

By Senator Garcia

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1 A bill to be entitled
2 An act relating to community associations; amending s.
3 20.165, F.S.; providing powers for employees of the
4 Division of Florida Condominiums, Timeshares, and
5 Mobile Homes; requiring each employee serving as a law
6 enforcement officer for the division to meet the
7 qualifications of a law enforcement officer set forth
8 in ch. 943, F.S., for employment or appointment;
9 requiring each such employee to be certified as a law
10 enforcement officer by the Department of Law
11 Enforcement; providing the law enforcement officer
12 with certain powers, authority, jurisdiction, and
13 responsibilities; amending s. 34.01, F.S.; providing
14 jurisdiction for disputes involving a homeowners'
15 association and one or more members of the
16 association; requiring a court to advance matters
17 related to elections on the court calendar; amending
18 s. 468.436, F.S.; revising a ground for disciplinary
19 action relating to misconduct or negligence; requiring
20 the Department of Business and Professional Regulation
21 to enter an order permanently revoking certain
22 community association manager or firm licenses;
23 creating s. 627.714, F.S.; requiring coverage under a
24 condominium unit owner's policy or a cooperative
25 shareholder's policy to include a minimum amount of
26 loss assessment coverage; providing coverage
27 requirements; amending s. 689.28, F.S.; revising the
28 definition of the term "transfer fee"; amending s.
29 718.111, F.S.; requiring coverage for certain personal

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30 property to be the responsibility of the condominium
31 unit owner; revising board meeting notice
32 requirements; requiring insurance policies issued or
33 renewed on or after a specified date to conform to
34 specified loss assessment coverage requirements;
35 revising and deleting provisions relating to hazard or
36 casualty insurance coverage requirements, to conform;
37 deleting a provision requiring the condominium
38 association to be an additional named insured and loss
39 payee on all casualty insurance policies issued to
40 unit owners in the condominium operated by the
41 association; amending s. 718.112, F.S.; revising
42 notice requirements for board of administration
43 meetings; revising terms of board members; revising
44 requirements for the reappointment of certain board
45 members; revising election notice requirements;
46 providing requirements for the amendment of
47 association bylaws; providing for the removal of
48 certain directors and officers; providing
49 qualifications for service on the board of directors;
50 amending s. 718.113, F.S.; authorizing the association
51 to install code-compliant impact glass as hurricane
52 protection in certain areas; amending s. 718.116,
53 F.S.; deleting provisions limiting the liability of
54 mortgagee and successors acquiring title by
55 foreclosure or by deed in lieu of foreclosure for
56 certain unpaid assessments; deleting an exemption from
57 liability for certain persons acquiring title to a
58 condominium as a result of the foreclosure of the

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59 mortgage or by deed in lieu of the foreclosure of the
60 mortgage; deleting a provision limiting the
61 availability of certain provisions in certain cases;
62 deleting a definition; providing lien priority;
63 authorizing an association to demand future regular
64 assessments related to the condominium unit under
65 specified conditions; amending s. 718.1265, F.S.;
66 providing conditions under which the association may
67 use certain emergency powers; amending s. 718.3025,
68 F.S.; requiring certain associations to enter into a
69 management agreement with a licensed person or firm;
70 amending s. 718.501, F.S.; revising condominium
71 matters under which the division has jurisdiction;
72 revising and providing powers of the division;
73 requiring the division to create a specified booklet
74 for association directors; amending s. 718.5012, F.S.;
75 authorizing the Office of the Condominium Ombudsman to
76 assist in the resolution of certain disputes; amending
77 s. 718.50151, F.S.; redesignating the Community
78 Association Living Study Council as the Community
79 Association Study Council; revising council
80 membership; amending s. 719.103, F.S.; revising
81 definitions; changing references from unit owner to
82 shareholder in statutes relating to cooperatives;
83 amending s. 719.104, F.S.; providing civil penalties
84 for violations of accounting records requirements;
85 exempting certain personal information from unit owner
86 records requests; providing immunity from liability
87 for certain information provided by associations to

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88 prospective purchasers or lienholders under certain
89 circumstances; providing legislative intent; requiring
90 that property insurance be based upon the replacement
91 cost of the property to be insured as determined by an
92 independent insurance appraisal or update of a prior
93 appraisal; requiring that the full insurable value be
94 determined at specified intervals; providing means by
95 which an association may provide adequate property
96 insurance coverage; authorizing an association to
97 consider certain information when determining coverage
98 amounts; providing for coverage by developer-
99 controlled associations; providing that policies may
100 include deductibles as determined by the association's
101 board of directors; providing requirements and
102 guidelines for the establishment of such deductibles;
103 requiring that the amounts of deductibles be set at a
104 meeting of the board; providing requirements for such
105 meeting; requiring that an association controlled by
106 shareholders operating as a residential cooperative
107 use its best efforts to obtain and maintain adequate
108 insurance to protect the association and property
109 under its supervision or control; authorizing an
110 association to obtain and maintain liability insurance
111 for directors and officers, insurance for the benefit
112 of association employees, and flood insurance for
113 common elements, association property, and units;
114 requiring that every property insurance policy issued
115 or renewed on or after a specified date for the
116 purpose of protecting the cooperative provide certain

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117 coverage; requiring that such policies contain certain
118 provisions; providing responsibilities of the
119 shareholder and association with regard to
120 reconstruction work and associated costs after a
121 casualty loss; requiring the association to maintain
122 certain insurance or fidelity bonding for persons who
123 control or disburse funds of the association;
124 providing requirements with respect to financial
125 statements and reports; providing that the operation
126 of the cooperative shall be by the association;
127 providing that shareholders shall be members of the
128 association; providing legislative intent; providing
129 that a director of the association who abstains from
130 voting on any action taken on any corporate matter
131 shall be presumed to have taken no position with
132 regard to the action; providing duties of officers,
133 directors, and agents of a cooperative association and
134 liability for monetary damages under certain
135 circumstances; providing that the association may
136 contract, sue, or be sued with respect to the exercise
137 or nonexercise of its powers; providing powers of the
138 association with respect to title to property and
139 purchase of units; amending s. 719.106, F.S.;

140 requiring certain items to be placed on the agenda of
141 board meetings; providing requirements for shareholder
142 meetings; providing terms of office and election
143 requirements for the board of directors; providing
144 criteria for the amendment of the bylaws; providing
145 eligibility to vote on certain questions involving

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146 reserve funds; requiring proxy questions relating to
147 reserves to contain a specified statement; requiring
148 the bylaws to contain certain provisions; requiring
149 that directors and officers who are delinquent in
150 certain payments owed in excess of certain periods of
151 time be deemed to have abandoned their offices;
152 requiring that directors and officers charged with
153 certain offenses involving an association's funds or
154 property be suspended from office pending resolution
155 of the charge; providing for the reinstatement of such
156 directors and officers under certain circumstances;
157 providing qualifications for directors; repealing s.
158 719.1064, F.S., relating to the failure to fill
159 vacancies on board of administration and the
160 appointment of a receiver upon petition of a
161 shareholder; amending s. 719.107, F.S.; providing the
162 expense of installation, replacement, operation,
163 repair, and maintenance of hurricane shutters or other
164 hurricane protection shall constitute either a common
165 expense or shall be charged individually to the
166 shareholders under certain conditions; amending s.
167 719.108, F.S.; providing grounds for disapproval of
168 the proposed lease of a unit by an association;
169 providing priority of liens; providing lien
170 requirements; providing for the extension of certain
171 liens; providing lien notice and filing requirements;
172 providing foreclosure requirements; providing the
173 association with the power to purchase a cooperative
174 unit at a foreclosure sale; requiring the association

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175 to provide a certificate of assessment under certain
176 conditions; providing for the establishment of fees
177 for the preparation of such certificates; providing
178 for the refund of certain fees; authorizing the
179 association to demand payment of future assessments
180 under certain circumstances; creating s. 719.113,
181 F.S.; providing that maintenance of common areas is
182 the responsibility of the association; providing that
183 the cooperative documents may include reference that
184 the association provide certain maintenance for the
185 condominium; providing that there shall be no material
186 alteration or substantial additions to the common
187 areas or to real property which is association
188 property; providing for protection of the common
189 areas; allowing shareholders to display a United
190 States flag as well as other specified flags on
191 designated days and patriotic holidays; requiring the
192 board to adopt hurricane shutter specifications;
193 authorizing the board to install certain hurricane
194 protection; prohibiting the board from installing
195 certain hurricane shutters or other hurricane
196 protection under certain circumstances; providing for
197 the maintenance, repair, and replacement of hurricane
198 shutters or other hurricane protection; authorizing
199 the board to operate hurricane shutters without
200 shareholder permission under certain circumstances;
201 prohibiting the board from refusing to approve the
202 installation or replacement of hurricane shutters
203 under certain conditions; requiring that the board

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204 inspect certain buildings and issue a report under
205 certain conditions; providing an exception;
206 prohibiting the board from refusing a request for
207 reasonable accommodation for the attachment to a unit
208 of religious objects meeting certain size
209 specifications; authorizing the board to install solar
210 collectors, clotheslines, or other energy-efficient
211 devices upon or within common areas or association
212 property; creating s. 719.117, F.S.; providing
213 legislative findings; providing provisions relating to
214 the termination of the cooperative form of ownership
215 of a property due to economic waste or impossibility
216 or optional termination; providing grounds for
217 termination; providing an exemption; providing that
218 the approval of a plan of termination by certain
219 mortgage lienholders is not required under certain
220 conditions; providing powers and duties of the board
221 relating to the plan of termination; providing
222 requirements following natural disasters; providing
223 reporting requirements; providing requirements for a
224 plan of termination; providing for the allocation of
225 proceeds from the sale of cooperative property;
226 providing powers and duties of a termination trustee;
227 providing notice requirements; providing a procedure
228 for contesting a plan of termination; providing for
229 recovery of attorney's fees and costs; providing rules
230 for the distribution of property and sale proceeds;
231 providing for the association's status following
232 termination; allowing the creation of another

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233 cooperative by the trustee; creating s. 719.1224,
234 F.S.; prohibiting strategic lawsuits against public
235 participation; providing legislative findings and
236 intent; prohibiting a governmental entity, business
237 organization, or individual from filing certain
238 lawsuits made upon specified bases against a
239 shareholder; providing rights of a shareholder who has
240 been served with such a lawsuit; providing procedures
241 for the resolution of certain claims; providing for
242 the award of damages and attorney's fees; prohibiting
243 associations from expending association funds in
244 prosecuting such a suit against a shareholder;
245 amending s. 719.1255, F.S.; requiring the division to
246 provide alternative dispute resolution for certain
247 matters; creating s. 719.1265, F.S.; authorizing an
248 association to exercise certain powers in instances
249 involving damage caused by an event for which a state
250 of emergency has been declared; limiting the
251 applicability of such powers; amending s. 719.301,
252 F.S.; providing circumstances under which shareholders
253 other than a developer may elect not less than a
254 majority of the members of the board; requiring a
255 turnover inspection report; requiring that the report
256 contain certain information; creating s. 719.3025,
257 F.S.; requiring written contracts for the operation,
258 maintenance, or management of a cooperative
259 association or cooperative property; providing
260 contract requirements; authorizing the association to
261 procure outside services under certain circumstances;

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262 providing that services or obligations not stated on
263 the face of the contract shall be unenforceable;
264 providing applicability; amending s. 719.3026, F.S.;
265 revising a provision authorizing certain associations
266 to opt out of provisions relating to contracts for
267 products and services; removing provisions exempting
268 contracts executed before a specified date from
269 certain competitive bid requirements; providing
270 requirements for any contract or transaction between
271 an association and one or more of its directors or a
272 specified other entity in which one or more of its
273 directors are directors or officers or have a
274 financial interest; amending s. 719.303, F.S.;
275 providing that hearings regarding noncompliance with a
276 declaration be held before certain persons; amending
277 s. 719.501, F.S.; providing authority and
278 responsibilities of the division; providing for
279 enforcement actions brought by the division in its own
280 name; providing for the imposition of penalties by the
281 division; requiring that the division issue a subpoena
282 requiring production of certain requested records
283 under certain circumstances; providing for the
284 issuance of notice of a declaratory statement with
285 respect to documents governing a cooperative; deleting
286 requirement that the division adopt certain accounting
287 principles; requiring that the division provide
288 training and educational programs for association
289 board members and shareholders; authorizing the
290 division to include certain training components,

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291 review or approve training and educational programs
292 offered by providers, and maintain a list of approved
293 programs and providers; requiring the division to
294 develop a program to certify both volunteer and paid
295 mediators; providing responsibilities of the division
296 with regard to such mediators; requiring that certain
297 individuals cooperate with the division in any
298 investigation conducted by the division; requiring the
299 division to cooperate with similar agencies in other
300 jurisdictions to establish certain procedures,
301 standards, and forms; specifying what constitutes
302 completeness of notice to developer; authorizing the
303 division to issue a notice to show cause; requiring an
304 association to pay any penalty due to the division
305 before having standing to maintain or defend any
306 action in the courts of this state; creating s.
307 719.5011, F.S.; requiring the Office of the
308 Condominium Ombudsman to assist cooperative
309 associations and cooperative shareholders; amending s.
310 719.503, F.S.; providing shareholder disclosure
311 requirements for the sale of interest in a cooperative
312 association; amending s. 720.302, F.S.; deleting a
313 provision to conform to changes made by the act;
314 amending s. 720.3085, F.S.; revising provisions
315 relating to the effectiveness and priority of
316 homeowners' associations' liens; repealing s. 720.311,
317 F.S., relating to dispute resolution; amending s.
318 721.16, F.S.; conforming a cross-reference; requiring
319 a study by the Office of Program Policy Analysis and

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320 Government Accountability for specified purposes;
321 requiring a report to the Legislature by a specified
322 date; providing an effective date.

323
324 Be It Enacted by the Legislature of the State of Florida:

325
326 Section 1. Subsection (10) is added to section 20.165,
327 Florida Statutes, to read:

328 20.165 Department of Business and Professional Regulation.—
329 There is created a Department of Business and Professional
330 Regulation.

331 (10) (a) All employees authorized by the Division of Florida
332 Condominiums, Timeshares, and Mobile Homes shall have access to
333 and shall have the right to examine and inspect the premises,
334 books, and records of any condominium, cooperative, timeshare,
335 or mobile home park regulated by the division. Such employees
336 shall also have access to and shall have the right to examine
337 and inspect the books and records of any community association
338 manager or firm employed by any condominium, cooperative,
339 timeshare, or mobile home park regulated by the division. The
340 authorized employees shall require of each licensee strict
341 compliance with the laws of this state relating to the
342 transaction of such business or operation.

343 (b) Each employee serving as a law enforcement officer for
344 the division must meet the qualifications for employment or
345 appointment as a law enforcement officer set forth under s.
346 943.13 and must be certified as a law enforcement officer by the
347 Department of Law Enforcement under chapter 943. Upon
348 certification, each law enforcement officer is subject to and

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349 has the same authority as provided for law enforcement officers
350 generally in chapter 901 and has statewide jurisdiction. Each
351 officer also has arrest authority as provided for state law
352 enforcement officers in s. 901.15. Each officer possesses the
353 full law enforcement powers granted to other peace officers of
354 this state, including the authority to make arrests, carry
355 firearms, serve court process, and seize contraband and the
356 proceeds of illegal activities.

357 (c) The primary responsibility of each officer appointed
358 under this subsection is to investigate, enforce, and prosecute,
359 throughout the state, violations and violators of part VIII of
360 chapter 468, chapters 718, 719, 721, and 723, and the rules
361 adopted thereunder, as well as other state laws that the
362 division or all state law enforcement officers are specifically
363 authorized to enforce. The secondary responsibility of each
364 officer appointed under this subsection is to enforce all other
365 state laws, provided that the enforcement is incidental to
366 exercising the officer's primary responsibility, and the officer
367 exercises the powers of a deputy sheriff, only after
368 consultation or coordination with the appropriate local
369 sheriff's office or municipal police department or when the
370 division participates in the Florida Mutual Aid Plan during a
371 declared state emergency.

372 Section 2. Paragraph (d) of subsection (1) of section
373 34.01, Florida Statutes, is amended to read:

374 34.01 Jurisdiction of county court.—

375 (1) County courts shall have original jurisdiction:

376 (d) Of disputes involving a ~~occurring in the~~ homeowners'
377 association and one or more members of the association,

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378 ~~associations as such terms are defined in s. 720.301 described~~
379 ~~in s. 720.311(2)(a), which shall be concurrent with jurisdiction~~
380 ~~of the circuit courts. If the dispute is related to elections,~~
381 ~~the court shall advance the cause on the calendar. However, the~~
382 ~~foreclosure of a lien shall lie in the circuit court.~~

383 Section 3. Paragraph (b) of subsection (2) of section
384 468.436, Florida Statutes, is amended, and subsection (6) is
385 added to that section, to read:

386 468.436 Disciplinary proceedings.—

387 (2) The following acts constitute grounds for which the
388 disciplinary actions in subsection (4) may be taken:

389 (b)1. Violation of any provision of this part.

390 2. Violation of any lawful order or rule rendered or
391 adopted by the department or the council.

392 3. Being convicted of or pleading nolo contendere to a
393 felony in any court in the United States.

394 4. Obtaining a license or certification or any other order,
395 ruling, or authorization by means of fraud, misrepresentation,
396 or concealment of material facts.

397 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence
398 in connection with the profession.

399 6. Contracting, on behalf of an association, with any
400 entity in which the licensee has a financial interest that is
401 not disclosed.

402 (6) Upon the fifth or later finding that a community
403 association manager or firm is guilty of any of the grounds set
404 forth in subsection (2), the department's discretion under
405 subsection (4) shall not apply and the division shall enter an
406 order permanently revoking the license.

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407 Section 4. Section 627.714, Florida Statutes, is created to
408 read:

409 627.714 Condominium unit owners' and cooperative
410 shareholders' coverage; loss assessment coverage required.—For
411 policies issued or renewed on or after July 1, 2009, coverage
412 under a condominium unit owner's policy or a cooperative
413 shareholder's policy shall include loss assessment coverage of
414 at least \$2,000. Such loss assessment coverage shall cover the
415 unit owner's or shareholder's share of an assessment against all
416 condominium unit owners or cooperative shareholders by the
417 association, up to the limit of liability in effect at the time
418 of the loss which results in the assessment. At a minimum, the
419 loss assessment coverage must cover assessments for a loss to
420 property for a peril insured by the association.

421 Section 5. Paragraph (c) of subsection (2) of section
422 689.28, Florida Statutes, is amended to read:

423 689.28 Prohibition against transfer fee covenants.—

424 (2) DEFINITIONS.—As used in this section, the term:

425 (c) "Transfer fee" means a fee or charge required by a
426 transfer fee covenant and payable upon the transfer of an
427 interest in real property, or payable for the right to make or
428 accept such transfer, regardless of whether the fee or charge is
429 a fixed amount or is determined as a percentage of the value of
430 the property, the purchase price, or other consideration given
431 for the transfer. The following are not transfer fees for
432 purposes of this section:

433 1. Any consideration payable by the grantee to the grantor
434 for the interest in real property being transferred, including
435 any subsequent additional consideration for the property payable

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436 by the grantee based upon any subsequent appreciation,
437 development, or sale of the property. For the purposes of this
438 subparagraph, an interest in real property may include a
439 separate mineral estate and its appurtenant surface access
440 rights.

