meeting. A
857 substitute budget is adopted if approved by a majority of all
858 voting interests unless the bylaws require adoption by a greater
859 percentage of voting interests. If there is not a quorum at the
860 special meeting or a substitute budget is not adopted, the
861 annual budget previously adopted by the board shall take effect
862 as scheduled.



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863 b. Any determination of whether assessments exceed 115
864 percent of assessments for the prior fiscal year shall exclude
865 any authorized provision for reasonable reserves for repair or
866 replacement of the condominium property, anticipated expenses of
867 the association which the board does not expect to be incurred
868 on a regular or annual basis, or assessments for betterments to
869 the condominium property.

870 c. If the developer controls the board, assessments shall
871 not exceed 115 percent of assessments for the prior fiscal year
872 unless approved by a majority of all voting interests.

873 (j) Recall of board members.--Subject to the provisions of
874 s. 718.301, any member of the board of administration may be
875 recalled and removed from office with or without cause by the
876 vote or agreement in writing by a majority of all the voting
877 interests. A special meeting of the unit owners to recall a
878 member or members of the board of administration may be called
879 by 10 percent of the voting interests giving notice of the
880 meeting as required for a meeting of unit owners, and the notice
881 shall state the purpose of the meeting. Electronic transmission
882 may not be used as a method of giving notice of a meeting called
883 in whole or in part for this purpose.

884 1. If the recall is approved by a majority of all voting
885 interests by a vote at a meeting, the recall will be effective
886 as provided herein. The board shall duly notice and hold a board
887 meeting within 5 full business days of the adjournment of the
888 unit owner meeting to recall one or more board members. At the
889 meeting, the board shall either certify the recall, in which
890 case such member or members shall be recalled effective



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891 immediately and shall turn over to the board within 5 full
892 business days any and all records and property of the
893 association in their possession, or shall proceed as set forth
894 in subparagraph 3.

895 2. If the proposed recall is by an agreement in writing by
896 a majority of all voting interests, the agreement in writing or
897 a copy thereof shall be served on the association by certified
898 mail or by personal service in the manner authorized by chapter
899 48 and the Florida Rules of Civil Procedure. The board of
900 administration shall duly notice and hold a meeting of the board
901 within 5 full business days after receipt of the agreement in
902 writing. At the meeting, the board shall either certify the
903 written agreement to recall a member or members of the board, in
904 which case such member or members shall be recalled effective
905 immediately and shall turn over to the board within 5 full
906 business days any and all records and property of the
907 association in their possession, or proceed as described in
908 subparagraph 3.

909 3. If the board determines not to certify the written
910 agreement to recall a member or members of the board, or does
911 not certify the recall by a vote at a meeting, the board shall,
912 within 5 full business days after the meeting, file with the
913 division a petition for arbitration pursuant to the procedures
914 in s. 718.1255. For the purposes of this section, the unit
915 owners who voted at the meeting or who executed the agreement in
916 writing shall constitute one party under the petition for
917 arbitration. If the arbitrator certifies the recall as to any
918 member or members of the board, the recall will be effective



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919 upon mailing of the final order of arbitration to the
920 association. If the association fails to comply with the order
921 of the arbitrator, the division may take action pursuant to s.
922 718.501. Any member or members so recalled shall deliver to the
923 board any and all records of the association in their possession
924 within 5 full business days of the effective date of the recall.

925 4. If the board fails to duly notice and hold a board
926 meeting within 5 full business days of service of an agreement
927 in writing or within 5 full business days of the adjournment of
928 the unit owner recall meeting, the recall shall be deemed
929 effective and the board members so recalled shall immediately
930 turn over to the board any and all records and property of the
931 association.

932 5. If a vacancy occurs on the board as a result of a
933 recall and less than a majority of the board members are
934 removed, the vacancy may be filled by the affirmative vote of a
935 majority of the remaining directors, notwithstanding any
936 provision to the contrary contained in this subsection. If
937 vacancies occur on the board as a result of a recall and a
938 majority or more of the board members are removed, the vacancies
939 shall be filled in accordance with procedural rules to be
940 adopted by the division, which rules need not be consistent with
941 this subsection. The rules must provide procedures governing the
942 conduct of the recall election as well as the operation of the
943 association during the period after a recall but prior to the
944 recall election.

945 (1) Certificate of compliance.--There shall be a provision
946 that a certificate of compliance from a licensed electrical



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947 contractor or electrician may be accepted by the association's
948 board as evidence of compliance of the condominium units with ~~to~~
949 the applicable fire and life safety code.

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

953 (a) A method of adopting and amending administrative rules
954 and regulations governing the details of the operation and use
955 of the common elements.

956 (b) Restrictions on and requirements for the use,
957 maintenance, and appearance of the units and the use of the
958 common elements.

959 (c) Provisions for giving notice by electronic
960 transmission in a manner authorized by law of meetings of the
961 board of directors and committees and of annual and special
962 meetings of the members.

