

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 s. 718.121, F.S.;  
17 providing requirements and restrictions for liens filed by  
18 the association against a condominium unit; providing for  
19 notice and delivery thereof; amending s. 719.108, F.S.;  
20 prohibiting a lien from being filed against a condominium  
21 unit or cooperative parcel until 30 days after service of  
22 a notice of intent to file the lien; amending s. 720.305,  
23 F.S.; deleting notification requirements for the  
24 appointment of a receiver under specified circumstances  
25 for matters relating to homeowners' associations;  
26 providing an effective date.

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

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

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

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

NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

YOU ARE HEREBY NOTIFIED that the undersigned owner of a condominium unit in (name of condominium) intends to file a petition in the circuit court for appointment of a receiver to manage the affairs of the association on the grounds that the association has failed to fill vacancies on the board of administration sufficient to constitute a quorum. This petition will not be filed if the vacancies are filled within 30 days after the date on which this notice was sent or posted, whichever is later. If a receiver is appointed, the receiver shall have all of the powers of the board and shall be entitled to receive a salary

57 and reimbursement of all costs and attorney's fees  
 58 payable from association funds.

59  
 60 (name and address of petitioning unit owner)

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

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

78 (4) If a receiver is appointed, all unit owners shall be  
 79 given written notice of such appointment as provided in s.  
 80 718.127.

81 (5) The association shall be responsible for the salary of  
 82 the receiver, court costs, and attorney's fees. The receiver  
 83 shall have all powers and duties of a duly constituted board of  
 84 administration and shall serve until the association fills

85 vacancies on the board sufficient to constitute a quorum and the  
 86 court relieves the receiver of the appointment.

87 Section 2. Paragraph (a) of subsection (7) of section  
 88 718.117, Florida Statutes, is amended to read:

89 718.117 Termination of condominium.--

90 (7) NATURAL DISASTERS.--

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

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

109 718.121 Liens.--

110 (4) Except as otherwise provided in this chapter, no lien  
 111 may be filed by the association against a condominium unit until  
 112 30 days after the date on which a notice of intent to file a

113 lien has been delivered to the owner by registered or certified  
 114 mail, return receipt requested, and by first-class United States  
 115 mail to the owner at his or her last address as reflected in the  
 116 records of the association, if the address is within the United  
 117 States, and delivered to the owner at the address of the unit if  
 118 the owner's address as reflected in the records of the  
 119 association is not the unit address. If the address reflected in  
 120 the records is outside the United States, sending the notice to  
 121 that address and to the unit address by first-class United  
 122 States mail is sufficient. Delivery of the notice shall be  
 123 deemed given upon mailing as required by this subsection.

124 Section 4. Section 718.127, Florida Statutes, is created  
 125 to read:

126 718.127 Receivership notification.--Upon the appointment  
 127 of a receiver by a court for any reason relating to a  
 128 condominium association, the court shall direct the receiver to  
 129 provide to all unit owners written notice of his or her  
 130 appointment as receiver. Such notice shall be mailed or  
 131 delivered within 10 days after the appointment. Notice by mail  
 132 to a unit owner shall be sent to the address used by the county  
 133 property appraiser for notice to the unit owner.

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

136 719.108 Rents and assessments; liability; lien and  
 137 priority; interest; collection; cooperative ownership.--

138 (4) The association shall have a lien on each cooperative  
 139 parcel for any unpaid rents and assessments, plus interest,  
 140 against the unit owner of the cooperative parcel. If authorized

141 by the cooperative documents, said lien shall also secure  
 142 reasonable attorney's fees incurred by the association incident  
 143 to the collection of the rents and assessments or enforcement of  
 144 such lien. The lien is effective from and after the recording of  
 145 a claim of lien in the public records in the county in which the  
 146 cooperative parcel is located which states the description of  
 147 the cooperative parcel, the name of the unit owner, the amount  
 148 due, and the due dates. The lien shall expire if a claim of lien  
 149 is not filed within 1 year after the date the assessment was  
 150 due, and no such lien shall continue for a longer period than 1  
 151 year after the claim of lien has been recorded unless, within  
 152 that time, an action to enforce the lien is commenced in a court  
 153 of competent jurisdiction. No lien may be filed by the  
 154 association against a cooperative parcel until 30 days after the  
 155 date on which a notice of intent to file a lien has been served  
 156 on the unit owner of the cooperative parcel by certified mail or  
 157 by personal service in the manner authorized by chapter 48 and  
 158 the Florida Rules of Civil Procedure.

159 Section 6. Section 719.1124, Florida Statutes, is created  
 160 to read:

161 719.1124 Failure to fill vacancies on board of  
 162 administration sufficient to constitute a quorum; appointment of  
 163 receiver upon petition of unit owner.--

164 (1) If an association fails to fill vacancies on the board  
 165 of administration sufficient to constitute a quorum in  
 166 accordance with the bylaws, any unit owner may give notice of  
 167 his or her intent to apply to the circuit court within whose  
 168 jurisdiction the cooperative lies for the appointment of a

169 receiver to manage the affairs of the association. The form of  
 170 the notice shall be as follows:

171  
 172 NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

173  
 174 YOU ARE HEREBY NOTIFIED that the undersigned owner of  
 175 a unit in (name of cooperative) intends to file a  
 176 petition in the circuit court for appointment of a  
 177 receiver to manage the affairs of the association on  
 178 the grounds that the association has failed to fill  
 179 vacancies on the board of administration sufficient to  
 180 constitute a quorum. This petition will not be filed  
 181 if the vacancies are filled within 30 days after the  
 182 date on which this notice was sent or posted,  
 183 whichever is later. If a receiver is appointed, the  
 184 receiver shall have all of the powers of the board and  
 185 shall be entitled to receive a salary and  
 186 reimbursement of all costs and attorney's fees payable  
 187 from association funds.