441 2. Any commission payable to a licensed real estate broker
442 for the transfer of real property pursuant to an agreement
443 between the broker and the grantor or the grantee, including any
444 subsequent additional commission for that transfer payable by
445 the grantor or the grantee based upon any subsequent
446 appreciation, development, or sale of the property.

447 3. Any interest, charges, fees, or other amounts payable by
448 a borrower to a lender pursuant to a loan secured by a mortgage
449 against real property, including, but not limited to, any fee
450 payable to the lender for consenting to an assumption of the
451 loan or a transfer of the real property subject to the mortgage,
452 any fees or charges payable to the lender for estoppel letters
453 or certificates, and any shared appreciation interest or profit
454 participation or other consideration described in s. 687.03(4)
455 and payable to the lender in connection with the loan.

456 4. Any rent, reimbursement, charge, fee, or other amount
457 payable by a lessee to a lessor under a lease, including, but
458 not limited to, any fee payable to the lessor for consenting to
459 an assignment, subletting, encumbrance, or transfer of the
460 lease.

461 5. Any consideration payable to the holder of an option to
462 purchase an interest in real property or the holder of a right
463 of first refusal or first offer to purchase an interest in real
464 property for waiving, releasing, or not exercising the option or

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465 right upon the transfer of the property to another person.

466 6. Any tax, fee, charge, assessment, fine, or other amount
467 payable to or imposed by a governmental authority.

468 ~~7. Any fee, charge, assessment, fine, or other amount~~
469 ~~payable to a homeowners', condominium, cooperative, mobile home,~~
470 ~~or property owners' association pursuant to a declaration or~~
471 ~~covenant or law applicable to such association, including, but~~
472 ~~not limited to, fees or charges payable for estoppel letters or~~
473 ~~certificates issued by the association or its authorized agent.~~

474 ~~8. Any fee, charge, assessment, dues, contribution, or~~
475 ~~other amount imposed by a declaration or covenant encumbering~~
476 ~~four or more parcels in a community, as defined in s. 720.301,~~
477 ~~and payable to a nonprofit or charitable organization for the~~
478 ~~purpose of supporting cultural, educational, charitable,~~
479 ~~recreational, environmental, conservation, or other similar~~
480 ~~activities benefiting the community that is subject to the~~
481 ~~declaration or covenant.~~

482 ~~7.9.~~ Any fee, charge, assessment, dues, contribution, or
483 other amount pertaining to the purchase or transfer of a club
484 membership relating to real property owned by the member,
485 including, but not limited to, any amount determined by
486 reference to the value, purchase price, or other consideration
487 given for the transfer of the real property.

488 ~~8.10.~~ Any payment required pursuant to an environmental
489 covenant.

490 Section 6. Subsection (11) and paragraph (b) of subsection
491 (12) of section 718.111, Florida Statutes, are amended to read:
492 718.111 The association.—

493 (11) INSURANCE.—In order to protect the safety, health, and

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494 welfare of the people of the State of Florida and to ensure
495 consistency in the provision of insurance coverage to
496 condominiums and their unit owners, this subsection applies to
497 every residential condominium in the state, regardless of the
498 date of its declaration of condominium. It is the intent of the
499 Legislature to encourage lower or stable insurance premiums for
500 associations described in this subsection.

501 (a) Adequate property ~~hazard~~ insurance, regardless of any
502 requirement in the declaration of condominium for coverage by
503 the association for full insurable value, replacement cost, or
504 similar coverage, shall be based upon the replacement cost of
505 the property to be insured as determined by an independent
506 insurance appraisal or update of a prior appraisal. The full
507 insurable value shall be determined at least once every 36
508 months.

509 1. An association or group of associations may provide
510 adequate property ~~hazard~~ insurance through a self-insurance fund
511 that complies with the requirements of ss. 624.460-624.488.

512 2. The association may also provide adequate property
513 ~~hazard~~ insurance coverage for a group of no fewer than three
514 communities created and operating under this chapter, chapter
515 719, chapter 720, or chapter 721 by obtaining and maintaining
516 for such communities property insurance coverage sufficient to
517 cover an amount equal to the probable maximum loss for the
518 communities for a 250-year windstorm event. Such probable
519 maximum loss must be determined through the use of a competent
520 model that has been accepted by the Florida Commission on
521 Hurricane Loss Projection Methodology. No policy or program
522 providing such coverage shall be issued or renewed after July 1,

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523 2008, unless it has been reviewed and approved by the Office of
524 Insurance Regulation. The review and approval shall include
525 approval of the policy and related forms pursuant to ss. 627.410
526 and 627.411, approval of the rates pursuant to s. 627.062, a
527 determination that the loss model approved by the commission was
528 accurately and appropriately applied to the insured structures
529 to determine the 250-year probable maximum loss, and a
530 determination that complete and accurate disclosure of all
531 material provisions is provided to condominium unit owners prior
532 to execution of the agreement by a condominium association.

533 3. When determining the adequate amount of property hazard
534 insurance coverage, the association may consider deductibles as
535 determined by this subsection.

536 (b) If an association is a developer-controlled
537 association, the association shall exercise its best efforts to
538 obtain and maintain property insurance as described in paragraph
539 (a). Failure to obtain and maintain adequate property hazard
540 insurance during any period of developer control constitutes a
541 breach of fiduciary responsibility by the developer-appointed
542 members of the board of directors of the association, unless the
543 members can show that despite such failure, they have made their
544 best efforts to maintain the required coverage.

545 (c) Policies may include deductibles as determined by the
546 board.

547 1. The deductibles shall be consistent with industry
548 standards and prevailing practice for communities of similar
549 size and age, and having similar construction and facilities in
550 the locale where the condominium property is situated.

551 2. The deductibles may be based upon available funds,

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552 including reserve accounts, or predetermined assessment
553 authority at the time the property insurance is obtained.

554 3. The board shall establish the amount of deductibles
555 based upon the level of available funds and predetermined
556 assessment authority at a meeting of the board. Such meeting
557 shall be open to all unit owners in the manner set forth in s.
558 718.112(2)(e). The notice of such meeting must state the
559 proposed deductible and the available funds and the assessment
560 authority relied upon by the board and estimate any potential
561 assessment amount against each unit, if any. The meeting
562 described in this paragraph may be held in conjunction with a
563 meeting to consider the proposed budget or an amendment thereto.

564 (d) An association controlled by unit owners operating as a
565 residential condominium shall use its best efforts to obtain and
566 maintain adequate property insurance to protect the association,
567 the association property, the common elements, and the
568 condominium property that is required to be insured by the
569 association pursuant to this subsection.

570 (e) The declaration of condominium as originally recorded,
571 or as amended pursuant to procedures provided therein, may
572 provide that condominium property consisting of freestanding
573 buildings comprised of no more than one building in or on such
574 unit need not be insured by the association if the declaration
575 requires the unit owner to obtain adequate property insurance
576 for the condominium property. An association may also obtain and
577 maintain liability insurance for directors and officers,
578 insurance for the benefit of association employees, and flood
579 insurance for common elements, association property, and units.

580 (f) Every property ~~hazard~~ insurance policy issued or

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581 renewed on or after July ~~January~~ 1, 2009, for the purpose of
582 protecting the condominium shall provide primary coverage for:

583 1. All portions of the condominium property as originally
584 installed or replacement of like kind and quality, in accordance
585 with the original plans and specifications.

586 2. All alterations or additions made to the condominium
587 property or association property pursuant to s. 718.113(2).

588 3. The coverage shall exclude all personal property within
589 the unit or limited common elements, and floor, wall, and
590 ceiling coverings, electrical fixtures, appliances, water
591 heaters, water filters, built-in cabinets and countertops, air-
592 conditioning and heating equipment that serves a single unit,
593 and window treatments, including curtains, drapes, blinds,
594 hardware, and similar window treatment components, or
595 replacements of any of the foregoing. Such property and any
596 insurance therefor shall be the responsibility of the unit
597 owner.

598 (g) A condominium unit owner's policy issued after July 1,
599 2009, shall conform to the requirements of s. 627.714. Every
600 ~~hazard insurance policy issued or renewed on or after January 1,~~
601 ~~2009, to an individual unit owner must contain a provision~~
602 ~~stating that the coverage afforded by such policy is excess~~
603 ~~coverage over the amount recoverable under any other policy~~
604 ~~covering the same property. Such policies must include special~~
605 ~~assessment coverage of no less than \$2,000 per occurrence. An~~
606 ~~insurance policy issued to an individual unit owner providing~~
607 ~~such coverage does not provide rights of subrogation against the~~
608 ~~condominium association operating the condominium in which such~~
609 ~~individual's unit is located.~~

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610 ~~1. All improvements or additions to the condominium~~
611 ~~property that benefit fewer than all unit owners shall be~~
612 ~~insured by the unit owner or owners having the use thereof, or~~
613 ~~may be insured by the association at the cost and expense of the~~
614 ~~unit owners having the use thereof.~~

615 ~~2. The association shall require each owner to provide~~
616 ~~evidence of a currently effective policy of hazard and liability~~
617 ~~insurance upon request, but not more than once per year. Upon~~
618 ~~the failure of an owner to provide a certificate of insurance~~
619 ~~issued by an insurer approved to write such insurance in this~~
620 ~~state within 30 days after the date on which a written request~~
621 ~~is delivered, the association may purchase a policy of insurance~~
622 ~~on behalf of an owner. The cost of such a policy, together with~~
623 ~~reconstruction costs undertaken by the association but which are~~
624 ~~the responsibility of the unit owner, may be collected in the~~
625 ~~manner provided for the collection of assessments in s. 718.116.~~

626 1.3. All reconstruction work after a casualty loss shall be
627 undertaken by the association except as otherwise authorized in
628 this section. A unit owner may undertake reconstruction work on
629 portions of the unit with the prior written consent of the board
630 of administration. However, such work may be conditioned upon
631 the approval of the repair methods, the qualifications of the
632 proposed contractor, or the contract that is used for that
633 purpose. A unit owner shall obtain all required governmental
634 permits and approvals prior to commencing reconstruction.

635 2.4. Unit owners are responsible for the cost of
636 reconstruction of any portions of the condominium property for
637 which the association does not ~~unit owner is required to~~ carry
638 property casualty insurance, and any such reconstruction work

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639 undertaken by the association shall be chargeable to the unit
640 owner and enforceable as an assessment pursuant to s. 718.116.
641 ~~The association must be an additional named insured and loss~~
642 ~~payee on all casualty insurance policies issued to unit owners~~
643 ~~in the condominium operated by the association.~~

644 3.5. A multicondominium association may elect, by a
645 majority vote of the collective members of the condominiums
646 operated by the association, to operate such condominiums as a
647 single condominium for purposes of insurance matters, including,
648 but not limited to, the purchase of the property hazard
649 insurance required by this section and the apportionment of
650 deductibles and damages in excess of coverage. The election to
651 aggregate the treatment of insurance premiums, deductibles, and
652 excess damages constitutes an amendment to the declaration of
653 all condominiums operated by the association, and the costs of
654 insurance shall be stated in the association budget. The
655 amendments shall be recorded as required by s. 718.110.

656 (h) The association shall maintain insurance or fidelity
657 bonding of all persons who control or disburse funds of the
658 association. The insurance policy or fidelity bond must cover
659 the maximum funds that will be in the custody of the association
660 or its management agent at any one time. As used in this
661 paragraph, the term "persons who control or disburse funds of
662 the association" includes, but is not limited to, those
663 individuals authorized to sign checks on behalf of the
664 association, and the president, secretary, and treasurer of the
665 association. The association shall bear the cost of any such
666 bonding.

667 (i) The association may amend the declaration of

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668 condominium without regard to any requirement for approval by
669 mortgagees of amendments affecting insurance requirements for
670 the purpose of conforming the declaration of condominium to the
671 coverage requirements of this subsection.

672 (j) Any portion of the condominium property required to be
673 insured by the association against property ~~casualty~~ loss
674 pursuant to paragraph (f) which is damaged ~~by casualty~~ shall be
675 reconstructed, repaired, or replaced as necessary by the
676 association as a common expense. All property ~~hazard~~ insurance
677 deductibles, uninsured losses, and other damages in excess of
678 property ~~hazard~~ insurance coverage under the property ~~hazard~~
679 insurance policies maintained by the association are a common
680 expense of the condominium, except that:

681 1. A unit owner is responsible for the costs of repair or
682 replacement of any portion of the condominium property not paid
683 by insurance proceeds, if such damage is caused by intentional
684 conduct, negligence, or failure to comply with the terms of the
685 declaration or the rules of the association by a unit owner, the
686 members of his or her family, unit occupants, tenants, guests,
687 or invitees, ~~without compromise of the subrogation rights of any~~
688 ~~insurer as set forth in paragraph (g).~~

689 2. The provisions of subparagraph 1. regarding the
690 financial responsibility of a unit owner for the costs of
691 repairing or replacing other portions of the condominium
692 property also apply to the costs of repair or replacement of
693 personal property of other unit owners or the association, as
694 well as other property, ~~whether real or personal, which the unit~~
695 ~~owners are required to insure under paragraph (g).~~

696 3. To the extent the cost of repair or reconstruction for

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697 which the unit owner is responsible under this paragraph is
698 reimbursed to the association by insurance proceeds, and, to the
699 extent the association has collected the cost of such repair or
700 reconstruction from the unit owner, the association shall
701 reimburse the unit owner ~~without the waiver of any rights of~~
702 ~~subrogation.~~

703 4. The association is not obligated to pay for repair or
704 reconstruction or repairs of property casualty losses as a
705 common expense if the property casualty losses were known or
706 should have been known to a unit owner and were not reported to
707 the association until after the insurance claim of the
708 association for that property casualty was settled or resolved
709 with finality, or denied on the basis that it was untimely
710 filed.

711 (k) An association may, upon the approval of a majority of
712 the total voting interests in the association, opt out of the
713 provisions of paragraph (j) for the allocation of repair or
714 reconstruction expenses and allocate repair or reconstruction
715 expenses in the manner provided in the declaration as originally
716 recorded or as amended. Such vote may be approved by the voting
717 interests of the association without regard to any mortgagee
718 consent requirements.

719 (l) In a multicondominium association that has not
720 consolidated its financial operations under subsection (6), any
721 condominium operated by the association may opt out of the
722 provisions of paragraph (j) with the approval of a majority of
723 the total voting interests in that condominium. Such vote may be
724 approved by the voting interests without regard to any mortgagee
725 consent requirements.

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726 (m) Any association or condominium voting to opt out of the
727 guidelines for repair or reconstruction expenses as described in
728 paragraph (j) must record a notice setting forth the date of the
729 opt-out vote and the page of the official records book on which
730 the declaration is recorded. The decision to opt out is
731 effective upon the date of recording of the notice in the public
732 records by the association. An association that has voted to opt
733 out of paragraph (j) may reverse that decision by the same vote
734 required in paragraphs (k) and (l), and notice thereof shall be
735 recorded in the official records.

736 (n) The association is not obligated to pay for any
737 reconstruction or repair expenses due to property ~~casualty~~ loss
738 to any improvements installed by a current or former owner of
739 the unit or by the developer if the improvement benefits only
740 the unit for which it was installed and is not part of the
741 standard improvements installed by the developer on all units as
742 part of original construction, whether or not such improvement
743 is located within the unit. This paragraph does not relieve any
744 party of its obligations regarding recovery due under any
745 insurance implemented specifically for any such improvements.

746 (o) The provisions of this subsection shall not apply to
747 timeshare condominium associations. Insurance for timeshare
748 condominium associations shall be maintained pursuant to s.
749 721.165.

750 (12) OFFICIAL RECORDS.—

751 (b) The official records of the association shall be
752 maintained within the state for at least 7 years. The records of
753 the association shall be made available to a unit owner within
754 45 miles of the condominium property or within the county in

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755 which the condominium property is located within 5 working days
756 after receipt of written request by the board or its designee.
757 However, such distance requirement does not apply to an
758 association governing a timeshare condominium. This paragraph
759 may be complied with by having a copy of the official records of
760 the association available for inspection or copying on the
761 condominium property or association property. ~~or~~ The
762 association may offer the option of making the records of the
763 association available to a unit owner either electronically via
764 the Internet or by allowing the records to be viewed in
765 electronic format on a computer screen and printed upon request.

766 Section 7. Paragraphs (c), (d), (h), and (o) of subsection
767 (2) of section 718.112, Florida Statutes, are amended, and
768 paragraph (p) is added to that subsection, to read:

769 718.112 Bylaws.—

770 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the
771 following and, if they do not do so, shall be deemed to include
772 the following:

773 (c) *Board of administration meetings.*—Meetings of the board
774 of administration at which a quorum of the members is present
775 shall be open to all unit owners. Any unit owner may tape record
776 or videotape meetings of the board of administration. The right
777 to attend such meetings includes the right to speak at such
778 meetings with reference to all designated agenda items. The
779 division shall adopt reasonable rules governing the tape
780 recording and videotaping of the meeting. The association may
781 adopt written reasonable rules governing the frequency,
782 duration, and manner of unit owner statements. Adequate notice
783 of all meetings, which notice shall specifically incorporate an

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784 identification of agenda items, shall be posted conspicuously on
785 the condominium property at least 48 continuous hours preceding
786 the meeting except in an emergency. If 20 percent of the voting
787 interests petition the board to address an item of business, the
788 board shall at its next regular board meeting or at a special
789 meeting of the board, but not later than 60 days after the
790 receipt of the petition, place the item on the agenda. Any item
791 not included on the notice may be taken up on an emergency basis
792 by at least a majority plus one of the members of the board.
793 Such emergency action shall be noticed and ratified at the next
794 regular meeting of the board. However, written notice of any
795 meeting at which nonemergency special assessments, or at which
796 amendment to rules regarding unit use, will be considered shall
797 be mailed, delivered, or electronically transmitted to the unit
798 owners and posted conspicuously on the condominium property not
799 less than 14 days prior to the meeting. Evidence of compliance
800 with this 14-day notice shall be made by an affidavit executed
801 by the person providing the notice and filed among the official
802 records of the association. Upon notice to the unit owners, the
803 board shall by duly adopted rule designate a specific location
804 on the condominium property or association property upon which
805 all notices of board meetings shall be posted. If there is no
806 condominium property or association property upon which notices
807 can be posted, notices of board meetings shall be mailed,
808 delivered, or electronically transmitted at least 14 days before
809 the meeting to the owner of each unit. In lieu of or in addition
810 to the physical posting of notice of any meeting of the board of
811 administration on the condominium property, the association may,
812 by reasonable rule, adopt a procedure for conspicuously posting

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813 and repeatedly broadcasting the notice and the agenda on a
814 closed-circuit cable television system serving the condominium
815 association. However, if broadcast notice is used in lieu of a
816 notice posted physically on the condominium property, the notice
817 and agenda must be broadcast at least four times every broadcast
818 hour of each day that a posted notice is otherwise required
819 under this section. When broadcast notice is provided, the
820 notice and agenda must be broadcast in a manner and for a
821 sufficient continuous length of time so as to allow an average
822 reader to observe the notice and read and comprehend the entire
823 content of the notice and the agenda. Notice of any meeting in
824 which regular or special assessments against unit owners are to
825 be considered for any reason shall specifically state that
826 assessments will be considered and the nature, actual ~~estimated~~
827 cost, and description of the purposes for such assessments.
828 Meetings of a committee to take final action on behalf of the
829 board or make recommendations to the board regarding the
830 association budget are subject to the provisions of this
831 paragraph. Meetings of a committee that does not take final
832 action on behalf of the board or make recommendations to the
833 board regarding the association budget are subject to the
834 provisions of this section, unless those meetings are exempted
835 from this section by the bylaws of the association.
836 Notwithstanding any other law, the requirement that board
837 meetings and committee meetings be open to the unit owners is
838 inapplicable to meetings between the board or a committee and
839 the association's attorney, with respect to proposed or pending
840 litigation, when the meeting is held for the purpose of seeking
841 or rendering legal advice.