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

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

967 718.116 Assessments; liability; lien and priority;
968 interest; collection.--

969 (8) Within 15 days after receiving a written request
970 therefor from a unit owner purchaser, or mortgagee, the
971 association shall provide a certificate signed by an officer or
972 agent of the association stating all assessments and other
973 moneys owed to the association by the unit owner with respect to
974 the condominium parcel. Any person other than the owner who



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975 relies upon such certificate shall be protected thereby. A
976 summary proceeding pursuant to s. 51.011 may be brought to
977 compel compliance with this subsection, and in any such action
978 the prevailing party is entitled to recover reasonable
979 attorney's fees. Notwithstanding any limitation on transfer fees
980 contained in s. 718.112(2)(i), the association or its authorized
981 agent may charge a reasonable fee for the preparation of the
982 certificate.

983 Section 8. Subsection (1) of section 718.303, Florida
984 Statutes, is amended to read:

985 718.303 Obligations of owners; waiver; levy of fine
986 against unit by association.--

987 (1) Each unit owner, each tenant and other invitee, and
988 each association shall be governed by, and shall comply with the
989 provisions of, this chapter, the declaration, the documents
990 creating the association, and the association bylaws and the
991 provisions thereof shall be deemed expressly incorporated into
992 any lease of a unit. Actions for damages or for injunctive
993 relief, or both, for failure to comply with these provisions may
994 be brought by the association or by a unit owner against:

995 (a) The association.

996 (b) A unit owner.

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

1000 (d) Any director who willfully and knowingly fails to
1001 comply with these provisions.



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1002 (e) Any tenant leasing a unit, and any other invitee
1003 occupying a unit.

1004
1005 The prevailing party in any such action or in any action in
1006 which the purchaser claims a right of voidability based upon
1007 contractual provisions as required in s. 718.503(1)(a) is
1008 entitled to recover reasonable attorney's fees. A unit owner
1009 prevailing in an action between the association and the unit
1010 owner under this section, in addition to recovering his or her
1011 reasonable attorney's fees, may recover additional amounts as
1012 determined by the court to be necessary to reimburse the unit
1013 owner for his or her share of assessments levied by the
1014 association to fund its expenses of the litigation. This relief
1015 does not exclude other remedies provided by law. Actions arising
1016 under this subsection shall not be deemed to be actions for
1017 specific performance.

1018 Section 9. Subsection (2) of section 719.104, Florida
1019 Statutes, is amended to read:

1020 719.104 Cooperatives; access to units; records; financial
1021 reports; assessments; purchase of leases.--

1022 (2) OFFICIAL RECORDS.--

1023 (a) From the inception of the association, the association
1024 shall maintain a copy of each of the following, where
1025 applicable, which shall constitute the official records of the
1026 association:

1027 1. The plans, permits, warranties, and other items
1028 provided by the developer pursuant to s. 719.301(4).

1029 2. A photocopy of the cooperative documents.



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- 1030 3. A copy of the current rules of the association.
- 1031 4. A book or books containing the minutes of all meetings
1032 of the association, of the board of directors, and of the unit
1033 owners, which minutes shall be retained for a period of not less
1034 than 7 years.
- 1035 5. A current roster of all unit owners and their postal
1036 and electronic mailing addresses, unit identifications, voting
1037 certifications, and, if known, telephone numbers. Upon the
1038 request of the unit owner in writing, the electronic mail
1039 address and the number designated by the unit owner for
1040 receiving electronic transmission of notices shall not be
1041 included in the official records of the association. However,
1042 the association is not liable for an accidental or inadvertent
1043 disclosure of the electronic mail address or the number for
1044 receiving electronic transmission of notices unless such
1045 disclosure is made in reckless disregard of the private nature
1046 of the electronic mail address or the number.
- 1047 6. All current insurance policies of the association.
- 1048 7. A current copy of any management agreement, lease, or
1049 other contract to which the association is a party or under
1050 which the association or the unit owners have an obligation or
1051 responsibility.
- 1052 8. Bills of sale or transfer for all property owned by the
1053 association.
- 1054 9. Accounting records for the association and separate
1055 accounting records for each unit it operates, according to good
1056 accounting practices. All accounting records shall be maintained



1057 for a period of not less than 7 years. The accounting records
1058 shall include, but not be limited to:

1059 a. Accurate, itemized, and detailed records of all
1060 receipts and expenditures.

1061 b. A current account and a monthly, bimonthly, or
1062 quarterly statement of the account for each unit designating the
1063 name of the unit owner, the due date and amount of each
1064 assessment, the amount paid upon the account, and the balance
1065 due.

1066 c. All audits, reviews, accounting statements, and
1067 financial reports of the association.

1068 d. All contracts for work to be performed. Bids for work
1069 to be performed shall also be considered official records and
1070 shall be maintained for a period of 1 year.

1071 10. Ballots, sign-in sheets, voting proxies, and all other
1072 papers relating to voting by unit owners, which shall be
1073 maintained for a period of 1 year after the date of the
1074 election, vote, or meeting to which the document relates.

1075 11. All rental records where the association is acting as
1076 agent for the rental of units.

