

1 A bill to be entitled

2 An act relating to community associations; amending s.  
3 718.1124, F.S., and creating ss. 719.1124 and 720.3053,  
4 F.S.; providing for notification of a unit owner's or  
5 member's intent to petition for the appointment of a  
6 receiver if an association's governing board fails to fill  
7 vacancies sufficient to constitute a quorum; providing for  
8 written notice to unit owners or members of any such  
9 appointment; requiring the salary of the receiver and  
10 certain costs and fees to be paid by the association;  
11 providing powers, duties, and term of service of the  
12 receiver; amending s. 718.117, F.S., and creating ss.  
13 718.127, 719.127, and 720.313, F.S.; specifying  
14 receivership notification requirements with respect to  
15 condominium associations, cooperative associations, and  
16 homeowners' associations; amending ss. 718.121 and  
17 719.108, F.S.; prohibiting a lien from being filed against  
18 a condominium unit or cooperative parcel until 30 days  
19 after service of a notice of intent to file the lien;  
20 amending s. 720.305, F.S.; deleting notification  
21 requirements for the appointment of a receiver under  
22 specified circumstances for matters relating to  
23 homeowners' associations; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 718.1124, Florida Statutes, is amended  
28 to read:

29 718.1124 Failure to fill vacancies on board of  
 30 administration sufficient to constitute a quorum; appointment of  
 31 receiver upon petition of unit owner.--

32 (1) If an association fails to fill vacancies on the board  
 33 of administration sufficient to constitute a quorum in  
 34 accordance with the bylaws, any unit owner may give notice of  
 35 his or her intent to apply to the circuit court within whose  
 36 jurisdiction the condominium lies for the appointment of a  
 37 receiver to manage the affairs of the association. The form of  
 38 the notice shall be as follows:

39  
 40 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

41  
 42 YOU ARE HEREBY NOTIFIED that the undersigned owner of  
 43 a condominium unit in (name of condominium) intends  
 44 to file a petition in the circuit court for  
 45 appointment of a receiver to manage the affairs of the  
 46 association on the grounds that the association has  
 47 failed to fill vacancies on the board of  
 48 administration sufficient to constitute a quorum. This  
 49 petition will not be filed if the vacancies are filled  
 50 within 30 days after the date on which this notice was  
 51 sent or posted, whichever is later. If a receiver is  
 52 appointed, the receiver shall have all of the powers  
 53 of the board and shall be entitled to receive a salary  
 54 and reimbursement of all costs and attorney's fees  
 55 payable from association funds.  
 56

57 (name and address of petitioning unit owner)

58  
 59 (2) The notice required by subsection (1) must be provided  
 60 by ~~At least 30 days prior to applying to the circuit court,~~ the  
 61 unit owner ~~shall mail~~ to the association by certified mail or  
 62 personal delivery, must be posted ~~and post~~ in a conspicuous  
 63 place on the condominium property, and must be provided to every  
 64 unit owner of the association by certified mail or personal  
 65 delivery. ~~The a notice~~ must be posted and mailed or delivered at  
 66 least 30 days prior to the filing of a petition seeking  
 67 receivership. Notice by mail to a unit owner shall be sent to  
 68 the address used by the county property appraiser for notice to  
 69 the unit owner ~~describing the intended action, giving the~~  
 70 association ~~the opportunity to fill the vacancies.~~

71 (3) If ~~during such time~~ the association fails to fill the  
 72 vacancies within 30 days after the notice required by subsection  
 73 (1) is posted and mailed or delivered, the unit owner may  
 74 proceed with the petition.

75 (4) If a receiver is appointed, all unit owners shall be  
 76 given written notice of such appointment as provided in s.  
 77 718.127.

78 (5) The association shall be responsible for the salary of  
 79 the receiver, court costs, and attorney's fees. The receiver  
 80 shall have all powers and duties of a duly constituted board of  
 81 administration and shall serve until the association fills  
 82 vacancies on the board sufficient to constitute a quorum and the  
 83 court relieves the receiver of the appointment.

84 Section 2. Paragraph (a) of subsection (7) of section  
 85 718.117, Florida Statutes, is amended to read:

86 718.117 Termination of condominium.--

87 (7) NATURAL DISASTERS.--

88 (a) If, after a natural disaster, the identity of the  
 89 directors or their right to hold office is in doubt, if they are  
 90 deceased or unable to act, if they fail or refuse to act, or if  
 91 they cannot be located, any interested person may petition the  
 92 circuit court to determine the identity of the directors or, if  
 93 found to be in the best interests of the unit owners, to appoint  
 94 a receiver to conclude the affairs of the association after a  
 95 hearing following notice to such persons as the court directs.  
 96 Lienholders shall be given notice of the petition and have the  
 97 right to propose persons for the consideration by the court as  
 98 receiver. If a receiver is appointed, the court shall direct the  
 99 receiver to provide to all unit owners written notice of his or  
 100 her appointment as receiver. Such notice shall be mailed or  
 101 delivered within 10 days after the appointment. Notice by mail  
 102 to a unit owner shall be sent to the address used by the county  
 103 property appraiser for notice to the unit owner.