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842 (d) *Unit owner meetings.*—

843 1. There shall be an annual meeting of the unit owners held
844 at the location provided in the association bylaws and, if the
845 bylaws are silent as to the location, the meeting shall be held
846 within 45 miles of the condominium property. However, such
847 distance requirement does not apply to an association governing
848 a timeshare condominium. Unless the bylaws provide otherwise, a
849 vacancy on the board caused by the expiration of a director's
850 term shall be filled by electing a new board member, and the
851 election shall be by secret ballot; however, if the number of
852 vacancies equals or exceeds the number of candidates, no
853 election is required. The terms of all members of the board
854 shall expire at the first annual meeting after July 1, 2009, and
855 at each ~~the~~ annual meeting thereafter and such board members may
856 stand for reelection unless otherwise permitted by the bylaws.
857 In the event that the bylaws permit staggered terms of no more
858 than 2 years and upon approval of a majority of the total voting
859 interests, the association board members may serve 2-year
860 staggered terms starting with the first annual meeting after
861 July 1, 2009, at which time the newly elected directors shall,
862 by random lot, determine which directors shall serve a full 2-
863 year term and which directors shall only serve a 1-year term in
864 order to maintain staggered terms. If no person is interested in
865 or demonstrates an intention to run for the position of a board
866 member whose term has expired according to the provisions of
867 this subparagraph, such board member whose term has expired
868 shall be automatically reappointed to the board of
869 administration and need not stand for reelection. ~~In a~~
870 ~~condominium association of more than 10 units, coowners of a~~

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871 ~~unit may not serve as members of the board of directors at the~~
872 ~~same time. Any unit owner desiring to be a candidate for board~~
873 ~~membership shall comply with subparagraph 3. A person who has~~
874 ~~been suspended or removed by the division under this chapter, or~~
875 ~~who is delinquent in the payment of any fee or assessment as~~
876 ~~provided in paragraph (n), is not eligible for board membership.~~
877 ~~A person who has been convicted of any felony in this state or~~
878 ~~in a United States District or Territorial Court, or who has~~
879 ~~been convicted of any offense in another jurisdiction that would~~
880 ~~be considered a felony if committed in this state, is not~~
881 ~~eligible for board membership unless such felon's civil rights~~
882 ~~have been restored for a period of no less than 5 years as of~~
883 ~~the date on which such person seeks election to the board. The~~
884 ~~validity of an action by the board is not affected if it is~~
885 ~~later determined that a member of the board is ineligible for~~
886 ~~board membership due to having been convicted of a felony.~~

887 2. The bylaws shall provide the method of calling meetings
888 of unit owners, including annual meetings. Written notice, which
889 notice must include an agenda, shall be mailed, hand delivered,
890 or electronically transmitted to each unit owner at least 14
891 days prior to the annual meeting and shall be posted in a
892 conspicuous place on the condominium property at least 14
893 continuous days preceding the annual meeting. Upon notice to the
894 unit owners, the board shall by duly adopted rule designate a
895 specific location on the condominium property or association
896 property upon which all notices of unit owner meetings shall be
897 posted; however, if there is no condominium property or
898 association property upon which notices can be posted, this
899 requirement does not apply. In lieu of or in addition to the

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900 physical posting of notice of any meeting of the unit owners on
901 the condominium property, the association may, by reasonable
902 rule, adopt a procedure for conspicuously posting and repeatedly
903 broadcasting the notice and the agenda on a closed-circuit cable
904 television system serving the condominium association. However,
905 if broadcast notice is used in lieu of a notice posted
906 physically on the condominium property, the notice and agenda
907 must be broadcast at least four times every broadcast hour of
908 each day that a posted notice is otherwise required under this
909 section. When broadcast notice is provided, the notice and
910 agenda must be broadcast in a manner and for a sufficient
911 continuous length of time so as to allow an average reader to
912 observe the notice and read and comprehend the entire content of
913 the notice and the agenda. Unless a unit owner waives in writing
914 the right to receive notice of the annual meeting, such notice
915 shall be hand delivered, mailed, or electronically transmitted
916 to each unit owner. Notice for meetings and notice for all other
917 purposes shall be mailed to each unit owner at the address last
918 furnished to the association by the unit owner, or hand
919 delivered to each unit owner. However, if a unit is owned by
920 more than one person, the association shall provide notice, for
921 meetings and all other purposes, to that one address which the
922 developer initially identifies for that purpose and thereafter
923 as one or more of the owners of the unit shall so advise the
924 association in writing, or if no address is given or the owners
925 of the unit do not agree, to the address provided on the deed of
926 record. An officer of the association, or the manager or other
927 person providing notice of the association meeting, shall
928 provide an affidavit or United States Postal Service certificate

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929 of mailing, to be included in the official records of the
930 association affirming that the notice was mailed or hand
931 delivered, in accordance with this provision.

932 3. The members of the board shall be elected by written
933 ballot or voting machine. Proxies shall in no event be used in
934 electing the board, either in general elections or elections to
935 fill vacancies caused by recall, resignation, or otherwise,
936 unless otherwise provided in this chapter. Not less than 60 days
937 before a scheduled election, the association shall mail,
938 deliver, or electronically transmit, whether by separate
939 association mailing or included in another association mailing,
940 delivery, or transmission, including regularly published
941 newsletters, to each unit owner entitled to a vote, a first
942 notice of the date of the election ~~along with a certification~~
943 ~~form provided by the division attesting that he or she has read~~
944 ~~and understands, to the best of his or her ability, the~~
945 ~~governing documents of the association and the provisions of~~
946 ~~this chapter and any applicable rules.~~ Any unit owner or other
947 eligible person desiring to be a candidate for the board must
948 give written notice to the association not less than 40 days
949 before a scheduled election. Together with the written notice
950 and agenda as set forth in subparagraph 2., the association
951 shall mail, deliver, or electronically transmit a second notice
952 of the election to all unit owners entitled to vote therein,
953 together with a ballot which shall list all candidates. Upon
954 request of a candidate, the association shall include an
955 information sheet, no larger than 8 1/2 inches by 11 inches,
956 which must be furnished by the candidate not less than 35 days
957 before the election, ~~along with the signed certification form~~

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958 ~~provided for in this subparagraph,~~ to be included with the
959 mailing, delivery, or transmission of the ballot, with the costs
960 of mailing, delivery, or electronic transmission and copying to
961 be borne by the association. The association is not liable for
962 the contents of the information sheets prepared by the
963 candidates. In order to reduce costs, the association may print
964 or duplicate the information sheets on both sides of the paper.
965 The division shall by rule establish voting procedures
966 consistent with the provisions contained herein, including rules
967 establishing procedures for giving notice by electronic
968 transmission and rules providing for the secrecy of ballots.
969 Elections shall be decided by a plurality of those ballots cast.
970 There shall be no quorum requirement; however, at least 20
971 percent of the eligible voters must cast a ballot in order to
972 have a valid election of members of the board. No unit owner
973 shall permit any other person to vote his or her ballot, and any
974 such ballots improperly cast shall be deemed invalid, provided
975 any unit owner who violates this provision may be fined by the
976 association in accordance with s. 718.303. A unit owner who
977 needs assistance in casting the ballot for the reasons stated in
978 s. 101.051 may obtain assistance in casting the ballot. The
979 regular election shall occur on the date of the annual meeting.
980 The provisions of this subparagraph shall not apply to timeshare
981 condominium associations. Notwithstanding the provisions of this
982 subparagraph, an election is not required unless more candidates
983 file notices of intent to run or are nominated than board
984 vacancies exist.

985 4. Any approval by unit owners called for by this chapter
986 or the applicable declaration or bylaws, including, but not

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987 limited to, the approval requirement in s. 718.111(8), shall be
988 made at a duly noticed meeting of unit owners and shall be
989 subject to all requirements of this chapter or the applicable
990 condominium documents relating to unit owner decisionmaking,
991 except that unit owners may take action by written agreement,
992 without meetings, on matters for which action by written
993 agreement without meetings is expressly allowed by the
994 applicable bylaws or declaration or any statute that provides
995 for such action.

996 5. Unit owners may waive notice of specific meetings if
997 allowed by the applicable bylaws or declaration or any statute.
998 If authorized by the bylaws, notice of meetings of the board of
999 administration, unit owner meetings, except unit owner meetings
1000 called to recall board members under paragraph (j), and
1001 committee meetings may be given by electronic transmission to
1002 unit owners who consent to receive notice by electronic
1003 transmission.

1004 6. Unit owners shall have the right to participate in
1005 meetings of unit owners with reference to all designated agenda
1006 items. However, the association may adopt reasonable rules
1007 governing the frequency, duration, and manner of unit owner
1008 participation.

1009 7. Any unit owner may tape record or videotape a meeting of
1010 the unit owners subject to reasonable rules adopted by the
1011 division.

1012 8. Unless otherwise provided in the bylaws, any vacancy
1013 occurring on the board before the expiration of a term may be
1014 filled by the affirmative vote of the majority of the remaining
1015 directors, even if the remaining directors constitute less than

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1016 a quorum, or by the sole remaining director. In the alternative,
1017 a board may hold an election to fill the vacancy, in which case
1018 the election procedures must conform to the requirements of
1019 subparagraph 3. unless the association governs 10 units or less
1020 and has opted out of the statutory election process, in which
1021 case the bylaws of the association control. Unless otherwise
1022 provided in the bylaws, a board member appointed or elected
1023 under this section shall fill the vacancy for the unexpired term
1024 of the seat being filled. Filling vacancies created by recall is
1025 governed by paragraph (j) and rules adopted by the division.

1026 9. Notwithstanding subparagraphs (b)2. and (d)3., an
1027 association of 10 or fewer units may, by the affirmative vote of
1028 a majority of the total voting interests, provide for different
1029 voting and election procedures in its bylaws, which vote may be
1030 by a proxy specifically delineating the different voting and
1031 election procedures. The different voting and election
1032 procedures may provide for elections to be conducted by limited
1033 or general proxy.

1034 (h) *Amendment of bylaws.*—

1035 1. The method by which the bylaws may be amended consistent
1036 with the provisions of this chapter shall be stated. If the
1037 bylaws fail to provide a method of amendment, the bylaws may be
1038 amended if the amendment is approved by the owners of not less
1039 than two-thirds of the voting interests.

1040 2. No bylaw shall be revised or amended by reference to its
1041 title or number only. Proposals to amend existing bylaws shall
1042 contain the full text of the bylaws to be amended; new words
1043 shall be inserted in the text underlined, and words to be
1044 deleted shall be lined through with hyphens. However, if the

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1045 proposed change is so extensive that this procedure would
1046 hinder, rather than assist, the understanding of the proposed
1047 amendment, it is not necessary to use underlining and hyphens as
1048 indicators of words added or deleted, but, instead, a notation
1049 must be inserted immediately preceding the proposed amendment in
1050 substantially the following language: "Substantial rewording of
1051 bylaw. See bylaw for present text."

1052 3. Nonmaterial errors or omissions in the bylaw process
1053 will not invalidate an otherwise properly promulgated amendment.

1054 4. If the bylaws provide for amendment by the board of
1055 administration, no bylaw may be amended unless it is heard and
1056 noticed at two consecutive meetings of the board of
1057 administration that are at least 1 week apart. If the bylaws
1058 provide for amendment of the bylaws by a vote of the unit
1059 owners, the meeting at which the vote is to be taken must be
1060 conducted between the hours of 6 p.m. and 10 p.m. local time.

1061 (o) *Director or officer offenses.*—A director or officer
1062 charged by information or indictment with a felony theft or
1063 embezzlement offense involving the association's funds or
1064 property shall be removed from office, creating a vacancy in the
1065 office to be filled according to law. While such director or
1066 officer has such criminal charge pending in the state or federal
1067 court system, he or she may not be appointed or elected to a
1068 position as a director or officer. However, should the charges
1069 be resolved without a finding of guilt, the director or officer
1070 shall be reinstated for the remainder of his or her term of
1071 office, if any.

1072 (p) Qualification of directors.—In addition to any other
1073 requirement for office in statute or in the governing documents

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1074 of the association, a person running for or seeking appointment
1075 to the board must meet the following qualifications:

1076 1. In a condominium association of 10 or more units, only
1077 one individual coowner of a unit may serve on the board of
1078 administration.

1079 2. No person may serve as a director of any condominium
1080 association in the state if restricted from serving by action of
1081 the division pursuant to s. 718.501(1)(d)6.

1082 3. A person who has been convicted of any felony in this
1083 state or in a United States District or Territorial Court, or
1084 who has been convicted of any offense in another jurisdiction
1085 that would be considered a felony if committed in this state, is
1086 not eligible for board membership unless such felon's civil
1087 rights have been restored for a period of no less than 5 years
1088 as of the date on which such person seeks election to the board.

1089 4. Within 30 days after being elected or appointed to the
1090 board of administration, a director shall certify in writing to
1091 the secretary of the association that he or she has read parts I
1092 and III of chapter 718; ss. 718.501, 617.0202, 617.0206,
1093 617.0302-617.0304, 617.0501, 617.0505, 617.0801-617.0833,
1094 617.0840-617.0843, 617.1622, and 617.2102; and the association's
1095 declaration of condominium, articles of incorporation, bylaws,
1096 and current written policies. The director shall further certify
1097 that he or she will work to uphold such documents and policies
1098 to the best of his or her ability, and that he or she will
1099 faithfully discharge his or her fiduciary responsibility to the
1100 association's members. If the division finds that a director has
1101 falsely certified that he or she has read the required statutes
1102 and documents, the division shall order the director removed

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1103 from the board and shall order the director to reimburse the
1104 division for the cost of prosecution and hearing.

1105 5. After turnover of the association pursuant to s.
1106 718.301(2), a director must:

1107 a. If the unit is owned by an individual or individuals, be
1108 one of those individuals.

1109 b. If the unit is owned by a trust, be an individual
1110 qualified pursuant to s. 617.0802.

1111 c. If the unit is owned by an entity other than a trust, be
1112 an individual designated by the entity that owns the unit.

1113
1114 These qualifications shall operate on a continuing basis, and
1115 upon a failure of a director at any time to fail to meet a
1116 qualification, the secretary shall certify that the director is
1117 removed from office and that a vacancy in office exists.

1118 Section 8. Paragraph (a) of subsection (5) of section
1119 718.113, Florida Statutes, is amended to read:

1120 718.113 Maintenance; limitation upon improvement; display
1121 of flag; hurricane shutters; display of religious decorations.-

1122 (5) Each board of administration shall adopt hurricane
1123 shutter specifications for each building within each condominium
1124 operated by the association which shall include color, style,
1125 and other factors deemed relevant by the board. All
1126 specifications adopted by the board shall comply with the
1127 applicable building code.

1128 (a) The board may, subject to the provisions of s.
1129 718.3026, and the approval of a majority of voting interests of
1130 the condominium, install hurricane shutters or hurricane
1131 protection that complies with or exceeds the applicable building

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1132 code, or both, except that a vote of the owners is not required
1133 if the maintenance, repair, and replacement of hurricane
1134 shutters or other forms of hurricane protection are the
1135 responsibility of the association pursuant to the declaration of
1136 condominium. However, where hurricane protection or laminated
1137 glass or window film architecturally designed to function as
1138 hurricane protection which complies with or exceeds the current
1139 applicable building code has been previously installed, the
1140 board may not install hurricane shutters or other hurricane
1141 protection. Code-compliant impact glass may be installed by the
1142 association as hurricane protection if the area in which the
1143 glass is to be installed is an area that is the responsibility
1144 of the association. If a unit owner installed code-compliant
1145 impact glass prior to the association voting to install such
1146 glass, and such glass and the frame thereof complies with the
1147 current applicable building codes and is otherwise in good
1148 repair, the unit owner shall not be required to pay the unit
1149 owner's pro rata share of the cost of installing code-compliant
1150 impact glass to the condominium association, notwithstanding s.
1151 718.116(9).

1152 Section 9. Subsection (1) and paragraph (a) of subsection
1153 (5) of section 718.116, Florida Statutes, are amended, and
1154 subsection (11) is added to that section, to read:

1155 718.116 Assessments; liability; lien and priority;
1156 interest; collection; rent during foreclosure.-

1157 (1) (a) A unit owner, regardless of how his or her title has
1158 been acquired, including by purchase at a foreclosure sale or by
1159 deed in lieu of foreclosure, is liable for all assessments which
1160 come due while he or she is the unit owner. Additionally, a unit

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1161 owner is jointly and severally liable with the previous owner
1162 for all unpaid assessments that came due up to the time of
1163 transfer of title. This liability is without prejudice to any
1164 right the owner may have to recover from the previous owner the
1165 amounts paid by the owner.

1166 ~~(b) The liability of a first mortgagee or its successor or~~
1167 ~~assignees who acquire title to a unit by foreclosure or by deed~~
1168 ~~in lieu of foreclosure for the unpaid assessments that became~~
1169 ~~due prior to the mortgagee's acquisition of title is limited to~~
1170 ~~the lesser of:~~

1171 ~~1. The unit's unpaid common expenses and regular periodic~~
1172 ~~assessments which accrued or came due during the 6 months~~
1173 ~~immediately preceding the acquisition of title and for which~~
1174 ~~payment in full has not been received by the association; or~~

1175 ~~2. One percent of the original mortgage debt. The~~
1176 ~~provisions of this paragraph apply only if the first mortgagee~~
1177 ~~joined the association as a defendant in the foreclosure action.~~
1178 ~~Joinder of the association is not required if, on the date the~~
1179 ~~complaint is filed, the association was dissolved or did not~~
1180 ~~maintain an office or agent for service of process at a location~~
1181 ~~which was known to or reasonably discoverable by the mortgagee.~~

1182 ~~(c) The person acquiring title shall pay the amount owed to~~
1183 ~~the association within 30 days after transfer of title. Failure~~
1184 ~~to pay the full amount when due shall entitle the association to~~
1185 ~~record a claim of lien against the parcel and proceed in the~~
1186 ~~same manner as provided in this section for the collection of~~
1187 ~~unpaid assessments.~~

1188 ~~(b)-(d)~~ With respect to each timeshare unit, each owner of a
1189 timeshare estate therein is jointly and severally liable for the

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1190 payment of all assessments and other charges levied against or
1191 with respect to that unit pursuant to the declaration or bylaws,
1192 except to the extent that the declaration or bylaws may provide
1193 to the contrary.