1077 12. A copy of the current question and answer sheet as
1078 described in s. 719.504.

1079 13. All other records of the association not specifically
1080 included in the foregoing which are related to the operation of
1081 the association.

1082 (b) The official records of the association shall be
1083 maintained within the state. The records of the association
1084 shall be made available to a unit owner within 5 working days



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1085 after receipt of written request by the board or its designee.
1086 This paragraph may be complied with by having a copy of the
1087 official records available for inspection or copying on the
1088 cooperative property.

1089 (c) The official records of the association shall be open
1090 to inspection by any association member or the authorized
1091 representative of such member at all reasonable times. Failure
1092 to permit inspection of the association records as provided
1093 herein entitles any person prevailing in an enforcement action
1094 to recover reasonable attorney's fees from the person in control
1095 of the records who, directly or indirectly, knowingly denies
1096 access to the records for inspection. The right to inspect the
1097 records includes the right to make or obtain copies, at the
1098 reasonable expense, if any, of the association member. The
1099 association may adopt reasonable rules regarding the frequency,
1100 time, location, notice, and manner of record inspections and
1101 copying. The failure of an association to provide the records
1102 within 10 working days after receipt of a written request
1103 creates a rebuttable presumption that the association willfully
1104 failed to comply with this paragraph. A unit owner who is denied
1105 access to official records is entitled to the actual damages or
1106 minimum damages for the association's willful failure to comply
1107 with this paragraph. The minimum damages shall be \$50 per
1108 calendar day up to 10 days, the calculation to begin on the 11th
1109 day after receipt of the written request. The association shall
1110 maintain an adequate number of copies of the declaration,
1111 articles of incorporation, bylaws, and rules, and all amendments
1112 to each of the foregoing, as well as the question and answer



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1113 sheet provided for in s. 719.504, on the cooperative property to
1114 ensure their availability to unit owners and prospective
1115 purchasers, and may charge its actual costs for preparing and
1116 furnishing these documents to those requesting the same.

1117 Notwithstanding the provisions of this paragraph, the following
1118 records shall not be accessible to unit owners:

1119 1. A record that was prepared by an association attorney
1120 or prepared at the attorney's express direction; that reflects a
1121 mental impression, conclusion, litigation strategy, or legal
1122 theory of the attorney or the association; or that was prepared
1123 exclusively for civil or criminal litigation or for adversarial
1124 administrative proceedings or in anticipation of imminent civil
1125 or criminal litigation or imminent adversarial administrative
1126 proceedings, until the conclusion of the litigation or
1127 adversarial administrative proceedings.

1128 2. Information obtained by an association in connection
1129 with the approval of the lease, sale, or other transfer of a
1130 unit.

1131 3. Medical records of unit owners.

1132 (d) The association or its authorized agent shall not be
1133 required to provide a prospective purchaser or lienholder with
1134 information about the cooperative or association other than the
1135 information or documents required by this chapter to be made
1136 available or disclosed.

1137 (e) The association or its authorized agent shall be
1138 entitled to charge a reasonable fee to the prospective
1139 purchaser, lienholder, or the current unit owner for its time in
1140 providing good faith responses to requests for information by or



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1141 on behalf of a prospective purchaser or lienholder, other than
 1142 that required by law, provided that such fee shall not exceed
 1143 \$150 plus the reasonable cost of photocopying and any attorney's
 1144 fees incurred by the association in connection with the
 1145 association's response.

1146 Section 10. Paragraphs (b), (c), (d), (e), and (f) of
 1147 subsection (1) and subsection (2) of section 719.106, Florida
 1148 Statutes, are amended to read:

1149 719.106 Bylaws; cooperative ownership.--

1150 (1) MANDATORY PROVISIONS.--The bylaws or other cooperative
 1151 documents shall provide for the following, and if they do not,
 1152 they shall be deemed to include the following:

1153 (b) Quorum; voting requirements; proxies.--

1154 1. Unless otherwise provided in the bylaws, the percentage
 1155 of voting interests required to constitute a quorum at a meeting
 1156 of the members shall be a majority of voting interests, and
 1157 decisions shall be made by owners of a majority of the voting
 1158 interests. Unless otherwise provided in this chapter, or in the
 1159 articles of incorporation, bylaws, or other cooperative
 1160 documents, and except as provided in subparagraph (d)1.,
 1161 decisions shall be made by owners of a majority of the voting
 1162 interests represented at a meeting at which a quorum is present.