104 Section 3. Subsection (4) is added to section 718.121,  
 105 Florida Statutes, to read:

106 718.121 Liens.--

107 (4) Except as otherwise provided in this chapter, no lien  
 108 may be filed by the association against a condominium unit until  
 109 30 days after the date on which a notice of intent to file a  
 110 lien has been served on the owner of the condominium unit by

111 certified mail or by personal service in the manner authorized  
 112 by chapter 48 and the Florida Rules of Civil Procedure.

113 Section 4. Section 718.127, Florida Statutes, is created  
 114 to read:

115 718.127 Receivership notification.--Upon the appointment  
 116 of a receiver by a court for any reason relating to a  
 117 condominium association, the court shall direct the receiver to  
 118 provide to all unit owners written notice of his or her  
 119 appointment as receiver. Such notice shall be mailed or  
 120 delivered within 10 days after the appointment. Notice by mail  
 121 to a unit owner shall be sent to the address used by the county  
 122 property appraiser for notice to the unit owner.

123 Section 5. Subsection (4) of section 719.108, Florida  
 124 Statutes, is amended to read:

125 719.108 Rents and assessments; liability; lien and  
 126 priority; interest; collection; cooperative ownership.--

127 (4) The association shall have a lien on each cooperative  
 128 parcel for any unpaid rents and assessments, plus interest,  
 129 against the unit owner of the cooperative parcel. If authorized  
 130 by the cooperative documents, said lien shall also secure  
 131 reasonable attorney's fees incurred by the association incident  
 132 to the collection of the rents and assessments or enforcement of  
 133 such lien. The lien is effective from and after the recording of  
 134 a claim of lien in the public records in the county in which the  
 135 cooperative parcel is located which states the description of  
 136 the cooperative parcel, the name of the unit owner, the amount  
 137 due, and the due dates. The lien shall expire if a claim of lien  
 138 is not filed within 1 year after the date the assessment was

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139 due, and no such lien shall continue for a longer period than 1  
 140 year after the claim of lien has been recorded unless, within  
 141 that time, an action to enforce the lien is commenced in a court  
 142 of competent jurisdiction. No lien may be filed by the  
 143 association against a cooperative parcel until 30 days after the  
 144 date on which a notice of intent to file a lien has been served  
 145 on the unit owner of the cooperative parcel by certified mail or  
 146 by personal service in the manner authorized by chapter 48 and  
 147 the Florida Rules of Civil Procedure.

148 Section 6. Section 719.1124, Florida Statutes, is created  
 149 to read:

150 719.1124 Failure to fill vacancies on board of  
 151 administration sufficient to constitute a quorum; appointment of  
 152 receiver upon petition of unit owner.--

153 (1) If an association fails to fill vacancies on the board  
 154 of administration sufficient to constitute a quorum in  
 155 accordance with the bylaws, any unit owner may give notice of  
 156 his or her intent to apply to the circuit court within whose  
 157 jurisdiction the cooperative lies for the appointment of a  
 158 receiver to manage the affairs of the association. The form of  
 159 the notice shall be as follows:

161 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

163 YOU ARE HEREBY NOTIFIED that the undersigned owner of  
 164 a unit in (name of cooperative) intends to file a  
 165 petition in the circuit court for appointment of a  
 166 receiver to manage the affairs of the association on

167 the grounds that the association has failed to fill  
168 vacancies on the board of administration sufficient to  
169 constitute a quorum. This petition will not be filed  
170 if the vacancies are filled within 30 days after the  
171 date on which this notice was sent or posted,  
172 whichever is later. If a receiver is appointed, the  
173 receiver shall have all of the powers of the board and  
174 shall be entitled to receive a salary and  
175 reimbursement of all costs and attorney's fees payable  
176 from association funds.

177  
178 (name and address of petitioning unit owner)  
179

180 (2) The notice required by subsection (1) must be provided  
181 by the unit owner to the association by certified mail or  
182 personal delivery, must be posted in a conspicuous place on the  
183 cooperative property, and must be provided to every unit owner  
184 of the association by certified mail or personal delivery. The  
185 notice must be posted and mailed or delivered at least 30 days  
186 prior to the filing of a petition seeking receivership. Notice  
187 by mail to a unit owner shall be sent to the address used by the  
188 county property appraiser for notice to the unit owner.

189 (3) If the association fails to fill the vacancies within  
190 30 days after the notice required by subsection (1) is posted  
191 and mailed or delivered, the unit owner may proceed with the  
192 petition.

193        (4) If a receiver is appointed, all unit owners shall be  
 194 given written notice of such appointment as provided in s.  
 195 719.127.

196        (5) The association shall be responsible for the salary of  
 197 the receiver, court costs, and attorney's fees. The receiver  
 198 shall have all powers and duties of a duly constituted board of  
 199 administration and shall serve until the association fills  
 200 vacancies on the board sufficient to constitute a quorum and the  
 201 court relieves the receiver of the appointment.