1194 ~~(c) Notwithstanding the provisions of paragraph (b), a~~
1195 ~~first mortgagee or its successor or assignees who acquire title~~
1196 ~~to a condominium unit as a result of the foreclosure of the~~
1197 ~~mortgage or by deed in lieu of foreclosure of the mortgage shall~~
1198 ~~be exempt from liability for all unpaid assessments attributable~~
1199 ~~to the parcel or chargeable to the previous owner which came due~~
1200 ~~prior to acquisition of title if the first mortgage was recorded~~
1201 ~~prior to April 1, 1992. If, however, the first mortgage was~~
1202 ~~recorded on or after April 1, 1992, or on the date the mortgage~~
1203 ~~was recorded, the declaration included language incorporating by~~
1204 ~~reference future amendments to this chapter, the provisions of~~
1205 ~~paragraph (b) shall apply.~~

1206 ~~(f) The provisions of this subsection are intended to~~
1207 ~~clarify existing law, and shall not be available in any case~~
1208 ~~where the unpaid assessments sought to be recovered by the~~
1209 ~~association are secured by a lien recorded prior to the~~
1210 ~~recording of the mortgage. Notwithstanding the provisions of~~
1211 ~~chapter 48, the association shall be a proper party to intervene~~
1212 ~~in any foreclosure proceeding to seek equitable relief.~~

1213 ~~(g) For purposes of this subsection, the term "successor or~~
1214 ~~assignee" as used with respect to a first mortgagee includes~~
1215 ~~only a subsequent holder of the first mortgage.~~

1216 (5) (a) The association has a lien on each condominium
1217 parcel to secure the payment of assessments. ~~Except as otherwise~~
1218 ~~provided in subsection (1) and as set forth below, The lien is~~

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1219 effective from and shall relate back to the recording of the
1220 original declaration of condominium, or, in the case of lien on
1221 a parcel located in a phase condominium, the last to occur of
1222 the recording of the original declaration or amendment thereto
1223 creating the parcel. Notwithstanding any provision in a mortgage
1224 instrument or in the declaration of condominium, the lien of the
1225 association shall be prior in dignity to all others regardless
1226 of when such other liens are recorded; except that the lien of
1227 an association shall be subordinate to the ad valorem taxes.

1228 ~~However, as to first mortgages of record, the lien is effective~~
1229 ~~from and after recording of a claim of lien in the public~~
1230 ~~records of the county in which the condominium parcel is~~
1231 ~~located. Nothing in this subsection shall be construed to bestow~~
1232 ~~upon any lien, mortgage, or certified judgment of record on~~
1233 ~~April 1, 1992, including the lien for unpaid assessments created~~
1234 ~~herein, a priority which, by law, the lien, mortgage, or~~
1235 ~~judgment did not have before that date.~~

1236

1237 After notice of contest of lien has been recorded, the clerk of
1238 the circuit court shall mail a copy of the recorded notice to
1239 the association by certified mail, return receipt requested, at
1240 the address shown in the claim of lien or most recent amendment
1241 to it and shall certify to the service on the face of the
1242 notice. Service is complete upon mailing. After service, the
1243 association has 90 days in which to file an action to enforce
1244 the lien; and, if the action is not filed within the 90-day
1245 period, the lien is void. However, the 90-day period shall be
1246 extended for any length of time that the association is
1247 prevented from filing its action because of an automatic stay

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1248 resulting from the filing of a bankruptcy petition by the unit
1249 owner or by any other person claiming an interest in the parcel.

1250 (11) During the pendency of any foreclosure action of a
1251 condominium unit, if the unit is occupied by a tenant and the
1252 unit owner is delinquent in the payment of regular assessments,
1253 the association may demand that the tenant pay to the
1254 association the future regular assessments related to the
1255 condominium unit. The demand shall be continuing in nature, and
1256 upon demand the tenant shall continue to pay the regular
1257 assessments to the association until the association releases
1258 the tenant or the tenant discontinues tenancy in the unit. The
1259 association shall mail written notice to the unit owner of the
1260 association's demand that the tenant pay regular assessments to
1261 the association. The tenant shall not be liable for increases in
1262 the amount of the regular assessment due unless the tenant was
1263 reasonably notified of the increase prior to the day that the
1264 rent is due. The tenant shall be given a credit against rents
1265 due to the unit owner in the amount of assessments paid to the
1266 association. The association shall, upon request, provide the
1267 tenant with written receipts for payments made. The association
1268 may issue notices under s. 83.56 and may sue for eviction under
1269 ss. 83.59-83.625 as if the association were a landlord under
1270 part II of chapter 83 should the tenant fail to pay an
1271 assessment. However, the association shall not otherwise be
1272 considered a landlord under chapter 83 and shall specifically
1273 not have any duty under s. 83.51. The tenant shall not, by
1274 virtue of payment of assessments, have any of the rights of a
1275 unit owner to vote in any election or to examine the books and
1276 records of the association. A court may supersede the effect of

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1277 this subsection by appointing a receiver.

1278 Section 10. Subsection (2) of section 718.1265, Florida
1279 Statutes, is amended to read:

1280 718.1265 Association emergency powers.—

1281 (2) The special powers authorized under subsection (1)
1282 shall be limited to that time reasonably necessary to protect
1283 the health, safety, and welfare of the association and the unit
1284 owners and the unit owners' family members, tenants, guests,
1285 agents, or invitees and shall be reasonably necessary to
1286 mitigate further damage and make emergency repairs.

1287 Additionally, unless 20 percent or more of the units are made
1288 uninhabitable by the emergency, the special powers authorized
1289 under subsection (1) shall only be exercised during the term of
1290 the Governor's executive order or proclamation declaring the
1291 state of emergency in the locale in which the condominium is
1292 located.

1293 Section 11. Subsection (5) is added to section 718.3025,
1294 Florida Statutes, to read:

1295 718.3025 Agreements for operation, maintenance, or
1296 management of condominiums; specific requirements.—

1297 (5) A condominium association with total annual revenues of
1298 \$250,000 or more shall enter into a management agreement with a
1299 person or firm licensed under part VIII of chapter 468.

1300 Section 12. Subsection (1) of section 718.501, Florida
1301 Statutes, is amended, and subsection (3) is added to that
1302 section, to read:

1303 718.501 Authority, responsibility, and duties of Division
1304 of Florida Condominiums, Timeshares, and Mobile Homes.—

1305 (1) The Division of Florida Condominiums, Timeshares, and

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1306 Mobile Homes of the Department of Business and Professional
1307 Regulation, referred to as the "division" in this part, has the
1308 power to enforce and ensure compliance with the provisions of
1309 this chapter and rules relating to the development,
1310 construction, sale, lease, ownership, operation, and management
1311 of residential condominium units. In performing its duties, the
1312 division has complete jurisdiction to investigate complaints and
1313 enforce compliance with the provisions of this chapter ~~with~~
1314 ~~respect to associations that are still under developer control~~
1315 ~~and complaints against developers involving improper turnover or~~
1316 ~~failure to turnover, pursuant to s. 718.301. However, after~~
1317 ~~turnover has occurred, the division shall only have jurisdiction~~
1318 ~~to investigate complaints related to financial issues,~~
1319 ~~elections, and unit owner access to association records pursuant~~
1320 ~~to s. 718.111(12).~~

1321 (a)1. The division may make necessary public or private
1322 investigations within or outside this state to determine whether
1323 any person has violated this chapter or any rule or order
1324 hereunder, to aid in the enforcement of this chapter, or to aid
1325 in the adoption of rules or forms hereunder.

1326 2. The division may submit any official written report,
1327 worksheet, or other related paper, or a duly certified copy
1328 thereof, compiled, prepared, drafted, or otherwise made by and
1329 duly authenticated by a financial examiner or analyst to be
1330 admitted as competent evidence in any hearing in which the
1331 financial examiner or analyst is available for cross-examination
1332 and attests under oath that such documents were prepared as a
1333 result of an examination or inspection conducted pursuant to
1334 this chapter.

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1335 (b) The division may require or permit any person to file a
1336 statement in writing, under oath or otherwise, as the division
1337 determines, as to the facts and circumstances concerning a
1338 matter to be investigated.

1339 (c) For the purpose of any investigation under this
1340 chapter, the division director or any officer or employee
1341 designated by the division director may administer oaths or
1342 affirmations, subpoena witnesses and compel their attendance,
1343 take evidence, and require the production of any matter which is
1344 relevant to the investigation, including the existence,
1345 description, nature, custody, condition, and location of any
1346 books, documents, or other tangible things and the identity and
1347 location of persons having knowledge of relevant facts or any
1348 other matter reasonably calculated to lead to the discovery of
1349 material evidence. Upon the failure by a person to obey a
1350 subpoena or to answer questions propounded by the investigating
1351 officer and upon reasonable notice to all persons affected
1352 thereby, the division may apply to the circuit court for an
1353 order compelling compliance.

1354 (d) Notwithstanding any remedies available to unit owners
1355 and associations, if the division has reasonable cause to
1356 believe that a violation of any provision of this chapter or
1357 related rule has occurred, the division may institute
1358 enforcement proceedings in its own name against any developer,
1359 association, officer, or member of the board of administration,
1360 or its assignees or agents, as follows:

1361 1. The division may permit a person whose conduct or
1362 actions may be under investigation to waive formal proceedings
1363 and enter into a consent proceeding whereby orders, rules, or

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1364 letters of censure or warning, whether formal or informal, may
1365 be entered against the person.

1366 2. The division may issue an order requiring the developer,
1367 association, ~~developer-designated~~ officer, or ~~developer-~~
1368 ~~designated~~ member of the board of administration, ~~developer-~~
1369 ~~designated~~ assignees or agents, community association manager,
1370 or community association management firm to cease and desist
1371 from the unlawful practice and take such affirmative action as
1372 in the judgment of the division will carry out the purposes of
1373 this chapter. If the division finds that a developer,
1374 association, officer, or member of the board of administration,
1375 or its assignees or agents, is violating or is about to violate
1376 any provision of this chapter, any rule adopted or order issued
1377 by the division, or any written agreement entered into with the
1378 division, and presents an immediate danger to the public
1379 requiring an immediate final order, it may issue an emergency
1380 cease and desist order reciting with particularity the facts
1381 underlying such findings. The emergency cease and desist order
1382 is effective for 90 days. If the division begins nonemergency
1383 cease and desist proceedings, the emergency cease and desist
1384 order remains effective until the conclusion of the proceedings
1385 under ss. 120.569 and 120.57.

1386 3. If a developer fails to pay any restitution determined
1387 by the division to be owed, plus any accrued interest at the
1388 highest rate permitted by law, within 30 days after expiration
1389 of any appellate time period of a final order requiring payment
1390 of restitution or the conclusion of any appeal thereof,
1391 whichever is later, the division shall bring an action in
1392 circuit or county court on behalf of any association, class of

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1393 unit owners, lessees, or purchasers for restitution, declaratory
1394 relief, injunctive relief, or any other available remedy. The
1395 division may also temporarily revoke its acceptance of the
1396 filing for the developer to which the restitution relates until
1397 payment of restitution is made.

1398 4. The division may petition the court for the appointment
1399 of a receiver or conservator. If appointed, the receiver or
1400 conservator may take action to implement the court order to
1401 ensure the performance of the order and to remedy any breach
1402 thereof. In addition to all other means provided by law for the
1403 enforcement of an injunction or temporary restraining order, the
1404 circuit court may impound or sequester the property of a party
1405 defendant, including books, papers, documents, and related
1406 records, and allow the examination and use of the property by
1407 the division and a court-appointed receiver or conservator.

1408 5. The division may apply to the circuit court for an order
1409 of restitution whereby the defendant in an action brought
1410 pursuant to subparagraph 4. shall be ordered to make restitution
1411 of those sums shown by the division to have been obtained by the
1412 defendant in violation of this chapter. Such restitution shall,
1413 at the option of the court, be payable to the conservator or
1414 receiver appointed pursuant to subparagraph 4. or directly to
1415 the persons whose funds or assets were obtained in violation of
1416 this chapter.

1417 6. The division may impose a civil penalty against a
1418 developer or association, or its assignee or agent, for any
1419 violation of this chapter or a rule adopted under this chapter.
1420 The division may impose a civil penalty individually against any
1421 officer or board member who willfully and knowingly violates a

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1422 provision of this chapter, adopted rule, or a final order of the
1423 division; may order the removal of such individual as an officer
1424 or from the board of administration or as an officer of the
1425 association; and may prohibit such individual from serving as an
1426 officer or on the board of a community association for a period
1427 of time. The term "willfully and knowingly" means that the
1428 division informed the officer or board member that his or her
1429 action or intended action violates this chapter, a rule adopted
1430 under this chapter, or a final order of the division and that
1431 the officer or board member refused to comply with the
1432 requirements of this chapter, a rule adopted under this chapter,
1433 or a final order of the division. The division, prior to
1434 initiating formal agency action under chapter 120, shall afford
1435 the officer or board member an opportunity to voluntarily comply
1436 with this chapter, a rule adopted under this chapter, or a final
1437 order of the division. An officer or board member who complies
1438 within 10 days is not subject to a civil penalty. A penalty may
1439 be imposed on the basis of each day of continuing violation, but
1440 in no event shall the penalty for any offense exceed \$5,000. By
1441 January 1, 1998, the division shall adopt, by rule, penalty
1442 guidelines applicable to possible violations or to categories of
1443 violations of this chapter or rules adopted by the division. The
1444 guidelines must specify a meaningful range of civil penalties
1445 for each such violation of the statute and rules and must be
1446 based upon the harm caused by the violation, the repetition of
1447 the violation, and upon such other factors deemed relevant by
1448 the division. For example, the division may consider whether the
1449 violations were committed by a developer or owner-controlled
1450 association, the size of the association, and other factors. The

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1451 guidelines must designate the possible mitigating or aggravating
1452 circumstances that justify a departure from the range of
1453 penalties provided by the rules. It is the legislative intent
1454 that minor violations be distinguished from those which endanger
1455 the health, safety, or welfare of the condominium residents or
1456 other persons and that such guidelines provide reasonable and
1457 meaningful notice to the public of likely penalties that may be
1458 imposed for proscribed conduct. This subsection does not limit
1459 the ability of the division to informally dispose of
1460 administrative actions or complaints by stipulation, agreed
1461 settlement, or consent order. All amounts collected shall be
1462 deposited with the Chief Financial Officer to the credit of the
1463 Division of Florida Condominiums, Timeshares, and Mobile Homes
1464 Trust Fund. If a developer fails to pay the civil penalty and
1465 the amount deemed to be owed to the association, the division
1466 shall issue an order directing that such developer cease and
1467 desist from further operation until such time as the civil
1468 penalty is paid or may pursue enforcement of the penalty in a
1469 court of competent jurisdiction. If an association fails to pay
1470 the civil penalty, the division shall pursue enforcement in a
1471 court of competent jurisdiction, and the order imposing the
1472 civil penalty or the cease and desist order will not become
1473 effective until 20 days after the date of such order. Any action
1474 commenced by the division shall be brought in the county in
1475 which the division has its executive offices or in the county
1476 where the violation occurred.

1477 7. If a unit owner presents the division with proof that
1478 the unit owner has requested access to official records in
1479 writing by certified mail, and that after 10 days the unit owner

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1480 again made the same request for access to official records in
1481 writing by certified mail, and that more than 10 days has
1482 elapsed since the second request and the association has still
1483 failed or refused to provide access to official records as
1484 required by this chapter, the division shall issue a subpoena
1485 requiring production of the requested records where the records
1486 are kept pursuant to s. 718.112.

1487 8. In addition to subparagraph 6., the division may seek
1488 the imposition of a civil penalty through the circuit court for
1489 any violation for which the division may issue a notice to show
1490 cause under paragraph (r). The civil penalty shall be at least
1491 \$500 but no more than \$5,000 for each violation. The court may
1492 also award to the prevailing party court costs and reasonable
1493 attorney's fees and, if the division prevails, may also award
1494 reasonable costs of investigation.

1495 9. Notwithstanding subparagraph 6., when the division finds
1496 that an officer or director has intentionally falsified
1497 association records with the intent to conceal material facts
1498 from the division, the board, or unit owners, the division shall
1499 prohibit the officer or director from acting as an officer or
1500 director of any condominium, cooperative, or homeowners'
1501 association for at least 1 year.

1502 10. When the division finds that any person has derived an
1503 improper personal benefit from a condominium association, the
1504 division shall order the person to pay restitution to the
1505 association and shall order the person to pay to the division
1506 the costs of investigation and prosecution.

1507 (e) The division may prepare and disseminate a prospectus
1508 and other information to assist prospective owners, purchasers,

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1509 lessees, and developers of residential condominiums in assessing
1510 the rights, privileges, and duties pertaining thereto.

1511 (f) The division has authority to adopt rules pursuant to
1512 ss. 120.536(1) and 120.54 to implement and enforce the
1513 provisions of this chapter.

1514 (g) The division shall establish procedures for providing
1515 notice to an association and the developer during the period
1516 where the developer controls the association when the division
1517 is considering the issuance of a declaratory statement with
1518 respect to the declaration of condominium or any related
1519 document governing in such condominium community.

1520 (h) The division shall furnish each association which pays
1521 the fees required by paragraph (2)(a) a copy of this act,
1522 subsequent changes to this act on an annual basis, an amended
1523 version of this act as it becomes available from the Secretary
1524 of State's office on a biennial basis, and the rules adopted
1525 thereto on an annual basis.

1526 (i) The division shall annually provide each association
1527 with a summary of declaratory statements and formal legal
1528 opinions relating to the operations of condominiums which were
1529 rendered by the division during the previous year.

1530 (j) The division shall provide training and educational
1531 programs for condominium association board members and unit
1532 owners. The training may, in the division's discretion, include
1533 web-based electronic media, and live training and seminars in
1534 various locations throughout the state. The division shall have
1535 the authority to review and approve education and training
1536 programs for board members and unit owners offered by providers
1537 and shall maintain a current list of approved programs and

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1538 providers and shall make such list available to board members
1539 and unit owners in a reasonable and cost-effective manner.

1540 (k) The division shall maintain a toll-free telephone
1541 number accessible to condominium unit owners.

1542 (l) The division shall develop a program to certify both
1543 volunteer and paid mediators to provide mediation of condominium
1544 disputes. The division shall provide, upon request, a list of
1545 such mediators to any association, unit owner, or other
1546 participant in arbitration proceedings under s. 718.1255
1547 requesting a copy of the list. The division shall include on the
1548 list of volunteer mediators only the names of persons who have
1549 received at least 20 hours of training in mediation techniques
1550 or who have mediated at least 20 disputes. In order to become
1551 initially certified by the division, paid mediators must be
1552 certified by the Supreme Court to mediate court cases in county
1553 or circuit courts. However, the division may adopt, by rule,
1554 additional factors for the certification of paid mediators,
1555 which factors must be related to experience, education, or
1556 background. Any person initially certified as a paid mediator by
1557 the division must, in order to continue to be certified, comply
1558 with the factors or requirements imposed by rules adopted by the
1559 division.

1560 (m) When a complaint is made, the division shall conduct
1561 its inquiry with due regard to the interests of the affected
1562 parties. Within 30 days after receipt of a complaint, the
1563 division shall acknowledge the complaint in writing and notify
1564 the complainant whether the complaint is within the jurisdiction
1565 of the division and whether additional information is needed by
1566 the division from the complainant. The division shall conduct

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1567 its investigation and shall, within 90 days after receipt of the
1568 original complaint or of timely requested additional
1569 information, take action upon the complaint. However, the
1570 failure to complete the investigation within 90 days does not
1571 prevent the division from continuing the investigation,
1572 accepting or considering evidence obtained or received after 90
1573 days, or taking administrative action if reasonable cause exists
1574 to believe that a violation of this chapter or a rule of the
1575 division has occurred. If an investigation is not completed
1576 within the time limits established in this paragraph, the
1577 division shall, on a monthly basis, notify the complainant in
1578 writing of the status of the investigation. When reporting its
1579 action to the complainant, the division shall inform the
1580 complainant of any right to a hearing pursuant to ss. 120.569
1581 and 120.57.