1163 2. Except as specifically otherwise provided herein, after
 1164 January 1, 1992, unit owners may not vote by general proxy, but
 1165 may vote by limited proxies substantially conforming to a
 1166 limited proxy form adopted by the division. Limited proxies and
 1167 general proxies may be used to establish a quorum. Limited
 1168 proxies shall be used for votes taken to waive or reduce



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1169 reserves in accordance with subparagraph (j)2., for votes taken
 1170 to waive the financial reporting requirements of s. 719.104(4),
 1171 for votes taken to amend the articles of incorporation or bylaws
 1172 pursuant to this section, and for any other matter for which
 1173 this chapter requires or permits a vote of the unit owners.
 1174 Except as provided in paragraph (d), after January 1, 1992, no
 1175 proxy, limited or general, shall be used in the election of
 1176 board members. General proxies may be used for other matters for
 1177 which limited proxies are not required, and may also be used in
 1178 voting for nonsubstantive changes to items for which a limited
 1179 proxy is required and given. Notwithstanding the provisions of
 1180 this section, unit owners may vote in person at unit owner
 1181 meetings. Nothing contained herein shall limit the use of
 1182 general proxies or require the use of limited proxies or require
 1183 the use of limited proxies for any agenda item or election at
 1184 any meeting of a timeshare cooperative.

1185 3. Any proxy given shall be effective only for the
 1186 specific meeting for which originally given and any lawfully
 1187 adjourned meetings thereof. In no event shall any proxy be
 1188 valid for a period longer than 90 days after the date of the
 1189 first meeting for which it was given. Every proxy shall be
 1190 revocable at any time at the pleasure of the unit owner
 1191 executing it.

1192 4. A member of the board of administration or a committee
 1193 may submit in writing his or her agreement or disagreement with
 1194 any action taken at a meeting that the member did not attend.
 1195 This agreement or disagreement may not be used as a vote for or



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1196 against the action taken and may not be used for the purposes of
1197 creating a quorum.

1198 5. When some or all of the board or committee members meet
1199 by telephone conference, those board or committee members
1200 attending by telephone conference may be counted toward
1201 obtaining a quorum and may vote by telephone. A telephone
1202 speaker shall be utilized so that the conversation of those
1203 board or committee members attending by telephone may be heard
1204 by the board or committee members attending in person, as well
1205 as by unit owners present at a meeting.

1206 (c) Board of administration meetings.--Meetings of the
1207 board of administration at which a quorum of the members is
1208 present shall be open to all unit owners. Any unit owner may
1209 tape record or videotape meetings of the board of
1210 administration. The right to attend such meetings includes the
1211 right to speak at such meetings with reference to all designated
1212 agenda items. The division shall adopt reasonable rules
1213 governing the tape recording and videotaping of the meeting.
1214 The association may adopt reasonable written rules governing the
1215 frequency, duration, and manner of unit owner statements.
1216 Adequate notice of all meetings shall be posted in a conspicuous
1217 place upon the cooperative property at least 48 continuous hours
1218 preceding the meeting, except in an emergency. Any item not
1219 included on the notice may be taken up on an emergency basis by
1220 at least a majority plus one of the members of the board. Such
1221 emergency action shall be noticed and ratified at the next
1222 regular meeting of the board. However, written notice of any
1223 meeting at which nonemergency special assessments, or at which



1224 amendment to rules regarding unit use, will be considered shall
 1225 be mailed, ~~or delivered,~~ or electronically transmitted to the
 1226 unit owners and posted conspicuously on the cooperative property
 1227 not less than 14 days prior to the meeting. Evidence of
 1228 compliance with this 14-day notice shall be made by an affidavit
 1229 executed by the person providing the notice and filed among the
 1230 official records of the association. Upon notice to the unit
 1231 owners, the board shall by duly adopted rule designate a
 1232 specific location on the cooperative property upon which all
 1233 notices of board meetings shall be posted. In lieu of or in
 1234 addition to the physical posting of notice of any meeting of the
 1235 board of administration on the cooperative property, the
 1236 association may, by reasonable rule, adopt a procedure for
 1237 conspicuously posting and repeatedly broadcasting the notice and
 1238 the agenda on a closed-circuit cable television system serving
 1239 the cooperative association. However, if broadcast notice is
 1240 used in lieu of a notice posted physically on the cooperative
 1241 property, the notice and agenda must be broadcast at least four
 1242 times every broadcast hour of each day that a posted notice is
 1243 otherwise required under this section. When broadcast notice is
 1244 provided, the notice and agenda must be broadcast in a manner
 1245 and for a sufficient continuous length of time so as to allow an
 1246 average reader to observe the notice and read and comprehend the
 1247 entire content of the notice and the agenda. Notice of any
 1248 meeting in which regular assessments against unit owners are to
 1249 be considered for any reason shall specifically contain a
 1250 statement that assessments will be considered and the nature of
 1251 any such assessments. Meetings of a committee to take final



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1252 action on behalf of the board or to make recommendations to the
 1253 board regarding the association budget are subject to the
 1254 provisions of this paragraph. Meetings of a committee that does
 1255 not take final action on behalf of the board or make
 1256 recommendations to the board regarding the association budget
 1257 are subject to the provisions of this section, unless those
 1258 meetings are exempted from this section by the bylaws of the
 1259 association. Notwithstanding any other law to the contrary, the
 1260 requirement that board meetings and committee meetings be open
 1261 to the unit owners is inapplicable to meetings between the board
 1262 or a committee and the association's attorney, with respect to
 1263 proposed or pending litigation, when the meeting is held for the
 1264 purpose of seeking or rendering legal advice.