202        Section 7. Section 719.127, Florida Statutes, is created  
 203 to read:

204        719.127 Receivership notification.--Upon the appointment  
 205 of a receiver by a court for any reason relating to a  
 206 cooperative association, the court shall direct the receiver to  
 207 provide to all unit owners written notice of his or her  
 208 appointment as receiver. Such notice shall be mailed or  
 209 delivered within 10 days after the appointment. Notice by mail  
 210 to a unit owner shall be sent to the address used by the county  
 211 property appraiser for notice to the unit owner.

212        Section 8. Subsection (4) of section 720.305, Florida  
 213 Statutes, is amended to read:

214        720.305 Obligations of members; remedies at law or in  
 215 equity; levy of fines and suspension of use rights; ~~failure to~~  
 216 ~~fill sufficient number of vacancies on board of directors to~~  
 217 ~~constitute a quorum; appointment of receiver upon petition of~~  
 218 ~~any member.--~~

219        ~~(4) If an association fails to fill vacancies on the board~~  
 220 ~~of directors sufficient to constitute a quorum in accordance~~



221 ~~with the bylaws, any member may apply to the circuit court that~~  
 222 ~~has jurisdiction over the community served by the association~~  
 223 ~~for the appointment of a receiver to manage the affairs of the~~  
 224 ~~association. At least 30 days before applying to the circuit~~  
 225 ~~court, the member shall mail to the association, by certified or~~  
 226 ~~registered mail, and post, in a conspicuous place on the~~  
 227 ~~property of the community served by the association, a notice~~  
 228 ~~describing the intended action, giving the association 30 days~~  
 229 ~~to fill the vacancies. If during such time the association fails~~  
 230 ~~to fill a sufficient number of vacancies so that a quorum can be~~  
 231 ~~assembled, the member may proceed with the petition. If a~~  
 232 ~~receiver is appointed, the homeowners' association shall be~~  
 233 ~~responsible for the salary of the receiver, court costs,~~  
 234 ~~attorney's fees, and all other expenses of the receivership. The~~  
 235 ~~receiver has all the powers and duties of a duly constituted~~  
 236 ~~board of directors and shall serve until the association fills a~~  
 237 ~~sufficient number of vacancies on the board so that a quorum can~~  
 238 ~~be assembled.~~

239 Section 9. Section 720.3053, Florida Statutes, is created  
 240 to read:

241 720.3053 Failure to fill vacancies on board of directors  
 242 sufficient to constitute a quorum; appointment of receiver upon  
 243 petition of member.--

244 (1) If an association fails to fill vacancies on the board  
 245 of directors sufficient to constitute a quorum in accordance  
 246 with the bylaws, any member may give notice of the member's  
 247 intent to apply to the circuit court within whose jurisdiction  
 248 the association lies for the appointment of a receiver to manage

249 the affairs of the association. The form of the notice shall be  
 250 as follows:

252 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

254 YOU ARE HEREBY NOTIFIED that the undersigned member of  
 255 (name of homeowners' association) intends to file a  
 256 petition in the circuit court for appointment of a  
 257 receiver to manage the affairs of the association on  
 258 the grounds that the association has failed to fill  
 259 vacancies on the board of directors sufficient to  
 260 constitute a quorum. This petition will not be filed  
 261 if the vacancies are filled within 30 days after the  
 262 date on which this notice was sent or posted,  
 263 whichever is later. If a receiver is appointed, the  
 264 receiver shall have all of the powers of the board and  
 265 shall be entitled to receive a salary and  
 266 reimbursement of all costs and attorney's fees payable  
 267 from association funds.

269 (name and address of petitioning member)

271 (2) The notice required by subsection (1) must be provided  
 272 by the member to the association by certified mail or personal  
 273 delivery, must be posted in a conspicuous place within the  
 274 homeowners' association, and must be provided to every member of  
 275 the association by certified mail or personal delivery. The  
 276 notice must be posted and mailed or delivered at least 30 days

277 prior to the filing of a petition seeking receivership. Notice  
 278 by mail to a member shall be sent to the address used by the  
 279 county property appraiser for notice to the member.

280 (3) If the association fails to fill the vacancies within  
 281 30 days after the notice required by subsection (1) is posted  
 282 and mailed or delivered, the member may proceed with the  
 283 petition.

284 (4) If a receiver is appointed, all members shall be given  
 285 written notice of such appointment as provided in s. 720.313.

286 (5) The association shall be responsible for the salary of  
 287 the receiver, court costs, and attorney's fees. The receiver  
 288 shall have all powers and duties of a duly constituted board of  
 289 directors and shall serve until the association fills vacancies  
 290 on the board sufficient to constitute a quorum and the court  
 291 relieves the receiver of the appointment.

292 Section 10. Section 720.313, Florida Statutes, is created  
 293 to read:

294 720.313 Receivership notification.--Upon the appointment  
 295 of a receiver by a court for any reason relating to a  
 296 homeowners' association, the court shall direct the receiver to  
 297 provide to all members written notice of his or her appointment  
 298 as receiver. Such notice shall be mailed or delivered within 10  
 299 days after the appointment. Notice by mail to a member shall be  
 300 sent to the address used by the county property appraiser for  
 301 notice to the owner of the property.

302 Section 11. This act shall take effect July 1, 2008.