1582 (n) Condominium association directors, officers, and
1583 employees; condominium developers; community association
1584 managers; and community association management firms have an
1585 ongoing duty to reasonably cooperate with the division in any
1586 investigation pursuant to this section. The division shall refer
1587 to local law enforcement authorities any person whom the
1588 division believes has altered, destroyed, concealed, or removed
1589 any record, document, or thing required to be kept or maintained
1590 by this chapter with the purpose to impair its verity or
1591 availability in the department's investigation.

1592 (o) The division may:

- 1593 1. Contract with agencies in this state or other
1594 jurisdictions to perform investigative functions; or
- 1595 2. Accept grants-in-aid from any source.

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1596 (p) The division shall cooperate with similar agencies in
1597 other jurisdictions to establish uniform filing procedures and
1598 forms, public offering statements, advertising standards, and
1599 rules and common administrative practices.

1600 (q) The division shall consider notice to a developer to be
1601 complete when it is delivered to the developer's address
1602 currently on file with the division.

1603 (r) In addition to its enforcement authority, the division
1604 may issue a notice to show cause, which shall provide for a
1605 hearing, upon written request, in accordance with chapter 120.

1606 (s) The division shall submit to the Governor, the
1607 President of the Senate, the Speaker of the House of
1608 Representatives, and the chairs of the legislative
1609 appropriations committees an annual report that includes, but
1610 need not be limited to, the number of training programs provided
1611 for condominium association board members and unit owners, the
1612 number of complaints received by type, the number and percent of
1613 complaints acknowledged in writing within 30 days and the number
1614 and percent of investigations acted upon within 90 days in
1615 accordance with paragraph (m), and the number of investigations
1616 exceeding the 90-day requirement. The annual report shall also
1617 include an evaluation of the division's core business processes
1618 and make recommendations for improvements, including statutory
1619 changes. The report shall be submitted by September 30 following
1620 the end of the fiscal year.

1621 (3) The division shall create a booklet of the laws that a
1622 director must read as required by s. 718.112(2) (p) 4. The booklet
1623 shall be available for free download from the division's
1624 website. The division may provide a printed version to directors

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1625 for free or for a cost not to exceed the division's actual cost
1626 of production and mailing.

1627 Section 13. Subsection (9) of section 718.5012, Florida
1628 Statutes, is amended to read:

1629 718.5012 Ombudsman; powers and duties.—The ombudsman shall
1630 have the powers that are necessary to carry out the duties of
1631 his or her office, including the following specific powers:

1632 (9) To assist with the resolution of disputes between unit
1633 owners and the association or between unit owners when the
1634 dispute is not within the jurisdiction of the division to
1635 resolve or the division has declined to resolve a dispute.

1636 Section 14. Subsection (1) of section 718.50151, Florida
1637 Statutes, is amended to read:

1638 718.50151 Community Association ~~Living~~ Study Council;
1639 membership functions.—

1640 (1) There is created the Community Association ~~Living~~ Study
1641 Council. The council shall consist of seven appointed members.
1642 Two members shall be appointed by the President of the Senate,
1643 two members shall be appointed by the Speaker of the House of
1644 Representatives, and three members shall be appointed by the
1645 Governor. ~~One member that is appointed by the Governor may~~
1646 ~~represent timeshare condominiums.~~ The council shall be created
1647 ~~as of October 1 every 5 years,~~ commencing July ~~October 1, 2009~~
1648 ~~2008, and shall exist for a 6-month term.~~ The director of the
1649 division shall appoint an ex officio nonvoting member. The
1650 Legislature intends that the persons appointed represent a
1651 cross-section of persons experienced ~~interested~~ in community
1652 association issues. No member of the council may be a registered
1653 lobbyist, partner or shareholder in a firm providing lobbying

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1654 services, or principal or employee of a lobbying firm who is
 1655 provided compensation by community associations. The council
 1656 shall be located within the division for administrative
 1657 purposes. Members of the council shall serve without
 1658 compensation but are entitled to receive per diem and travel
 1659 expenses pursuant to s. 112.061 while on official business. The
 1660 initial members of the council shall be those persons formerly
 1661 appointed to the Community Association Living Study Council who
 1662 are otherwise qualified to serve on the Community Association
 1663 Study Council.

1664 Section 15. Subsections (11) and (26) of section 719.103,
 1665 Florida Statutes, are amended to read:

1666 719.103 Definitions.—As used in this chapter:

1667 (11) "Conspicuous type" means bold type in capital letters
 1668 no smaller than the largest type, exclusive of headings, on the
 1669 page on which it appears and, in all cases, at least 10-point
 1670 type. When conspicuous type is required, it must be separated on
 1671 all sides from other type and print. Conspicuous type may be
 1672 used in a contract for purchase and sale of a unit, a lease of a
 1673 unit for more than 5 years, or a prospectus or offering circular
 1674 only when required by law.

1675 (26) "Unit owner," ~~or~~ "owner of a unit," or "shareholder"
 1676 means the person holding a share in the cooperative association
 1677 and a lease or other muniment of title or possession of a unit
 1678 that is granted by the association as the owner of the
 1679 cooperative property.

1680 Section 16. Section 719.104, Florida Statutes, is amended
 1681 to read:

1682 719.104 The association Cooperatives; ~~access to units;~~

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1683 ~~records; financial reports; assessments; purchase of leases.-~~

1684 (1) RIGHT OF ACCESS TO UNITS.—The association has the
1685 irrevocable right of access to each unit from time to time
1686 during reasonable hours when necessary for the maintenance,
1687 repair, or replacement of any structural components of the
1688 building or of any mechanical, electrical, or plumbing elements
1689 necessary to prevent damage to the building or to another unit.

1690 (2) OFFICIAL RECORDS.—

1691 (a) From the inception of the association, the association
1692 shall maintain a copy of each of the following, where
1693 applicable, which shall constitute the official records of the
1694 association:

1695 1. The plans, permits, warranties, and other items provided
1696 by the developer pursuant to s. 719.301(4).

1697 2. A photocopy of the cooperative documents.

1698 3. A copy of the current rules of the association.

1699 4. A book or books containing the minutes of all meetings
1700 of the association, of the board of directors, and of the
1701 shareholders ~~unit owners~~, which minutes shall be retained for a
1702 period of not less than 7 years.

1703 5. A current roster of all shareholders ~~unit owners~~ and
1704 their mailing addresses, unit identifications, voting
1705 certifications, and, if known, telephone numbers. The
1706 association shall also maintain the electronic mailing addresses
1707 and the numbers designated by shareholders ~~unit owners~~ for
1708 receiving notice sent by electronic transmission of those
1709 shareholders ~~unit owners~~ consenting to receive notice by
1710 electronic transmission. The electronic mailing addresses and
1711 numbers provided by shareholders ~~unit owners~~ to receive notice

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1712 by electronic transmission shall be removed from association
1713 records when consent to receive notice by electronic
1714 transmission is revoked. However, the association is not liable
1715 for an erroneous disclosure of the electronic mail address or
1716 the number for receiving electronic transmission of notices.

1717 6. All current insurance policies of the association.

1718 7. A current copy of any management agreement, lease, or
1719 other contract to which the association is a party or under
1720 which the association or the shareholders ~~unit owners~~ have an
1721 obligation or responsibility.

1722 8. Bills of sale or transfer for all property owned by the
1723 association.

1724 9. Accounting records for the association and separate
1725 accounting records for each unit it operates, according to good
1726 accounting practices. Any person who knowingly or intentionally
1727 defaces or destroys accounting records required to be maintained
1728 by this chapter, or who knowingly or intentionally fails to
1729 create or maintain accounting records required to be maintained
1730 by this chapter, is personally subject to a civil penalty
1731 pursuant to s. 718.501(1)(d). All accounting records shall be
1732 maintained for a period of not less than 7 years. The accounting
1733 records shall include, but not be limited to:

1734 a. Accurate, itemized, and detailed records of all receipts
1735 and expenditures.

1736 b. A current account and a monthly, bimonthly, or quarterly
1737 statement of the account for each unit designating the name of
1738 the shareholder ~~unit owner~~, the due date and amount of each
1739 assessment, the amount paid upon the account, and the balance
1740 due.

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1741 c. All audits, reviews, accounting statements, and
1742 financial reports of the association.

1743 d. All contracts for work to be performed. Bids for work to
1744 be performed shall also be considered official records and shall
1745 be maintained ~~for a period of 1 year~~.

1746 10. Ballots, sign-in sheets, voting proxies, and all other
1747 papers relating to voting by shareholders ~~unit owners~~, which
1748 shall be maintained for a period of 1 year after the date of the
1749 election, vote, or meeting to which the document relates.

1750 11. All rental records where the association is acting as
1751 agent for the rental of units.

1752 12. A copy of the current question and answer sheet as
1753 described in s. 719.504.

1754 13. All other records of the association not specifically
1755 included in the foregoing which are related to the operation of
1756 the association.

1757 (b) The official records of the association shall be
1758 maintained within the state for at least 7 years. The records of
1759 the association shall be made available to a shareholder ~~unit~~
1760 ~~owner~~ within 5 working days after receipt of written request by
1761 the board or its designee. This paragraph may be complied with
1762 by having a copy of the official records available for
1763 inspection or copying on the cooperative property.

1764 (c) The official records of the association shall be open
1765 to inspection by any association member or the authorized
1766 representative of such member at all reasonable times. Failure
1767 to permit inspection of the association records as provided
1768 herein entitles any person prevailing in an enforcement action
1769 to recover reasonable attorney's fees from the person in control

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1770 of the records who, directly or indirectly, knowingly denies
1771 access to the records for inspection. The right to inspect the
1772 records includes the right to make or obtain copies, at the
1773 reasonable expense, if any, of the association member. The
1774 association may adopt reasonable rules regarding the frequency,
1775 time, location, notice, and manner of record inspections and
1776 copying. The failure of an association to provide the records
1777 within 10 working days after receipt of a written request
1778 creates a rebuttable presumption that the association willfully
1779 failed to comply with this paragraph. A shareholder ~~unit owner~~
1780 who is denied access to official records is entitled to the
1781 actual damages or minimum damages for the association's willful
1782 failure to comply with this paragraph. The minimum damages shall
1783 be \$50 per calendar day up to 10 days, the calculation to begin
1784 on the 11th day after receipt of the written request. Any person
1785 who knowingly or intentionally defaces or destroys records that
1786 are required by this chapter, or knowingly or intentionally
1787 fails to create or maintain records that are required by this
1788 chapter, is personally subject to a civil penalty pursuant to s.
1789 718.501(1)(d). The association shall maintain an adequate number
1790 of copies of the declaration, articles of incorporation, bylaws,
1791 and rules, and all amendments to each of the foregoing, as well
1792 as the question and answer sheet provided for in s. 719.504, on
1793 the cooperative property to ensure their availability to
1794 shareholders ~~unit owners~~ and prospective purchasers, and may
1795 charge its actual costs for preparing and furnishing these
1796 documents to those requesting the same. Notwithstanding the
1797 provisions of this paragraph, the following records shall not be
1798 accessible to shareholders ~~unit owners~~:

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1799 1. A record that was prepared by an association attorney or
1800 prepared at the attorney's express direction; that reflects a
1801 mental impression, conclusion, litigation strategy, or legal
1802 theory of the attorney or the association; or that was prepared
1803 exclusively for civil or criminal litigation or for adversarial
1804 administrative proceedings or in anticipation of imminent civil
1805 or criminal litigation or imminent adversarial administrative
1806 proceedings, until the conclusion of the litigation or
1807 adversarial administrative proceedings.

1808 2. Information obtained by an association in connection
1809 with the approval of the lease, sale, or other transfer of a
1810 unit.

1811 3. Medical records of shareholders ~~unit owners~~.

1812 4. Social security numbers, driver's license numbers,
1813 credit card numbers, and other personal identifying information
1814 of any person.

1815 (d) The association or its authorized agent shall not be
1816 required to provide a prospective purchaser or lienholder with
1817 information about the cooperative or association other than the
1818 information or documents required by this chapter to be made
1819 available or disclosed. The association or its authorized agent
1820 shall be entitled to charge a reasonable fee to the prospective
1821 purchaser, lienholder, or the current shareholder ~~unit owner~~ for
1822 its time in providing good faith responses to requests for
1823 information by or on behalf of a prospective purchaser or
1824 lienholder, other than that required by law, provided that such
1825 fee shall not exceed \$150 plus the reasonable cost of
1826 photocopying and any attorney's fees incurred by the association
1827 in connection with the association's response. An association

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1828 and its authorized agent are not liable for providing such
1829 information in good faith pursuant to a written request if the
1830 person providing the information includes a written statement in
1831 substantially the following form: "The responses herein are made
1832 in good faith and to the best of my ability as to their
1833 accuracy."

1834 (3) INSURANCE.—In order to protect the safety, health, and
1835 welfare of the people of the state and to ensure consistency in
1836 the provision of insurance coverage to cooperatives and their
1837 shareholders, this subsection applies to every residential
1838 cooperative in the state, regardless of the date of its
1839 cooperative documents. It is the intent of the Legislature to
1840 encourage lower or stable insurance premiums for associations
1841 described in this subsection.

1842 (a) Adequate property insurance, regardless of any
1843 requirement in the cooperative documents for coverage by the
1844 association for full insurable value, replacement cost, or
1845 similar coverage, shall be based upon the replacement cost of
1846 the property to be insured as determined by an independent
1847 insurance appraisal or update of a prior appraisal. The full
1848 insurable value shall be determined at least once every 36
1849 months.

1850 1. An association or group of associations may provide
1851 adequate property insurance through a self-insurance fund that
1852 complies with the requirements of ss. 624.460-624.488.

1853 2. The association may also provide adequate property
1854 insurance coverage for a group of no fewer than three
1855 communities created and operating under this chapter, chapter
1856 718, chapter 720, or chapter 721 by obtaining and maintaining

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1857 for such communities insurance coverage sufficient to cover an
1858 amount equal to the probable maximum loss for the communities
1859 for a 250-year windstorm event. Such probable maximum loss must
1860 be determined through the use of a competent model that has been
1861 accepted by the Florida Commission on Hurricane Loss Projection
1862 Methodology. No policy or program providing such coverage shall
1863 be issued or renewed after July 1, 2009, unless it has been
1864 reviewed and approved by the Office of Insurance Regulation. The
1865 review and approval shall include approval of the policy and
1866 related forms pursuant to ss. 627.410 and 627.411, approval of
1867 the rates pursuant to s. 627.062, a determination that the loss
1868 model approved by the commission was accurately and
1869 appropriately applied to the insured structures to determine the
1870 250-year probable maximum loss, and a determination that
1871 complete and accurate disclosure of all material provisions is
1872 provided to cooperative shareholders prior to execution of the
1873 agreement by a cooperative association.

1874 3. When determining the adequate amount of property
1875 insurance coverage, the association may consider deductibles as
1876 determined by this subsection.

1877 (b) If an association is a developer-controlled
1878 association, the association shall exercise its best efforts to
1879 obtain and maintain insurance as described in paragraph (a).
1880 Failure to obtain and maintain adequate property insurance
1881 during any period of developer control constitutes a breach of
1882 fiduciary responsibility by the developer-appointed members of
1883 the board of directors of the association, unless the members
1884 can show that despite such failure they have made their best
1885 efforts to maintain the required coverage.

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1886 (c) Policies may include deductibles as determined by the
1887 board.

1888 1. The deductibles shall be consistent with industry
1889 standards and prevailing practice for communities of similar
1890 size and age, and having similar construction and facilities in
1891 the locale where the cooperative property is situated.

1892 2. The deductibles may be based upon available funds,
1893 including reserve accounts, or predetermined assessment
1894 authority at the time the insurance is obtained.

1895 3. The board shall establish the amount of deductibles
1896 based upon the level of available funds and predetermined
1897 assessment authority at a meeting of the board. Such meeting
1898 shall be open to all shareholders in the manner set forth in s.
1899 719.106(1)(e). The notice of such meeting must state the
1900 proposed deductible and the available funds and the assessment
1901 authority relied upon by the board and estimate any potential
1902 assessment amount against each unit, if any. The meeting
1903 described in this subparagraph may be held in conjunction with a
1904 meeting to consider the proposed budget or an amendment thereto.

1905 (d) An association controlled by shareholders operating as
1906 a residential cooperative shall use its best efforts to obtain
1907 and maintain adequate insurance to protect the association, the
1908 association property, the common elements, and the cooperative
1909 property that is required to be insured by the association
1910 pursuant to this subsection.

1911 (e) An association may also obtain and maintain liability
1912 insurance for directors and officers, insurance for the benefit
1913 of association employees, and flood insurance for common
1914 elements, association property, and units.

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1915 (f) Every property insurance policy issued or renewed on or
1916 after July 1, 2009, for the purpose of protecting the
1917 cooperative shall provide primary coverage for:

1918 1. All portions of the condominium property as originally
1919 installed or replacement of like kind and quality, in accordance
1920 with the original plans and specifications.

1921 2. All alterations or additions made to the cooperative
1922 property or association property pursuant to s. 719.113(2).

1923
1924 The coverage shall exclude all personal property within the
1925 unit, and floor, wall, and ceiling coverings, electrical
1926 fixtures, appliances, water heaters, water filters, built-in
1927 cabinets and countertops, air-conditioning and heating equipment
1928 that serves a single unit, and window treatments, including
1929 curtains, drapes, blinds, hardware, and similar window treatment
1930 components, or replacements of any of the foregoing. Such
1931 property and insurance therefore shall be the responsibility of
1932 the shareholder.

1933 (g) A cooperative shareholders policy issued after July 1,
1934 2009, shall conform to the requirements of s. 627.714.

1935 1. All reconstruction work after a casualty loss shall be
1936 undertaken by the association except as otherwise authorized in
1937 this section. A shareholder may undertake reconstruction work on
1938 portions of the unit with the prior written consent of the board
1939 of directors. However, such work may be conditioned upon the
1940 approval of the repair methods, the qualifications of the
1941 proposed contractor, or the contract that is used for that
1942 purpose. A shareholder shall obtain all required governmental
1943 permits and approvals prior to commencing reconstruction.

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1944 2. Shareholders are responsible for the cost of
1945 reconstruction of any portions of the cooperative property for
1946 which the association does not carry property insurance, and any
1947 such reconstruction work undertaken by the association shall be
1948 chargeable to the shareholder and enforceable as an assessment
1949 pursuant to s. 719.108.

1950 (h) The association shall maintain insurance or fidelity
1951 bonding of all persons who control or disburse funds of the
1952 association. The insurance policy or fidelity bond must cover
1953 the maximum funds that will be in the custody of the association
1954 or its management agent at any one time. As used in this
1955 paragraph, the term "persons who control or disburse funds of
1956 the association" includes, but is not limited to, those
1957 individuals authorized to sign checks on behalf of the
1958 association, and the president, secretary, and treasurer of the
1959 association. The association shall bear the cost of any such
1960 bonding.

1961 (i) The association may amend the cooperative documents
1962 without regard to any requirement for approval by mortgagees of
1963 amendments affecting insurance requirements for the purpose of
1964 conforming the cooperative documents to the coverage
1965 requirements of this subsection.

1966 (j) Any portion of the cooperative property required to be
1967 insured by the association against casualty loss pursuant to
1968 paragraph (f) which is damaged by casualty shall be
1969 reconstructed, repaired, or replaced as necessary by the
1970 association as a common expense. All property insurance
1971 deductibles, uninsured losses, and other damages in excess of
1972 property insurance coverage under the property insurance

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1973 policies maintained by the association are a common expense of
1974 the cooperative, except that:

1975 1. A shareholder is responsible for the costs of repair or
1976 replacement of any portion of the cooperative property not paid
1977 by insurance proceeds, if such damage is caused by intentional
1978 conduct, negligence, or failure to comply with the terms of the
1979 declaration or the rules of the association by a shareholder,
1980 the members of his or her family, unit occupants, tenants,
1981 guests, or invitees.