1265 (d) Shareholder meetings.--There shall be an annual
 1266 meeting of the shareholders. All members of the board of
 1267 administration shall be elected at the annual meeting unless the
 1268 bylaws provide for staggered election terms or for their
 1269 election at another meeting. Any unit owner desiring to be a
 1270 candidate for board membership shall comply with subparagraph 1.
 1271 The bylaws shall provide the method for calling meetings,
 1272 including annual meetings. Written notice, which notice shall
 1273 incorporate an identification of agenda items, shall be given to
 1274 each unit owner at least 14 days prior to the annual meeting and
 1275 shall be posted in a conspicuous place on the cooperative
 1276 property at least 14 continuous days preceding the annual
 1277 meeting. Upon notice to the unit owners, the board shall by
 1278 duly adopted rule designate a specific location on the
 1279 cooperative property upon which all notice of unit owner



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1280 meetings shall be posted. In lieu of or in addition to the
1281 physical posting of notice of any meeting of the shareholders on
1282 the cooperative property, the association may, by reasonable
1283 rule, adopt a procedure for conspicuously posting and repeatedly
1284 broadcasting the notice and the agenda on a closed-circuit cable
1285 television system serving the cooperative association. However,
1286 if broadcast notice is used in lieu of a notice posted
1287 physically on the cooperative property, the notice and agenda
1288 must be broadcast at least four times every broadcast hour of
1289 each day that a posted notice is otherwise required under this
1290 section. When broadcast notice is provided, the notice and
1291 agenda must be broadcast in a manner and for a sufficient
1292 continuous length of time so as to allow an average reader to
1293 observe the notice and read and comprehend the entire content of
1294 the notice and the agenda. Unless a unit owner waives in writing
1295 the right to receive notice of the annual meeting, the notice of
1296 the annual meeting shall be sent by mail, hand delivered, or
1297 electronically transmitted to each unit owner. An officer of
1298 the association shall provide an affidavit or United States
1299 Postal Service certificate of mailing, to be included in the
1300 official records of the association, affirming that notices of
1301 the association meeting were mailed, ~~or~~ hand delivered, or
1302 electronically transmitted, in accordance with this provision,
1303 to each unit owner at the address last furnished to the
1304 association.

1305 1. After January 1, 1992, the board of administration
1306 shall be elected by written ballot or voting machine. Proxies
1307 shall in no event be used in electing the board of



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1308 administration, either in general elections or elections to fill
 1309 vacancies caused by recall, resignation, or otherwise unless
 1310 otherwise provided in this chapter. Not less than 60 days
 1311 before a scheduled election, the association shall mail, ~~or~~
 1312 deliver, or transmit, whether by separate association mailing,
 1313 delivery, or electronic transmission or included in another
 1314 association mailing, ~~or delivery, or electronic transmission~~,
 1315 including regularly published newsletters, to each unit owner
 1316 entitled to vote, a first notice of the date of the election.
 1317 Any unit owner or other eligible person desiring to be a
 1318 candidate for the board of administration shall give written
 1319 notice to the association not less than 40 days before a
 1320 scheduled election. Together with the written notice and agenda
 1321 as set forth in this section, the association shall mail,
 1322 deliver, or electronically transmit a second notice of election
 1323 to all unit owners entitled to vote therein, together with a
 1324 ballot which shall list all candidates. Upon request of a
 1325 candidate, the association shall include an information sheet,
 1326 no larger than 8 1/2 inches by 11 inches, which must be
 1327 furnished by the candidate not less than 35 days prior to the
 1328 election, to be included with the mailing, delivery, or
 1329 electronic transmission of the ballot, with the costs of
 1330 mailing, ~~or delivery, or transmission~~ and copying to be borne by
 1331 the association. The association has no liability for the
 1332 contents of the information sheets provided by the candidates.
 1333 In order to reduce costs, the association may print or duplicate
 1334 the information sheets on both sides of the paper. The division
 1335 shall by rule establish voting procedures consistent with the



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1336 provisions contained herein, including rules providing for
1337 giving notice by electronic transmission in a manner authorized
1338 by law of meetings of the board of directors and committees and
1339 of annual and special meetings of the members and for the
1340 secrecy of ballots. Elections shall be decided by a plurality
1341 of those ballots cast. There shall be no quorum requirement.
1342 However, at least 20 percent of the eligible voters must cast a
1343 ballot in order to have a valid election of members of the board
1344 of administration. No unit owner shall permit any other person
1345 to vote his or her ballot, and any such ballots improperly cast
1346 shall be deemed invalid. A unit owner who needs assistance in
1347 casting the ballot for the reasons stated in s. 101.051 may
1348 obtain assistance in casting the ballot. Any unit owner
1349 violating this provision may be fined by the association in
1350 accordance with s. 719.303. The regular election shall occur on
1351 the date of the annual meeting. The provisions of this
1352 subparagraph shall not apply to timeshare cooperatives.
1353 Notwithstanding the provisions of this subparagraph, an election
1354 and balloting are not required unless more candidates file a
1355 notice of intent to run or are nominated than vacancies exist on
1356 the board.