188  
 189 (name and address of petitioning unit owner)

190  
 191 (2) The notice required by subsection (1) must be provided  
 192 by the unit owner to the association by certified mail or  
 193 personal delivery, must be posted in a conspicuous place on the  
 194 cooperative property, and must be provided to every unit owner  
 195 of the association by certified mail or personal delivery. The  
 196 notice must be posted and mailed or delivered at least 30 days

197 prior to the filing of a petition seeking receivership. Notice  
 198 by mail to a unit owner shall be sent to the address used by the  
 199 county property appraiser for notice to the unit owner.

200 (3) If the association fails to fill the vacancies within  
 201 30 days after the notice required by subsection (1) is posted  
 202 and mailed or delivered, the unit owner may proceed with the  
 203 petition.

204 (4) If a receiver is appointed, all unit owners shall be  
 205 given written notice of such appointment as provided in s.  
 206 719.127.

207 (5) The association shall be responsible for the salary of  
 208 the receiver, court costs, and attorney's fees. The receiver  
 209 shall have all powers and duties of a duly constituted board of  
 210 administration and shall serve until the association fills  
 211 vacancies on the board sufficient to constitute a quorum and the  
 212 court relieves the receiver of the appointment.

213 Section 7. Section 719.127, Florida Statutes, is created  
 214 to read:

215 719.127 Receivership notification.--Upon the appointment  
 216 of a receiver by a court for any reason relating to a  
 217 cooperative association, the court shall direct the receiver to  
 218 provide to all unit owners written notice of his or her  
 219 appointment as receiver. Such notice shall be mailed or  
 220 delivered within 10 days after the appointment. Notice by mail  
 221 to a unit owner shall be sent to the address used by the county  
 222 property appraiser for notice to the unit owner.

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



225           720.305 Obligations of members; remedies at law or in  
 226 equity; levy of fines and suspension of use rights; ~~failure to~~  
 227 ~~fill sufficient number of vacancies on board of directors to~~  
 228 ~~constitute a quorum; appointment of receiver upon petition of~~  
 229 ~~any member. --~~

230           ~~(4) If an association fails to fill vacancies on the board~~  
 231 ~~of directors sufficient to constitute a quorum in accordance~~  
 232 ~~with the bylaws, any member may apply to the circuit court that~~  
 233 ~~has jurisdiction over the community served by the association~~  
 234 ~~for the appointment of a receiver to manage the affairs of the~~  
 235 ~~association. At least 30 days before applying to the circuit~~  
 236 ~~court, the member shall mail to the association, by certified or~~  
 237 ~~registered mail, and post, in a conspicuous place on the~~  
 238 ~~property of the community served by the association, a notice~~  
 239 ~~describing the intended action, giving the association 30 days~~  
 240 ~~to fill the vacancies. If during such time the association fails~~  
 241 ~~to fill a sufficient number of vacancies so that a quorum can be~~  
 242 ~~assembled, the member may proceed with the petition. If a~~  
 243 ~~receiver is appointed, the homeowners' association shall be~~  
 244 ~~responsible for the salary of the receiver, court costs,~~  
 245 ~~attorney's fees, and all other expenses of the receivership. The~~  
 246 ~~receiver has all the powers and duties of a duly constituted~~  
 247 ~~board of directors and shall serve until the association fills a~~  
 248 ~~sufficient number of vacancies on the board so that a quorum can~~  
 249 ~~be assembled.~~

250           Section 9. Section 720.3053, Florida Statutes, is created  
 251 to read:

252           720.3053 Failure to fill vacancies on board of directors  
 253 sufficient to constitute a quorum; appointment of receiver upon  
 254 petition of member.--

255           (1) If an association fails to fill vacancies on the board  
 256 of directors sufficient to constitute a quorum in accordance  
 257 with the bylaws, any member may give notice of the member's  
 258 intent to apply to the circuit court within whose jurisdiction  
 259 the association lies for the appointment of a receiver to manage  
 260 the affairs of the association. The form of the notice shall be  
 261 as follows:

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 263                   NOTICE OF INTENT TO APPLY FOR RECEIVERSHIP

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

280        (name and address of petitioning member)

281  
282        (2) The notice required by subsection (1) must be provided  
283 by the member to the association by certified mail or personal  
284 delivery, must be posted in a conspicuous place within the  
285 homeowners' association, and must be provided to every member of  
286 the association by certified mail or personal delivery. The  
287 notice must be posted and mailed or delivered at least 30 days  
288 prior to the filing of a petition seeking receivership. Notice  
289 by mail to a member shall be sent to the address used by the  
290 county property appraiser for notice to the member.

291        (3) If the association fails to fill the vacancies within  
292 30 days after the notice required by subsection (1) is posted  
293 and mailed or delivered, the member may proceed with the  
294 petition.

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

297        (5) The association shall be responsible for the salary of  
298 the receiver, court costs, and attorney's fees. The receiver  
299 shall have all powers and duties of a duly constituted board of  
300 directors and shall serve until the association fills vacancies  
301 on the board sufficient to constitute a quorum and the court  
302 relieves the receiver of the appointment.

303        Section 10. Section 720.313, Florida Statutes, is created  
304 to read:

305        720.313 Receivership notification.--Upon the appointment  
306 of a receiver by a court for any reason relating to a  
307 homeowners' association, the court shall direct the receiver to

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308 provide to all members written notice of his or her appointment  
309 as receiver. Such notice shall be mailed or delivered within 10  
310 days after the appointment. Notice by mail to a member shall be  
311 sent to the address used by the county property appraiser for  
312 notice to the owner of the property.

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