1982 2. The provisions of subparagraph 1. regarding the
1983 financial responsibility of a shareholder for the costs of
1984 repairing or replacing other portions of the cooperative
1985 property also apply to the costs of repair or replacement of
1986 personal property of other shareholders or the association, as
1987 well as other property, whether real or personal, which the
1988 shareholders are required to insure under paragraph (g).

1989 3. To the extent the cost of repair or reconstruction for
1990 which the shareholder is responsible under this paragraph is
1991 reimbursed to the association by insurance proceeds, and, to the
1992 extent the association has collected the cost of such repair or
1993 reconstruction from the shareholder, the association shall
1994 reimburse the shareholder.

1995 4. The association is not obligated to pay for repair or
1996 reconstruction or repairs of casualty losses as a common expense
1997 if the casualty losses were known or should have been known to a
1998 shareholder and were not reported to the association until after
1999 the insurance claim of the association for that casualty was
2000 settled or resolved with finality, or denied on the basis that
2001 it was untimely filed.

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2002 (k) An association may, upon the approval of a majority of
2003 the total voting interests in the association, opt out of the
2004 provisions of paragraph (j) for the allocation of repair or
2005 reconstruction expenses and allocate repair or reconstruction
2006 expenses in the manner provided in the cooperative documents
2007 originally recorded or as amended. Such vote may be approved by
2008 the voting interests of the association without regard to any
2009 mortgagee consent requirements.

2010 (l) Any association or condominium voting to opt out of the
2011 guidelines for repair or reconstruction expenses as described in
2012 paragraph (j) must record a notice setting forth the date of the
2013 opt-out vote and the page of the official records book on which
2014 the cooperative documents are recorded. The decision to opt out
2015 is effective upon the date of recording of the notice in the
2016 public records by the association. An association that has voted
2017 to opt out of paragraph (j) may reverse that decision by the
2018 same vote required in paragraph (k), and notice thereof shall be
2019 recorded in the official records.

2020 (m) The association is not obligated to pay for any
2021 reconstruction or repair expenses due to casualty loss to any
2022 improvements installed by a current or former owner of the unit
2023 or by the developer if the improvement benefits only the unit
2024 for which it was installed and is not part of the standard
2025 improvements installed by the developer on all units as part of
2026 original construction, whether or not such improvement is
2027 located within the unit. This paragraph does not relieve any
2028 party of its obligations regarding recovery due under any
2029 insurance implemented specifically for any such improvements.
2030 ~~The association shall use its best efforts to obtain and~~

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2031 ~~maintain adequate insurance to protect the association property.~~
2032 ~~The association may also obtain and maintain liability insurance~~
2033 ~~for directors and officers, insurance for the benefit of~~
2034 ~~association employees, and flood insurance. A copy of each~~
2035 ~~policy of insurance in effect shall be made available for~~
2036 ~~inspection by unit owners at reasonable times.~~

2037 ~~(a) Windstorm insurance coverage for a group of no fewer~~
2038 ~~than three communities created and operating under chapter 718,~~
2039 ~~this chapter, chapter 720, or chapter 721 may be obtained and~~
2040 ~~maintained for the communities if the insurance coverage is~~
2041 ~~sufficient to cover an amount equal to the probable maximum loss~~
2042 ~~for the communities for a 250-year windstorm event. Such~~
2043 ~~probable maximum loss must be determined through the use of a~~
2044 ~~competent model that has been accepted by the Florida Commission~~
2045 ~~on Hurricane Loss Projection Methodology. Such insurance~~
2046 ~~coverage is deemed adequate windstorm insurance for the purposes~~
2047 ~~of this section.~~

2048 ~~(b) An association or group of associations may self-insure~~
2049 ~~against claims against the association, the association~~
2050 ~~property, and the cooperative property required to be insured by~~
2051 ~~an association, upon compliance with the applicable provisions~~
2052 ~~of ss. 624.460-624.488, which shall be considered adequate~~
2053 ~~insurance for purposes of this section.~~

2054 ~~(4) FINANCIAL REPORTING REPORT.—Within 90 days after the~~
2055 ~~end of the fiscal year, or annually on a date provided in the~~
2056 ~~bylaws, the association shall prepare and complete, or contract~~
2057 ~~for the preparation and completion of, a financial report for~~
2058 ~~the preceding fiscal year. Within 21 days after the final~~
2059 ~~financial report is completed by the association or received~~

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2060 from the third party, but not later than 120 days after the end
2061 of the fiscal year or other date as provided in the bylaws, the
2062 association shall mail to each shareholder at the address last
2063 furnished to the association by the shareholder, or hand deliver
2064 to each shareholder, a copy of the financial report or a notice
2065 that a copy of the financial report will be mailed or hand
2066 delivered to the shareholder, without charge, upon receipt of a
2067 written request from the shareholder. The division shall adopt
2068 rules setting forth uniform accounting principles and standards
2069 to be used by all associations. The rules shall include, but not
2070 be limited to, uniform accounting principles and standards for
2071 stating the disclosure of at least a summary of the reserves,
2072 including information as to whether such reserves are being
2073 funded at a level sufficient to prevent the need for a special
2074 assessment and, if not, the amount of assessments necessary to
2075 bring the reserves up to the level necessary to avoid a special
2076 assessment. The person preparing the financial reports shall be
2077 entitled to rely on an inspection report prepared for or
2078 provided to the association to meet the fiscal and fiduciary
2079 standards of this chapter. In adopting such rules, the division
2080 shall consider the number of members and annual revenues of an
2081 association. Financial reports shall be prepared as follows:
2082 (a) An association that meets the criteria of this
2083 paragraph shall prepare or cause to be prepared a complete set
2084 of financial statements in accordance with generally accepted
2085 accounting principles. The financial statements shall be based
2086 upon the association's total annual revenues, as follows:
2087 1. An association with total annual revenues of \$100,000 or
2088 more, but less than \$200,000, shall prepare compiled financial

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2089 statements.

2090 2. An association with total annual revenues of at least
2091 \$200,000, but less than \$400,000, shall prepare reviewed
2092 financial statements.

2093 3. An association with total annual revenues of \$400,000 or
2094 more shall prepare audited financial statements.

2095 (b)1. An association with total annual revenues of less
2096 than \$100,000 shall prepare a report of cash receipts and
2097 expenditures.

2098 2. An association which operates less than 50 units,
2099 regardless of the association's annual revenues, shall prepare a
2100 report of cash receipts and expenditures in lieu of financial
2101 statements required by paragraph (a).

2102 3. A report of cash receipts and disbursements must
2103 disclose the amount of receipts by accounts and receipt
2104 classifications and the amount of expenses by accounts and
2105 expense classifications, including, but not limited to, the
2106 following, as applicable: costs for security, professional and
2107 management fees and expenses, taxes, costs for recreation
2108 facilities, expenses for refuse collection and utility services,
2109 expenses for lawn care, costs for building maintenance and
2110 repair, insurance costs, administration and salary expenses, and
2111 reserves accumulated and expended for capital expenditures,
2112 deferred maintenance, and any other category for which the
2113 association maintains reserves.

2114 (c) An association may prepare or cause to be prepared,
2115 without a meeting of or approval by the shareholders:

2116 1. Compiled, reviewed, or audited financial statements, if
2117 the association is required to prepare a report of cash receipts

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2118 and expenditures;

2119 2. Reviewed or audited financial statements, if the
2120 association is required to prepare compiled financial
2121 statements; or

2122 3. Audited financial statements, if the association is
2123 required to prepare reviewed financial statements.

2124 (d) If approved by a majority of the voting interests
2125 present at a properly called meeting of the association, an
2126 association may prepare or cause to be prepared:

2127 1. A report of cash receipts and expenditures in lieu of a
2128 compiled, reviewed, or audited financial statement;

2129 2. A report of cash receipts and expenditures or a compiled
2130 financial statement in lieu of a reviewed or audited financial
2131 statement; or

2132 3. A report of cash receipts and expenditures, a compiled
2133 financial statement, or a reviewed financial statement in lieu
2134 of an audited financial statement.

2135

2136 Such meeting and approval must occur prior to the end of the
2137 fiscal year and is effective only for the fiscal year in which
2138 the vote is taken, except that the approval also may be
2139 effective for the following fiscal year. With respect to an
2140 association to which the developer has not turned over control
2141 of the association, all shareholders, including the developer,
2142 may vote on issues related to the preparation of financial
2143 reports for the first 2 fiscal years of the association's
2144 operation, beginning with the fiscal year in which the
2145 declaration is recorded. Thereafter, all shareholders except the
2146 developer may vote on such issues until control is turned over

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2147 to the association by the developer. Any audit or review
2148 prepared under this section shall be paid for by the developer
2149 if done prior to turnover of control of the association. An
2150 association may not waive the financial reporting requirements
2151 of this subsection for more than 3 consecutive years.

2152 ~~(a) Within 60 days following the end of the fiscal or~~
2153 ~~calendar year or annually on such date as is otherwise provided~~
2154 ~~in the bylaws of the association, the board of administration of~~
2155 ~~the association shall mail or furnish by personal delivery to~~
2156 ~~each unit owner a complete financial report of actual receipts~~
2157 ~~and expenditures for the previous 12 months, or a complete set~~
2158 ~~of financial statements for the preceding fiscal year prepared~~
2159 ~~in accordance with generally accepted accounting procedures. The~~
2160 ~~report shall show the amounts of receipts by accounts and~~
2161 ~~receipt classifications and shall show the amounts of expenses~~
2162 ~~by accounts and expense classifications including, if~~
2163 ~~applicable, but not limited to, the following:~~

- 2164 ~~1. Costs for security;~~
- 2165 ~~2. Professional and management fees and expenses;~~
- 2166 ~~3. Taxes;~~
- 2167 ~~4. Costs for recreation facilities;~~
- 2168 ~~5. Expenses for refuse collection and utility services;~~
- 2169 ~~6. Expenses for lawn care;~~
- 2170 ~~7. Costs for building maintenance and repair;~~
- 2171 ~~8. Insurance costs;~~
- 2172 ~~9. Administrative and salary expenses; and~~
- 2173 ~~10. Reserves for capital expenditures, deferred~~
2174 ~~maintenance, and any other category for which the association~~
2175 ~~maintains a reserve account or accounts.~~

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2176 ~~(b) The division shall adopt rules that may require that~~
2177 ~~the association deliver to the unit owners, in lieu of the~~
2178 ~~financial report required by this section, a complete set of~~
2179 ~~financial statements for the preceding fiscal year. The~~
2180 ~~financial statements shall be delivered within 90 days following~~
2181 ~~the end of the previous fiscal year or annually on such other~~
2182 ~~date as provided in the bylaws. The rules of the division may~~
2183 ~~require that the financial statements be compiled, reviewed, or~~
2184 ~~audited, and the rules shall take into consideration the~~
2185 ~~criteria set forth in s. 719.501(1)(j). The requirement to have~~
2186 ~~the financial statements compiled, reviewed, or audited does not~~
2187 ~~apply to associations if a majority of the voting interests of~~
2188 ~~the association present at a duly called meeting of the~~
2189 ~~association have determined for a fiscal year to waive this~~
2190 ~~requirement. In an association in which turnover of control by~~
2191 ~~the developer has not occurred, the developer may vote to waive~~
2192 ~~the audit requirement for the first 2 years of the operation of~~
2193 ~~the association, after which time waiver of an applicable audit~~
2194 ~~requirement shall be by a majority of voting interests other~~
2195 ~~than the developer. The meeting shall be held prior to the end~~
2196 ~~of the fiscal year, and the waiver shall be effective for only~~
2197 ~~one fiscal year. This subsection does not apply to a cooperative~~
2198 ~~that consists of 50 or fewer units.~~

2199 (5) ASSESSMENTS.—The association has the power to make and
2200 collect assessments and to lease, maintain, repair, and replace
2201 the common areas. However, the association may not charge a use
2202 fee against a shareholder ~~the unit owner~~ for the use of common
2203 areas unless otherwise provided for in the cooperative documents
2204 or by a majority vote of the association or unless the charges

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2205 relate to expenses incurred by a shareholder ~~an owner~~ having
2206 exclusive use of common areas.

2207 (6) PURCHASE OF LEASES.—The association has the power to
2208 purchase any land or recreation lease upon the approval of such
2209 voting interest as is required by the cooperative documents. If
2210 the cooperative documents make no provision for acquisition of
2211 the land or recreational lease, the vote required is that
2212 required to amend the cooperative documents to permit the
2213 acquisition.

2214 (7) COMMINGLING.—All funds shall be maintained separately
2215 in the association's name. Reserve and operating funds of the
2216 association shall not be commingled unless combined for
2217 investment purposes. This subsection is not meant to prohibit
2218 prudent investment of association funds even if combined with
2219 operating or other reserve funds of the same association, but
2220 such funds must be accounted for separately, and the combined
2221 account balance may not, at any time, be less than the amount
2222 identified as reserve funds in the combined account. No manager
2223 or business entity required to be licensed or registered under
2224 s. 468.432, or an agent, employee, officer, or director of a
2225 cooperative association may commingle any association funds with
2226 his or her own funds or with the funds of any other cooperative
2227 association or community association as defined in s. 468.431.

2228 (8) CORPORATE ENTITY.—

2229 (a) The operation of the cooperative shall be by the
2230 association, which must be a Florida corporation not for profit.
2231 The shareholders shall be members of the association. The
2232 officers and directors of the association have a fiduciary
2233 relationship to the shareholders ~~unit owners~~. It is the intent

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2234 of the Legislature that nothing in this paragraph shall be
2235 construed as providing for or removing a requirement of a
2236 fiduciary relationship between any manager employed by the
2237 association and the shareholders. An officer, director, or
2238 manager may not solicit, offer to accept, or accept any thing or
2239 service of value for which consideration has not been provided
2240 for his or her own benefit or that of his or her immediate
2241 family, from any person providing or proposing to provide goods
2242 or services to the association. Any such officer, director, or
2243 manager who knowingly solicits, offers to accept, or accepts any
2244 thing or service of value is subject to a civil penalty pursuant
2245 to s. 719.501(1)(d). However, this paragraph does not prohibit
2246 an officer, director, or manager from accepting services or
2247 items received in connection with trade fairs or education
2248 programs.

2249 (b) A director of the association who is present at a
2250 meeting of its board at which action on any corporate matter is
2251 taken is presumed to have assented to the action taken unless
2252 the director votes against such action or abstains from voting
2253 ~~in respect thereto because of an asserted conflict of interest.~~
2254 A director of the association who abstains from voting on any
2255 action taken on any corporate matter shall be presumed to have
2256 taken no position with regard to the action. Directors may not
2257 vote by proxy or by secret ballot at board meetings, except that
2258 officers may be elected by secret ballot. A vote or abstention
2259 for each member present shall be recorded in the minutes.

2260 (c) A shareholder ~~unit owner~~ does not have any authority to
2261 act for the association by reason of being a shareholder ~~unit~~
2262 ~~owner~~.

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2263 (d) As required by s. 617.0830, an officer, director, or
2264 agent shall discharge his or her duties in good faith, with the
2265 care an ordinarily prudent person in a like position would
2266 exercise under similar circumstances, and in a manner he or she
2267 reasonably believes to be in the interests of the association.
2268 An officer, director, or agent shall be liable for monetary
2269 damages as provided in s. 617.0834 if such officer, director, or
2270 agent breached or failed to perform his or her duties and the
2271 breach of, or failure to perform, his or her duties constitutes
2272 a violation of criminal law as provided in s. 617.0834;
2273 constitutes a transaction from which the officer or director
2274 derived an improper personal benefit, either directly or
2275 indirectly; or constitutes recklessness or an act or omission
2276 that was in bad faith, with malicious purpose, or in a manner
2277 exhibiting wanton and willful disregard of human rights, safety,
2278 or property.

2279 (9) EASEMENTS.—Unless prohibited by the cooperative
2280 documents, the board of administration has the authority,
2281 without the joinder of any shareholder ~~unit owner~~, to grant,
2282 modify, or move any easement, if the easement constitutes part
2283 of or crosses the common areas or association property. This
2284 subsection does not authorize the board of administration to
2285 modify, move, or vacate any easement created in whole or in part
2286 for the use or benefit of anyone other than the shareholders
2287 ~~unit owners~~, or crossing the property of anyone other than the
2288 shareholders ~~unit owners~~, without the consent or approval of
2289 those other persons having the use or benefit of the easement,
2290 as required by law or by the instrument creating the easement.

2291 (10) POWERS AND DUTIES.—The powers and duties of the

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2292 association include those set forth in this section and, except
2293 as expressly limited or restricted in this chapter, those set
2294 forth in the articles of incorporation and bylaws and chapters
2295 607 and 617, as applicable.

2296 (11) NOTIFICATION OF DIVISION.—When the board of directors
2297 intends to dissolve or merge the cooperative association, the
2298 board shall so notify the division before taking any action to
2299 dissolve or merge the cooperative association.

2300 (12) POWER TO MANAGE COOPERATIVE PROPERTY AND TO CONTRACT,
2301 SUE, AND BE SUED.—The association may contract, sue, or be sued
2302 with respect to the exercise or nonexercise of its powers. For
2303 these purposes, the powers of the association include, but are
2304 not limited to, the maintenance, management, and operation of
2305 the cooperative property. After control of the association is
2306 obtained by shareholders other than the developer, the
2307 association may institute, maintain, settle, or appeal actions
2308 or hearings in its name on behalf of all shareholders concerning
2309 matters of common interest to most or all shareholders,
2310 including, but not limited to, the common areas; the roof and
2311 structural components of a building or other improvements;
2312 mechanical, electrical, and plumbing elements serving an
2313 improvement or a building; representations of the developer
2314 pertaining to any existing or proposed commonly used facilities;
2315 and protesting ad valorem taxes on commonly used facilities and
2316 units; and the association may defend actions in eminent domain
2317 or bring inverse condemnation actions. If the association has
2318 the authority to maintain a class action, the association may be
2319 joined in an action as representative of that class with
2320 reference to litigation and disputes involving the matters for

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2321 which the association could bring a class action. Nothing herein
2322 limits any statutory or common-law right of any individual
2323 shareholder or class of shareholders to bring any action without
2324 participation by the association which may otherwise be
2325 available.

2326 (13) TITLE TO PROPERTY.—

2327 (a) The association has the power to acquire title to
2328 property or otherwise hold, convey, lease, and mortgage
2329 association property for the use and benefit of its
2330 shareholders. The power to acquire personal property shall be
2331 exercised by the board of directors. Except as otherwise
2332 provided in subsections (6) and (14), no association may
2333 acquire, convey, lease, or mortgage association real property
2334 except in the manner provided in the cooperative documents, and
2335 if the cooperative documents do not specify the procedure, then
2336 approval of 75 percent of the total voting interests shall be
2337 required.

2338 (b) Subject to the provisions of s. 719.106(1)(m), the
2339 association, through its board, has the limited power to convey
2340 a portion of the common areas to a condemning authority for the
2341 purposes of providing utility easements, right-of-way expansion,
2342 or other public purposes, whether negotiated or as a result of
2343 eminent domain proceedings.