1357 2. Any approval by unit owners called for by this chapter,
1358 or the applicable cooperative documents, shall be made at a duly
1359 noticed meeting of unit owners and shall be subject to all
1360 requirements of this chapter or the applicable cooperative
1361 documents relating to unit owner decisionmaking, except that
1362 unit owners may take action by written agreement, without
1363 meetings, on matters for which action by written agreement



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1364 without meetings is expressly allowed by the applicable
1365 cooperative documents or any Florida statute which provides for
1366 the unit owner action.

1367 3. Unit owners may waive notice of specific meetings if
1368 allowed by the applicable cooperative documents or any Florida
1369 statute. Unit owners may consent to receiving notice of board,
1370 committee, and membership meetings by electronic transmission if
1371 the bylaws provide a method for giving notice by electronic
1372 transmission.

1373 4. Unit owners shall have the right to participate in
1374 meetings of unit owners with reference to all designated agenda
1375 items. However, the association may adopt reasonable rules
1376 governing the frequency, duration, and manner of unit owner
1377 participation.

1378 5. Any unit owner may tape record or videotape meetings of
1379 the unit owners subject to reasonable rules adopted by the
1380 division.

1381
1382 Notwithstanding subparagraphs (b)2. and (d)1., an association
1383 may, by the affirmative vote of a majority of the total voting
1384 interests, provide for a different voting and election procedure
1385 in its bylaws, which vote may be by a proxy specifically
1386 delineating the different voting and election procedures. The
1387 different voting and election procedures may provide for
1388 elections to be conducted by limited or general proxy.

1389 (e) Budget procedures.--

1390 1. The board of administration shall mail, ~~or~~ hand
1391 deliver, or electronically transmit to each unit owner at the



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1392 address last furnished to the association, a meeting notice and
1393 copies of the proposed annual budget of common expenses to the
1394 unit owners not less than 14 days prior to the meeting at which
1395 the budget will be considered. Evidence of compliance with this
1396 14-day notice must be made by an affidavit executed by an
1397 officer of the association or the manager or other person
1398 providing notice of the meeting and filed among the official
1399 records of the association. The meeting must be open to the unit
1400 owners.

1401 2. If an adopted budget requires assessment against the
1402 unit owners in any fiscal or calendar year which exceeds 115
1403 percent of the assessments for the preceding year, the board
1404 upon written application of 10 percent of the voting interests
1405 to the board, shall call a special meeting of the unit owners
1406 within 30 days, upon not less than 10 days' written notice to
1407 each unit owner. At the special meeting, unit owners shall
1408 consider and enact a budget. Unless the bylaws require a larger
1409 vote, the adoption of the budget requires a vote of not less
1410 than a majority of all the voting interests.

1411 3. The board of administration may, in any event, propose
1412 a budget to the unit owners at a meeting of members or by
1413 writing, and if the budget or proposed budget is approved by the
1414 unit owners at the meeting or by a majority of all voting
1415 interests in writing, the budget is adopted. If a meeting of
1416 the unit owners has been called and a quorum is not attained or
1417 a substitute budget is not adopted by the unit owners, the
1418 budget adopted by the board of directors goes into effect as
1419 scheduled.



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1420 4. In determining whether assessments exceed 115 percent
1421 of similar assessments for prior years, any authorized
1422 provisions for reasonable reserves for repair or replacement of
1423 cooperative property, anticipated expenses by the association
1424 which are not anticipated to be incurred on a regular or annual
1425 basis, or assessments for betterments to the cooperative
1426 property must be excluded from computation. However, as long as
1427 the developer is in control of the board of administration, the
1428 board may not impose an assessment for any year greater than 115
1429 percent of the prior fiscal or calendar year's assessment
1430 without approval of a majority of all voting interests.

1431 (f) Recall of board members.--Subject to the provisions of
1432 s. 719.301, any member of the board of administration may be
1433 recalled and removed from office with or without cause by the
1434 vote or agreement in writing by a majority of all the voting
1435 interests. A special meeting of the voting interests to recall
1436 any member of the board of administration may be called by 10
1437 percent of the unit owners giving notice of the meeting as
1438 required for a meeting of unit owners, and the notice shall
1439 state the purpose of the meeting. Electronic transmission may
1440 not be used as a method of giving notice of a meeting called in
1441 whole or in part for this purpose.

1442 1. If the recall is approved by a majority of all voting
1443 interests by a vote at a meeting, the recall shall be effective
1444 as provided herein. The board shall duly notice and hold a board
1445 meeting within 5 full business days of the adjournment of the
1446 unit owner meeting to recall one or more board members. At the
1447 meeting, the board shall either certify the recall, in which



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1448 case such member or members shall be recalled effective
1449 immediately and shall turn over to the board within 5 full
1450 business days any and all records and property of the
1451 association in their possession, or shall proceed as set forth
1452 in subparagraph 3.

1453 2. If the proposed recall is by an agreement in writing by
1454 a majority of all voting interests, the agreement in writing or
1455 a copy thereof shall be served on the association by certified
1456 mail or by personal service in the manner authorized by chapter
1457 48 and the Florida Rules of Civil Procedure. The board of
1458 administration shall duly notice and hold a meeting of the board
1459 within 5 full business days after receipt of the agreement in
1460 writing. At the meeting, the board shall either certify the
1461 written agreement to recall members of the board, in which case
1462 such members shall be recalled effective immediately and shall
1463 turn over to the board, within 5 full business days, any and all
1464 records and property of the association in their possession, or
1465 proceed as described in subparagraph 3.

1466 3. If the board determines not to certify the written
1467 agreement to recall members of the board, or does not certify
1468 the recall by a vote at a meeting, the board shall, within 5
1469 full business days after the board meeting, file with the
1470 division a petition for binding arbitration pursuant to the
1471 procedures of s. 719.1255. For purposes of this paragraph, the
1472 unit owners who voted at the meeting or who executed the
1473 agreement in writing shall constitute one party under the
1474 petition for arbitration. If the arbitrator certifies the recall
1475 as to any member of the board, the recall shall be effective



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1476 upon mailing of the final order of arbitration to the
1477 association. If the association fails to comply with the order
1478 of the arbitrator, the division may take action pursuant to s.
1479 719.501. Any member so recalled shall deliver to the board any
1480 and all records and property of the association in the member's
1481 possession within 5 full business days of the effective date of
1482 the recall.

1483 4. If the board fails to duly notice and hold a board
1484 meeting within 5 full business days of service of an agreement
1485 in writing or within 5 full business days of the adjournment of
1486 the unit owner recall meeting, the recall shall be deemed
1487 effective and the board members so recalled shall immediately
1488 turn over to the board any and all records and property of the
1489 association.

1490 5. If a vacancy occurs on the board as a result of a
1491 recall and less than a majority of the board members are
1492 removed, the vacancy may be filled by the affirmative vote of a
1493 majority of the remaining directors, notwithstanding any
1494 provision to the contrary contained in this chapter. If
1495 vacancies occur on the board as a result of a recall and a
1496 majority or more of the board members are removed, the vacancies
1497 shall be filled in accordance with procedural rules to be
1498 adopted by the division, which rules need not be consistent with
1499 this chapter. The rules must provide procedures governing the
1500 conduct of the recall election as well as the operation of the
1501 association during the period after a recall but prior to the
1502 recall election.



1503 (2) OPTIONAL PROVISIONS.--The bylaws may provide for the
1504 following:

1505 (a) Administrative rules.--A method of adopting and of
1506 amending administrative rules and regulations governing the
1507 details of the operation and use of the common areas.

1508 (b) Use and maintenance restrictions.--Restrictions on,
1509 and requirements for, the use, maintenance, and appearance of
1510 the units and the use of the common areas, not inconsistent with
1511 the cooperative documents, designed to prevent unreasonable
1512 interference with the use of the units and common areas.

1513 (c) Notice of meetings.--Provisions for giving notice by
1514 electronic transmissions in a manner authorized by law of
1515 meetings of the board of directors and committees and of annual
1516 and special meetings of the members.

1517 ~~(d)~~(e) Other matters.--Other provisions not inconsistent
1518 with this chapter or with the cooperative documents as may be
1519 desired.

1520 Section 11. Subsection (6) of section 719.108, Florida
1521 Statutes, is amended to read:

1522 719.108 Rents and assessments; liability; lien and
1523 priority; interest; collection; cooperative ownership.--

1524 (6) Within 15 days after request by a unit owner or
1525 mortgagee, the association shall provide a certificate stating
1526 all assessments and other moneys owed to the association by the
1527 unit owner with respect to the cooperative parcel. Any person
1528 other than the unit owner who relies upon such certificate shall
1529 be protected thereby. Notwithstanding any limitation on transfer
1530 fees contained in s. 719.106(1)(i), the association or its



1531 authorized agent may charge a reasonable fee for the preparation
 1532 of the certificate.

1533 Section 12. Subsection (1) of section 719.303, Florida
 1534 Statutes, is amended to read:

1535 719.303 Obligations of owners.--

1536 (1) Each unit owner, each tenant and other invitee, and
 1537 each association shall be governed by, and shall comply with the
 1538 provisions of, this chapter, the cooperative documents, the
 1539 documents creating the association, and the association bylaws,
 1540 and the provisions thereof shall be deemed expressly
 1541 incorporated into any lease of a unit. Actions for damages or
 1542 for injunctive relief, or both, for failure to comply with these
 1543 provisions may be brought by the association or by a unit owner
 1544 against:

1545 (a) The association.

1546 (b) A unit owner.

1547 (c) Directors designated by the developer, for actions
 1548 taken by them prior to the time control of the association is
 1549 assumed by unit owners other than the developer.

1550 (d) Any director who willfully and knowingly fails to
 1551 comply with these provisions.