2344 (14) PURCHASE OF UNITS.—The association has the power,
2345 unless prohibited by the cooperative documents, to purchase
2346 units in the cooperative and to acquire and hold, lease,
2347 mortgage, and convey the units. There shall be no limitation on
2348 the association's right to purchase a unit at a foreclosure sale
2349 resulting from the association's foreclosure of its lien for

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2350 unpaid assessments, or to take title by deed in lieu of
2351 foreclosure.

2352 Section 17. Section 719.106, Florida Statutes, is amended
2353 to read:

2354 719.106 Bylaws; cooperative ownership.-

2355 (1) MANDATORY PROVISIONS.—The bylaws or other cooperative
2356 documents shall provide for the following, and if they do not,
2357 they shall be deemed to include the following:

2358 (a) *Administration.*—

2359 1. The form of administration of the association shall be
2360 described, indicating the titles of the officers and board of
2361 administration and specifying the powers, duties, manner of
2362 selection and removal, and compensation, if any, of officers and
2363 board members. In the absence of such a provision, the board of
2364 administration shall be composed of five members, except in the
2365 case of cooperatives having five or fewer units, in which case
2366 in not-for-profit corporations, the board shall consist of not
2367 fewer than three members. In the absence of provisions to the
2368 contrary, the board of administration shall have a president, a
2369 secretary, and a treasurer, who shall perform the duties of
2370 those offices customarily performed by officers of corporations.
2371 Unless prohibited in the bylaws, the board of administration may
2372 appoint other officers and grant them those duties it deems
2373 appropriate. Unless otherwise provided in the bylaws, the
2374 officers shall serve without compensation and at the pleasure of
2375 the board. Unless otherwise provided in the bylaws, the members
2376 of the board shall serve without compensation.

2377 2. When a shareholder ~~unit owner~~ files a written inquiry by
2378 certified mail with the board of administration, the board shall

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2379 respond in writing to the shareholder ~~unit-owner~~ within 30 days
2380 of receipt of the inquiry. The board's response shall either
2381 give a substantive response to the inquirer, notify the inquirer
2382 that a legal opinion has been requested, or notify the inquirer
2383 that advice has been requested from the division. If the board
2384 requests advice from the division, the board shall, within 10
2385 days of its receipt of the advice, provide in writing a
2386 substantive response to the inquirer. If a legal opinion is
2387 requested, the board shall, within 60 days after the receipt of
2388 the inquiry, provide in writing a substantive response to the
2389 inquirer. The failure to provide a substantive response to the
2390 inquirer as provided herein precludes the board from recovering
2391 attorney's fees and costs in any subsequent litigation,
2392 administrative proceeding, or arbitration arising out of the
2393 inquiry. The association may, through its board of
2394 administration, adopt reasonable rules and regulations regarding
2395 the frequency and manner of responding to the shareholders' ~~unit~~
2396 ~~owners'~~ inquiries, one of which may be that the association is
2397 obligated to respond to only one written inquiry per unit in any
2398 given 30-day period. In such case, any additional inquiry or
2399 inquiries must be responded to in the subsequent 30-day period,
2400 or periods, as applicable.

2401 (b) *Quorum; voting requirements; proxies.*—

2402 1. Unless otherwise provided in the bylaws, the percentage
2403 of voting interests required to constitute a quorum at a meeting
2404 of the members shall be a majority of voting interests, and
2405 decisions shall be made by owners of a majority of the voting
2406 interests. Unless otherwise provided in this chapter, or in the
2407 articles of incorporation, bylaws, or other cooperative

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2408 documents, and except as provided in subparagraph (d)1.,
2409 decisions shall be made by owners of a majority of the voting
2410 interests represented at a meeting at which a quorum is present.

2411 2. Except as specifically otherwise provided herein, after
2412 January 1, 1992, shareholders ~~unit owners~~ may not vote by
2413 general proxy, but may vote by limited proxies substantially
2414 conforming to a limited proxy form adopted by the division.
2415 Limited proxies and general proxies may be used to establish a
2416 quorum. Limited proxies shall be used for votes taken to waive
2417 or reduce reserves in accordance with subparagraph (j)2., for
2418 votes taken to waive the financial reporting requirements of s.
2419 719.104(4) ~~(b)~~, for votes taken to amend the articles of
2420 incorporation or bylaws pursuant to this section, and for any
2421 other matter for which this chapter requires or permits a vote
2422 of the shareholders ~~unit owners~~. Except as provided in paragraph
2423 (d), after January 1, 1992, no proxy, limited or general, shall
2424 be used in the election of board members. General proxies may be
2425 used for other matters for which limited proxies are not
2426 required, and may also be used in voting for nonsubstantive
2427 changes to items for which a limited proxy is required and
2428 given. Notwithstanding the provisions of this section,
2429 shareholders ~~unit owners~~ may vote in person at shareholder ~~unit~~
2430 ~~owner~~ meetings. Nothing contained herein shall limit the use of
2431 general proxies or require the use of limited proxies or require
2432 the use of limited proxies for any agenda item or election at
2433 any meeting of a timeshare cooperative.

2434 3. Any proxy given shall be effective only for the specific
2435 meeting for which originally given and any lawfully adjourned
2436 meetings thereof. In no event shall any proxy be valid for a

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2437 period longer than 90 days after the date of the first meeting
2438 for which it was given. Every proxy shall be revocable at any
2439 time at the pleasure of the shareholder ~~unit owner~~ executing it.

2440 4. A member of the board of administration or a committee
2441 may submit in writing his or her agreement or disagreement with
2442 any action taken at a meeting that the member did not attend.
2443 This agreement or disagreement may not be used as a vote for or
2444 against the action taken and may not be used for the purposes of
2445 creating a quorum.

2446 5. When some or all of the board or committee members meet
2447 by telephone conference, those board or committee members
2448 attending by telephone conference may be counted toward
2449 obtaining a quorum and may vote by telephone. A telephone
2450 speaker shall be utilized so that the conversation of those
2451 board or committee members attending by telephone may be heard
2452 by the board or committee members attending in person, as well
2453 as by shareholders ~~unit owners~~ present at a meeting.

2454 (c) *Board of administration meetings.*—Meetings of the board
2455 of administration at which a quorum of the members is present
2456 shall be open to all shareholders ~~unit owners~~. Any shareholder
2457 ~~unit owner~~ may tape record or videotape meetings of the board of
2458 administration. The right to attend such meetings includes the
2459 right to speak at such meetings with reference to all designated
2460 agenda items. The division shall adopt reasonable rules
2461 governing the tape recording and videotaping of the meeting. The
2462 association may adopt reasonable written rules governing the
2463 frequency, duration, and manner of shareholder ~~unit owner~~
2464 statements. Adequate notice of all meetings shall be posted in a
2465 conspicuous place upon the cooperative property at least 48

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2466 continuous hours preceding the meeting, except in an emergency.
2467 If 20 percent of the voting interests petition the board to
2468 address an item of business, the board shall at its next regular
2469 board meeting or at a special meeting of the board, but not
2470 later than 60 days after the receipt of the petition, place the
2471 item on the agenda. Any item not included on the notice may be
2472 taken up on an emergency basis by at least a majority plus one
2473 of the members of the board. Such emergency action shall be
2474 noticed and ratified at the next regular meeting of the board.
2475 However, written notice of any meeting at which nonemergency
2476 special assessments, or at which amendment to rules regarding
2477 unit use, will be considered shall be mailed, delivered, or
2478 electronically transmitted to the shareholders ~~unit owners~~ and
2479 posted conspicuously on the cooperative property not less than
2480 14 days prior to the meeting. Evidence of compliance with this
2481 14-day notice shall be made by an affidavit executed by the
2482 person providing the notice and filed among the official records
2483 of the association. Upon notice to the shareholders ~~unit owners~~,
2484 the board shall by duly adopted rule designate a specific
2485 location on the cooperative property upon which all notices of
2486 board meetings shall be posted. In lieu of or in addition to the
2487 physical posting of notice of any meeting of the board of
2488 administration on the cooperative property, the association may,
2489 by reasonable rule, adopt a procedure for conspicuously posting
2490 and repeatedly broadcasting the notice and the agenda on a
2491 closed-circuit cable television system serving the cooperative
2492 association. However, if broadcast notice is used in lieu of a
2493 notice posted physically on the cooperative property, the notice
2494 and agenda must be broadcast at least four times every broadcast

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2495 hour of each day that a posted notice is otherwise required
2496 under this section. When broadcast notice is provided, the
2497 notice and agenda must be broadcast in a manner and for a
2498 sufficient continuous length of time so as to allow an average
2499 reader to observe the notice and read and comprehend the entire
2500 content of the notice and the agenda. Notice of any meeting in
2501 which regular or special assessments against shareholders ~~unit~~
2502 ~~owners~~ are to be considered for any reason shall specifically
2503 state ~~contain a statement~~ that assessments will be considered
2504 and the nature, actual cost, and description of the purposes for
2505 ~~any~~ such assessments. Meetings of a committee to take final
2506 action on behalf of the board or to make recommendations to the
2507 board regarding the association budget are subject to the
2508 provisions of this paragraph. Meetings of a committee that does
2509 not take final action on behalf of the board or make
2510 recommendations to the board regarding the association budget
2511 are subject to the provisions of this section, unless those
2512 meetings are exempted from this section by the bylaws of the
2513 association. Notwithstanding any other law to the contrary, the
2514 requirement that board meetings and committee meetings be open
2515 to the shareholders ~~unit owners~~ is inapplicable to meetings
2516 between the board or a committee and the association's attorney,
2517 with respect to proposed or pending litigation, when the meeting
2518 is held for the purpose of seeking or rendering legal advice.

2519 (d) *Shareholder meetings.*—There shall be an annual meeting
2520 of the shareholders held at the location provided in the
2521 association bylaws and, if the bylaws are silent as to the
2522 location, the meeting shall be held within 45 miles of the
2523 cooperative property. However, such distance requirement does

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2524 not apply to an association governing a timeshare condominium.
2525 All members of the board of administration shall be elected at
2526 the first annual meeting after July 1, 2009, and annually
2527 thereafter, except that if ~~unless~~ the bylaws provide for
2528 staggered election terms of no more than 2 years and upon
2529 approval of a majority of the total voting interests, the
2530 association board members may serve 2-year staggered terms,
2531 starting with the first annual meeting after July 1, 2009, at
2532 which time the newly elected directors wherein staggered terms
2533 are allowed shall, by random lot, determine which directors
2534 shall serve a full 2-year term and which directors shall only
2535 serve a 1-year term in order to start the staggered terms. If no
2536 person is interested in or demonstrates an intention to run for
2537 the position of a board member whose term has expired, such
2538 board member whose term has expired shall be automatically
2539 reappointed to the board of administration and need not stand
2540 for reelection ~~or for their election at another meeting.~~ Any
2541 shareholder ~~unit owner~~ desiring to be a candidate for board
2542 membership shall comply with subparagraph 1. The bylaws shall
2543 provide the method for calling meetings, including annual
2544 meetings. Written notice, which notice shall incorporate an
2545 identification of agenda items, shall be given to each
2546 shareholder ~~unit owner~~ at least 14 days prior to the annual
2547 meeting and shall be posted in a conspicuous place on the
2548 cooperative property at least 14 continuous days preceding the
2549 annual meeting. Upon notice to the shareholders ~~unit owners,~~ the
2550 board shall by duly adopted rule designate a specific location
2551 on the cooperative property upon which all notice of shareholder
2552 ~~unit owner~~ meetings shall be posted. In lieu of or in addition

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2553 to the physical posting of notice of any meeting of the
2554 shareholders on the cooperative property, the association may,
2555 by reasonable rule, adopt a procedure for conspicuously posting
2556 and repeatedly broadcasting the notice and the agenda on a
2557 closed-circuit cable television system serving the cooperative
2558 association. However, if broadcast notice is used in lieu of a
2559 notice posted physically on the cooperative property, the notice
2560 and agenda must be broadcast at least four times every broadcast
2561 hour of each day that a posted notice is otherwise required
2562 under this section. When broadcast notice is provided, the
2563 notice and agenda must be broadcast in a manner and for a
2564 sufficient continuous length of time so as to allow an average
2565 reader to observe the notice and read and comprehend the entire
2566 content of the notice and the agenda. Unless a shareholder ~~unit~~
2567 ~~owner~~ waives in writing the right to receive notice of the
2568 annual meeting, the notice of the annual meeting shall be sent
2569 by mail, hand delivered, or electronically transmitted to each
2570 shareholder ~~unit~~ ~~owner~~. An officer of the association shall
2571 provide an affidavit or United States Postal Service certificate
2572 of mailing, to be included in the official records of the
2573 association, affirming that notices of the association meeting
2574 were mailed, hand delivered, or electronically transmitted, in
2575 accordance with this provision, to each shareholder ~~unit~~ ~~owner~~
2576 at the address last furnished to the association.

2577 1. After January 1, 1992, the board of administration shall
2578 be elected by written ballot or voting machine. Proxies shall in
2579 no event be used in electing the board of administration, either
2580 in general elections or elections to fill vacancies caused by
2581 recall, resignation, or otherwise unless otherwise provided in

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2582 this chapter. Not less than 60 days before a scheduled election,
2583 the association shall mail, deliver, or transmit, whether by
2584 separate association mailing, delivery, or electronic
2585 transmission or included in another association mailing,
2586 delivery, or electronic transmission, including regularly
2587 published newsletters, to each shareholder ~~unit-owner~~ entitled
2588 to vote, a first notice of the date of the election. Any
2589 shareholder ~~unit-owner~~ or other eligible person desiring to be a
2590 candidate for the board of administration shall give written
2591 notice to the association not less than 40 days before a
2592 scheduled election. Together with the written notice and agenda
2593 as set forth in this section, the association shall mail,
2594 deliver, or electronically transmit a second notice of election
2595 to all shareholders ~~unit-owners~~ entitled to vote therein,
2596 together with a ballot which shall list all candidates. Upon
2597 request of a candidate, the association shall include an
2598 information sheet, no larger than 8 1/2 inches by 11 inches,
2599 which must be furnished by the candidate not less than 35 days
2600 prior to the election, to be included with the mailing,
2601 delivery, or electronic transmission of the ballot, with the
2602 costs of mailing, delivery, or transmission and copying to be
2603 borne by the association. The association has no liability for
2604 the contents of the information sheets provided by the
2605 candidates. In order to reduce costs, the association may print
2606 or duplicate the information sheets on both sides of the paper.
2607 The division shall by rule establish voting procedures
2608 consistent with the provisions contained herein, including rules
2609 establishing procedures for giving notice by electronic
2610 transmission and rules providing for the secrecy of ballots.

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2611 Elections shall be decided by a plurality of those ballots cast.
2612 There shall be no quorum requirement. However, at least 20
2613 percent of the eligible voters must cast a ballot in order to
2614 have a valid election of members of the board of administration.
2615 No shareholder ~~unit-owner~~ shall permit any other person to vote
2616 his or her ballot, and any such ballots improperly cast shall be
2617 deemed invalid. A shareholder ~~unit-owner~~ who needs assistance in
2618 casting the ballot for the reasons stated in s. 101.051 may
2619 obtain assistance in casting the ballot. Any shareholder ~~unit~~
2620 ~~owner~~ violating this provision may be fined by the association
2621 in accordance with s. 719.303. The regular election shall occur
2622 on the date of the annual meeting. The provisions of this
2623 subparagraph shall not apply to timeshare cooperatives.
2624 Notwithstanding the provisions of this subparagraph, an election
2625 and balloting are not required unless more candidates file a
2626 notice of intent to run or are nominated than vacancies exist on
2627 the board.

2628 2. Any approval by shareholders ~~unit-owners~~ called for by
2629 this chapter, or the applicable cooperative documents, shall be
2630 made at a duly noticed meeting of shareholders ~~unit-owners~~ and
2631 shall be subject to all requirements of this chapter or the
2632 applicable cooperative documents relating to shareholder ~~unit~~
2633 ~~owner~~ decisionmaking, except that shareholders ~~unit-owners~~ may
2634 take action by written agreement, without meetings, on matters
2635 for which action by written agreement without meetings is
2636 expressly allowed by the applicable cooperative documents or any
2637 Florida statute which provides for the shareholder ~~unit-owner~~
2638 action.

2639 3. Shareholders ~~Unit-owners~~ may waive notice of specific

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2640 meetings if allowed by the applicable cooperative documents or
2641 any Florida statute. If authorized by the bylaws, notice of
2642 meetings of the board of administration, shareholder meetings,
2643 except shareholder meetings called to recall board members under
2644 paragraph (f), and committee meetings may be given by electronic
2645 transmission to shareholders ~~unit owners~~ who consent to receive
2646 notice by electronic transmission.

2647 4. Shareholders ~~Unit owners~~ shall have the right to
2648 participate in meetings of shareholders ~~unit owners~~ with
2649 reference to all designated agenda items. However, the
2650 association may adopt reasonable rules governing the frequency,
2651 duration, and manner of shareholder ~~unit owner~~ participation.

2652 5. Any shareholder ~~unit owner~~ may tape record or videotape
2653 meetings of the shareholders ~~unit owners~~ subject to reasonable
2654 rules adopted by the division.

2655
2656 Notwithstanding subparagraphs (b)2. and (d)1., an association of of
2657 10 units or less may, by the affirmative vote of a majority of
2658 the total voting interests, provide for a different voting and
2659 election procedure in its bylaws, which vote may be by a proxy
2660 specifically delineating the different voting and election
2661 procedures. The different voting and election procedures may
2662 provide for elections to be conducted by limited or general
2663 proxy.

2664 (e) *Budget procedures.*—

2665 1. The board of administration shall mail, hand deliver, or
2666 electronically transmit to each shareholder ~~unit owner~~ at the
2667 address last furnished to the association, a meeting notice and
2668 copies of the proposed annual budget of common expenses to the

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2669 shareholders ~~unit-owners~~ not less than 14 days prior to the
2670 meeting at which the budget will be considered. Evidence of
2671 compliance with this 14-day notice must be made by an affidavit
2672 executed by an officer of the association or the manager or
2673 other person providing notice of the meeting and filed among the
2674 official records of the association. The meeting must be open to
2675 the shareholders ~~unit-owners~~.

2676 2. If an adopted budget requires assessment against the
2677 shareholders ~~unit-owners~~ in any fiscal or calendar year which
2678 exceeds 115 percent of the assessments for the preceding year,
2679 the board upon written application of 10 percent of the voting
2680 interests to the board, shall call a special meeting of the
2681 shareholders ~~unit-owners~~ within 30 days, upon not less than 10
2682 days' written notice to each shareholder ~~unit-owner~~. At the
2683 special meeting, shareholders ~~unit-owners~~ shall consider and
2684 enact a budget. Unless the bylaws require a larger vote, the
2685 adoption of the budget requires a vote of not less than a
2686 majority of all the voting interests.

2687 3. The board of administration may, in any event, propose a
2688 budget to the shareholders ~~unit-owners~~ at a meeting of members
2689 or by writing, and if the budget or proposed budget is approved
2690 by the shareholders ~~unit-owners~~ at the meeting or by a majority
2691 of all voting interests in writing, the budget is adopted. If a
2692 meeting of the shareholders ~~unit-owners~~ has been called and a
2693 quorum is not attained or a substitute budget is not adopted by
2694 the shareholders ~~unit-owners~~, the budget adopted by the board of
2695 directors goes into effect as scheduled.