1552 (e) Any tenant leasing a unit, and any other invitee
 1553 occupying a unit.

1554

1555 The prevailing party in any such action or in any action in
 1556 which the purchaser claims a right of voidability based upon
 1557 contractual provisions as required in s. 719.503(1)(a) is
 1558 entitled to recover reasonable attorney's fees. A unit owner



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1559 prevailing in an action between the association and the unit
1560 owner under this section, in addition to recovering his or her
1561 reasonable attorney's fees, may recover additional amounts as
1562 determined by the court to be necessary to reimburse the unit
1563 owner for his or her share of assessments levied by the
1564 association to fund its expenses of the litigation. This relief
1565 does not exclude other remedies provided by law. Actions arising
1566 under this subsection shall not be deemed to be actions for
1567 specific performance.

1568 Section 13. Subsection (1) of section 720.302, Florida
1569 Statutes, is amended, and subsection (5) is added to said
1570 section, to read:

1571 720.302 Purposes, scope, and application.--

1572 (1) The purposes of ss. 720.301-720.312 are to give
1573 statutory recognition to corporations not for profit that
1574 operate residential communities in this state, to provide
1575 procedures for operating homeowners' associations, and to
1576 protect the rights of association members without unduly
1577 impairing the ability of such associations to perform their
1578 functions.

1579 (5) Unless expressly stated to the contrary, corporations
1580 not for profit that operate residential homeowners' associations
1581 in this state shall be governed by and subject to the provisions
1582 of chapter 617. This subsection is intended to clarify existing
1583 law.

1584 Section 14. Subsection (2) and paragraph (g) of subsection
1585 (4) of section 720.303, Florida Statutes, are amended to read:



1586 720.303 Association powers and duties; meetings of board;
 1587 official records; budgets; financial reporting.--
 1588 (2) BOARD MEETINGS.--A meeting of the board of directors
 1589 of an association occurs whenever a quorum of the board gathers
 1590 to conduct association business. All meetings of the board must
 1591 be open to all members except for meetings between the board and
 1592 its attorney with respect to proposed or pending litigation
 1593 where the contents of the discussion would otherwise be governed
 1594 by the attorney-client privilege. Notices of all board meetings
 1595 must be posted in a conspicuous place in the community at least
 1596 48 hours in advance of a meeting, except in an emergency. In
 1597 the alternative, if notice is not posted in a conspicuous place
 1598 in the community, notice of each board meeting must be mailed or
 1599 delivered to each member at least 7 days before the meeting,
 1600 except in an emergency. Notwithstanding this general notice
 1601 requirement, for communities with more than 100 members, the
 1602 bylaws may provide for a reasonable alternative to posting or
 1603 mailing of notice for each board meeting, including publication
 1604 of notice, ~~or~~ provision of a schedule of board meetings, or the
 1605 conspicuous posting and repeated broadcasting of the notice on a
 1606 closed-circuit cable television system serving the homeowners'
 1607 association. However, if broadcast notice is used in lieu of a
 1608 notice posted physically in the community, the notice must be
 1609 broadcast at least four times every broadcast hour of each day
 1610 that a posted notice is otherwise required. When broadcast
 1611 notice is provided, the notice and agenda must be broadcast in a
 1612 manner and for a sufficient continuous length of time so as to
 1613 allow an average reader to observe the notice and read and



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1614 comprehend the entire content of the notice and the agenda. The
1615 bylaws or amended bylaws may provide for giving notice by
1616 electronic transmission in a manner authorized by law for
1617 meetings of the board of directors, committee meetings requiring
1618 notice under this section, and annual and special meetings of
1619 the members; however, a member must consent in writing to
1620 receiving notice by electronic transmission. An assessment may
1621 not be levied at a board meeting unless the notice of the
1622 meeting includes a statement that assessments will be considered
1623 and the nature of the assessments. Directors may not vote by
1624 proxy or by secret ballot at board meetings, except that secret
1625 ballots may be used in the election of officers. This
1626 subsection also applies to the meetings of any committee or
1627 other similar body, when a final decision will be made regarding
1628 the expenditure of association funds, and to any body vested
1629 with the power to approve or disapprove architectural decisions
1630 with respect to a specific parcel of residential property owned
1631 by a member of the community.

1632 (4) OFFICIAL RECORDS.--The association shall maintain each
1633 of the following items, when applicable, which constitute the
1634 official records of the association:

1635 (g) A current roster of all members and their postal and
1636 electronic mailing addresses and parcel identifications. Upon
1637 the request of a member in writing, the electronic mail address
1638 and the number designated by the member for receiving electronic
1639 transmission of notices shall not be included in the official
1640 records of the association. However, the association is not
1641 liable for an accidental or inadvertent disclosure of the



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1642 electronic mail address or the number for receiving electronic
1643 transmission of notices unless such disclosure is made in
1644 reckless disregard of the private nature of the electronic mail
1645 address or the number.

1646 Section 15. This act shall take effect upon becoming a
1647 law.