2696 4. In determining whether assessments exceed 115 percent of
2697 similar assessments for prior years, any authorized provisions

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2698 for reasonable reserves for repair or replacement of cooperative
2699 property, anticipated expenses by the association which are not
2700 anticipated to be incurred on a regular or annual basis, or
2701 assessments for betterments to the cooperative property must be
2702 excluded from computation. However, as long as the developer is
2703 in control of the board of administration, the board may not
2704 impose an assessment for any year greater than 115 percent of
2705 the prior fiscal or calendar year's assessment without approval
2706 of a majority of all voting interests.

2707 (f) *Recall of board members.*—Subject to the provisions of
2708 s. 719.301, any member of the board of administration may be
2709 recalled and removed from office with or without cause by the
2710 vote or agreement in writing by a majority of all the voting
2711 interests. A special meeting of the voting interests to recall
2712 any member of the board of administration may be called by 10
2713 percent of the shareholders ~~unit owners~~ giving notice of the
2714 meeting as required for a meeting of shareholders ~~unit owners~~,
2715 and the notice shall state the purpose of the meeting.
2716 Electronic transmission may not be used as a method of giving
2717 notice of a meeting called in whole or in part for this purpose.

2718 1. If the recall is approved by a majority of all voting
2719 interests by a vote at a meeting, the recall shall be effective
2720 as provided herein. The board shall duly notice and hold a board
2721 meeting within 5 full business days of the adjournment of the
2722 shareholder ~~unit owner~~ meeting to recall one or more board
2723 members. At the meeting, the board shall either certify the
2724 recall, in which case such member or members shall be recalled
2725 effective immediately and shall turn over to the board within 5
2726 full business days any and all records and property of the

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2727 association in their possession, or shall proceed as set forth
2728 in subparagraph 3.

2729 2. If the proposed recall is by an agreement in writing by
2730 a majority of all voting interests, the agreement in writing or
2731 a copy thereof shall be served on the association by certified
2732 mail or by personal service in the manner authorized by chapter
2733 48 and the Florida Rules of Civil Procedure. The board of
2734 administration shall duly notice and hold a meeting of the board
2735 within 5 full business days after receipt of the agreement in
2736 writing. At the meeting, the board shall either certify the
2737 written agreement to recall members of the board, in which case
2738 such members shall be recalled effective immediately and shall
2739 turn over to the board, within 5 full business days, any and all
2740 records and property of the association in their possession, or
2741 proceed as described in subparagraph 3.

2742 3. If the board determines not to certify the written
2743 agreement to recall members of the board, or does not certify
2744 the recall by a vote at a meeting, the board shall, within 5
2745 full business days after the board meeting, file with the
2746 division a petition for binding arbitration pursuant to the
2747 procedures of s. 719.1255. For purposes of this paragraph, the
2748 shareholders ~~unit owners~~ who voted at the meeting or who
2749 executed the agreement in writing shall constitute one party
2750 under the petition for arbitration. If the arbitrator certifies
2751 the recall as to any member of the board, the recall shall be
2752 effective upon mailing of the final order of arbitration to the
2753 association. If the association fails to comply with the order
2754 of the arbitrator, the division may take action pursuant to s.
2755 719.501. Any member so recalled shall deliver to the board any

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2756 and all records and property of the association in the member's
2757 possession within 5 full business days of the effective date of
2758 the recall.

2759 4. If the board fails to duly notice and hold a board
2760 meeting within 5 full business days of service of an agreement
2761 in writing or within 5 full business days of the adjournment of
2762 the shareholder ~~unit-owner~~ recall meeting, the recall shall be
2763 deemed effective and the board members so recalled shall
2764 immediately turn over to the board any and all records and
2765 property of the association.

2766 5. If a vacancy occurs on the board as a result of a recall
2767 or removal and less than a majority of the board members are
2768 removed, the vacancy may be filled by the affirmative vote of a
2769 majority of the remaining directors, notwithstanding any
2770 provision to the contrary contained in this chapter. If
2771 vacancies occur on the board as a result of a recall and a
2772 majority or more of the board members are removed, the vacancies
2773 shall be filled in accordance with procedural rules to be
2774 adopted by the division, which rules need not be consistent with
2775 this chapter. The rules must provide procedures governing the
2776 conduct of the recall election as well as the operation of the
2777 association during the period after a recall but prior to the
2778 recall election.

2779 (g) *Common expenses.*—The manner of collecting from the
2780 shareholders ~~unit-owners~~ their shares of the common expenses
2781 shall be stated. Assessments shall be made against shareholders
2782 ~~unit-owners~~ not less frequently than quarterly, in an amount no
2783 less than is required to provide funds in advance for payment of
2784 all of the anticipated current operating expense and for all of

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2785 the unpaid operating expense previously incurred. Nothing in
2786 this paragraph shall preclude the right of an association to
2787 accelerate assessments of a shareholder ~~an owner~~ delinquent in
2788 payment of common expenses in actions taken pursuant to s.
2789 719.104 (5) ~~(4)~~.

2790 (h) *Amendment of bylaws.*—

2791 1. The method by which the bylaws may be amended consistent
2792 with the provisions of this chapter shall be stated. If the
2793 bylaws fail to provide a method of amendment, the bylaws may be
2794 amended if the amendment is approved by shareholders ~~owners~~ of
2795 not less than two-thirds of the voting interests.

2796 2. No bylaw shall be revised or amended by reference to its
2797 title or number only. Proposals to amend existing bylaws shall
2798 contain the full text of the bylaws to be amended; new words
2799 shall be inserted in the text underlined, and words to be
2800 deleted shall be lined through with hyphens. However, if the
2801 proposed change is so extensive that this procedure would
2802 hinder, rather than assist, the understanding of the proposed
2803 amendment, it is not necessary to use underlining and hyphens as
2804 indicators of words added or deleted, but, instead, a notation
2805 must be inserted immediately preceding the proposed amendment in
2806 substantially the following language: "Substantial rewording of
2807 bylaw. See bylaw for present text."

2808 3. Nonmaterial errors or omissions in the bylaw process
2809 shall not invalidate an otherwise properly promulgated
2810 amendment.

2811 4. If the bylaws provide for amendment by the board of
2812 directors, no bylaw may be amended unless it is heard and
2813 noticed at two consecutive meetings of the board of directors

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2814 that are at least 1 week apart. If the bylaws provide for
2815 amendment of the bylaws by a vote of the shareholders, the
2816 meeting at which the vote is to be taken must be conducted
2817 between the hours of 6 p.m. and 10 p.m. local time.

2818 (i) *Transfer fees.*—No charge may be made by the association
2819 or any body thereof in connection with the sale, mortgage,
2820 lease, sublease, or other transfer of a unit unless the
2821 association is required to approve such transfer and a fee for
2822 such approval is provided for in the cooperative documents. Any
2823 such fee may be preset, but in no event shall it exceed \$100 per
2824 applicant other than husband/wife or parent/dependent child,
2825 which are considered one applicant. However, if the lease or
2826 sublease is a renewal of a lease or sublease with the same
2827 lessee or sublessee, no charge shall be made. Nothing in this
2828 paragraph shall be construed to prohibit an association from
2829 requiring as a condition to permitting the letting or renting of
2830 a unit, when the association has such authority in the
2831 documents, the depositing into an escrow account maintained by
2832 the association a security deposit in an amount not to exceed
2833 the equivalent of 1 month's rent. The security deposit shall
2834 protect against damages to the common areas or cooperative
2835 property. Within 15 days after a tenant vacates the premises,
2836 the association shall refund the full security deposit or give
2837 written notice to the tenant of any claim made against the
2838 security. Disputes under this paragraph shall be handled in the
2839 same fashion as disputes concerning security deposits under s.
2840 83.49.

2841 (j) *Annual budget.*—

2842 1. The proposed annual budget of estimated revenues and

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2843 ~~common~~ expenses shall be detailed and shall show the amounts
2844 budgeted by accounts and expense classifications, including, if
2845 applicable, but not limited to, those expenses listed in s.
2846 719.504(20).

2847 2. In addition to annual operating expenses, the budget
2848 shall include reserve accounts for capital expenditures and
2849 deferred maintenance. These accounts shall include, but not be
2850 limited to, roof replacement, building painting, and pavement
2851 resurfacing, regardless of the amount of deferred maintenance
2852 expense or replacement cost, and for any other items for which
2853 the deferred maintenance expense or replacement cost exceeds
2854 \$10,000. The amount to be reserved shall be computed by means of
2855 a formula which is based upon estimated remaining useful life
2856 and estimated replacement cost or deferred maintenance expense
2857 of each reserve item. The association may adjust replacement
2858 reserve assessments annually to take into account any changes in
2859 estimates or extension of the useful life of a reserve item
2860 caused by deferred maintenance. This paragraph shall not apply
2861 to any budget in which the members of an association have, at a
2862 duly called meeting of the association, determined for a fiscal
2863 year to provide no reserves or reserves less adequate than
2864 required by this subsection. However, prior to turnover of
2865 control of an association by a developer to shareholders ~~unit~~
2866 ~~owners~~ other than a developer pursuant to s. 719.301, the
2867 developer may vote to waive the reserves or reduce the funding
2868 of reserves for the first 2 years of the operation of the
2869 association after which time reserves may only be waived or
2870 reduced upon the vote of a majority of all nondeveloper voting
2871 interests voting in person or by limited proxy at a duly called

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2872 meeting of the association. If a meeting of the shareholders
2873 ~~unit owners~~ has been called to determine to provide no reserves,
2874 or reserves less adequate than required, and such result is not
2875 attained or a quorum is not attained, the reserves as included
2876 in the budget shall go into effect.

2877 3. Reserve funds and any interest accruing thereon shall
2878 remain in the reserve account or accounts, and shall be used
2879 only for authorized reserve expenditures unless their use for
2880 other purposes is approved in advance by a vote of the majority
2881 of the voting interests, voting in person or by limited proxy at
2882 a duly called meeting of the association. Prior to turnover of
2883 control of an association by a developer to shareholders ~~unit~~
2884 ~~owners~~ other than the developer under s. 719.301, the developer
2885 may not vote to use reserves for purposes other than that for
2886 which they were intended without the approval of a majority of
2887 all nondeveloper voting interests, voting in person or by
2888 limited proxy at a duly called meeting of the association.

2889 4. The only voting interests which are eligible to vote on
2890 questions that involve waiving or reducing the funding of
2891 reserves, or using existing reserve funds for purposes other
2892 than purposes for which the reserves were intended, are the
2893 voting interests of the units subject to assessment to fund the
2894 reserves in question. Proxy questions relating to waiving or
2895 reducing the funding of reserves or using existing reserve funds
2896 for purposes other than purposes for which the reserves were
2897 intended shall contain the following statement in capitalized,
2898 bold letters in a font size larger than any other used on the
2899 face of the proxy ballot: WAIVING OF RESERVES, IN WHOLE OR IN
2900 PART, OR ALLOWING ALTERNATIVE USES OF EXISTING RESERVES MAY

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2901 RESULT IN SHAREHOLDER LIABILITY FOR PAYMENT OF UNANTICIPATED
2902 SPECIAL ASSESSMENTS REGARDING THOSE ITEMS.

2903 (k) Insurance or fidelity bonds.—The association shall
2904 obtain and maintain adequate insurance or fidelity bonding of
2905 all persons who control or disburse funds of the association.
2906 The insurance policy or fidelity bond must cover the maximum
2907 funds that will be in the custody of the association or its
2908 management agent at any one time. As used in this paragraph, the
2909 term “persons who control or disburse funds of the association”
2910 includes, but is not limited to, those individuals authorized to
2911 sign checks, and the president, secretary, and treasurer of the
2912 association. The association shall bear the cost of bonding and
2913 insurance.

2914 (l) Arbitration.—There shall be a provision for mandatory
2915 nonbinding arbitration of internal disputes arising from the
2916 operation of the cooperative in accordance with s. 719.1255.

2917 (m) Common areas; limited power to convey.—

2918 1. The bylaws shall include a provision granting the
2919 association a limited power to convey a portion of the common
2920 areas to a condemning authority for the purpose of providing
2921 utility easements, right-of-way expansion, or other public
2922 purposes, whether negotiated or as a result of eminent domain
2923 proceedings.

2924 2. In any case in which the bylaws are silent as to the
2925 association’s power to convey common areas as described in
2926 subparagraph 1., the bylaws shall be deemed to include the
2927 provision described in subparagraph 1.

2928 (n) Director or officer delinquencies.—A director or
2929 officer more than 90 days delinquent in the payment of regular

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2930 assessments shall be deemed to have abandoned the office,
2931 creating a vacancy in the office to be filled according to law.

2932 (o) Director or officer offenses.—A director or officer
2933 charged by information or indictment with a felony theft or
2934 embezzlement offense involving the association's funds or
2935 property shall be removed from office, creating a vacancy in the
2936 office to be filled according to law. While such director or
2937 officer has such criminal charge pending in the state or federal
2938 court system, he or she may not be appointed or elected to a
2939 position as a director or officer. However, should the charges
2940 be resolved without a finding of guilt, the director or officer
2941 shall be reinstated for the remainder of his or her term of
2942 office, if any.

2943 (p) Qualifications of directors.—In addition to any other
2944 requirement for office in statute or in the governing documents
2945 of the association, a person running for or seeking appointment
2946 to the board must meet the following qualifications:

2947 1. In a cooperative association of 10 or more units, only
2948 one individual coowner of a unit may serve on the board of
2949 administration.

2950 2. No person may serve as a director of any cooperative
2951 association in the state if restricted from serving by action of
2952 the division pursuant to s. 719.501.

2953 3. A person who has been convicted of any felony in this
2954 state or in a United States District or Territorial Court, or
2955 who has been convicted of any offense in another jurisdiction
2956 that would be considered a felony if committed in this state, is
2957 not eligible for board membership unless such felon's civil
2958 rights have been restored for a period of no less than 5 years

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2959 as of the date on which such person seeks election to the board.

2960 4. Within 30 days after being elected or appointed to the
2961 board of directors, a director shall certify in writing to the
2962 secretary of the association that he or she has read parts I and
2963 III of chapter 719; ss. 719.501, 617.0202, 617.0206, 617.0302-
2964 617.0304, 617.0501, 617.0505, 617.0801-617.0833, 617.0840-
2965 617.0843, 617.1622, and 617.2102; and the association's
2966 cooperative documents, bylaws, and current written policies. The
2967 director shall further certify that he or she will work to
2968 uphold such documents and policies to the best of his or her
2969 ability, and that he or she will faithfully discharge his or her
2970 fiduciary responsibility to the association's members. If the
2971 division finds that a director has falsely certified that he or
2972 she has read the required statutes and documents, the division
2973 shall order the director removed from the board and shall order
2974 the director to reimburse the division for the cost of
2975 prosecution and hearing.

2976 5. After turnover of the association pursuant to s.
2977 718.301(4), a director must:

2978 a. If the unit is owned by an individual or individuals, be
2979 one of those individuals.

2980 b. If the unit is owned by a trust, be an individual
2981 qualified pursuant to s. 617.0802.

2982 c. If the unit is owned by an entity other than a trust, be
2983 an individual designated by the entity that owns the unit.

2984
2985 These qualifications shall operate on a continuing basis, and
2986 upon a failure of a director at any time to meet a
2987 qualification, the secretary shall certify that the director is

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2988 removed from office and that a vacancy in office exists.

2989 (2) OPTIONAL PROVISIONS.—The bylaws may provide for the
2990 following:

2991 (a) *Administrative rules.*—A method of adopting and of
2992 amending administrative rules and regulations governing the
2993 details of the operation and use of the common areas.

2994 (b) *Use and maintenance restrictions.*—Restrictions on, and
2995 requirements for, the use, maintenance, and appearance of the
2996 units and the use of the common areas, not inconsistent with the
2997 cooperative documents, designed to prevent unreasonable
2998 interference with the use of the units and common areas.

2999 (c) *Notice of meetings.*—Provisions for giving notice by
3000 electronic transmissions in a manner authorized by law of
3001 meetings of the board of directors and committees and of annual
3002 and special meetings of the members.

3003 (d) *Other matters.*—Other provisions not inconsistent with
3004 this chapter or with the cooperative documents as may be
3005 desired.

3006 Section 18. Section 719.1064, Florida Statutes, is
3007 repealed.

3008 Section 19. Paragraphs (b) and (c) of subsection (1) and
3009 subsection (2) of section 719.107, Florida Statutes, are
3010 amended, and subsection (3) is added to that section, to read:

3011 719.107 Common expenses; assessment.—

3012 (1)

3013 (b) If so provided in the bylaws, the cost of a master
3014 antenna television system or duly franchised cable television
3015 service obtained pursuant to a bulk contract shall be deemed a
3016 common expense, and if not obtained pursuant to a bulk contract,

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3017 such cost shall be considered common expense if it is designated
3018 as such in a written contract between the board of
3019 administration and the company providing the master television
3020 antenna system or the cable television service. The contract
3021 shall be for a term of not less than 2 years.

3022 1. Any contract made by the board after April 2, 1992, for
3023 a community antenna system or duly franchised cable television
3024 service may be canceled by a majority of the voting interests
3025 present at the next regular or special meeting of the
3026 association. Any member may make a motion to cancel the
3027 contract, but if no motion is made or if such motion fails to
3028 obtain the required majority at the next regular or special
3029 meeting, whichever is sooner, following the making of the
3030 contract, then such contract shall be deemed ratified for the
3031 term therein expressed.

3032 2. Any such contract shall provide, and shall be deemed to
3033 provide if not expressly set forth, that any hearing impaired or
3034 legally blind shareholder ~~unit owner~~ who does not occupy the
3035 unit with a nonhearing impaired or sighted person may
3036 discontinue the service without incurring disconnect fees,
3037 penalties, or subsequent service charges, and as to such units,
3038 the shareholders ~~owners~~ shall not be required to pay any common
3039 expenses charge related to such service. If less than all
3040 members of an association share the expenses of cable
3041 television, the expense shall be shared equally by all
3042 participating shareholders ~~unit owners~~. The association may use
3043 the provisions of s. 719.108 to enforce payment of the shares of
3044 such costs by the shareholders ~~unit owners~~ receiving cable
3045 television.

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3046 (c) If any unpaid share of common expenses or assessments
3047 is extinguished by foreclosure of a superior lien or by a deed
3048 in lieu of foreclosure thereof, the unpaid share of common
3049 expenses or assessments are common expenses collectible from all
3050 the shareholders ~~unit-owners~~ in the cooperative in which the
3051 unit is located.

3052 (2) Funds for the payment of common expenses shall be
3053 collected by assessments against shareholders ~~unit-owners~~ in the
3054 proportions or percentages of sharing common expenses provided
3055 in the cooperative documents.

3056 (3) The expense of installation, replacement, operation,
3057 repair, and maintenance of hurricane shutters or other hurricane
3058 protection by the board pursuant to s. 719.113(5) shall
3059 constitute a common expense as defined in this section and shall
3060 be collected as provided in this section if the association is
3061 responsible for the maintenance, repair, and replacement of the
3062 hurricane shutters or other hurricane protection pursuant to the
3063 cooperative documents. However, if the maintenance, repair, and
3064 replacement of the hurricane shutters or other hurricane
3065 protection is the responsibility of the shareholders pursuant to
3066 the cooperative documents, the cost of the installation of the
3067 hurricane shutters or other hurricane protection shall not be a
3068 common expense, but shall be charged individually to the
3069 shareholders based on the cost of installation of the hurricane
3070 shutters or other hurricane protection appurtenant to the unit.
3071 Notwithstanding the provisions of s. 719.108(8), and regardless
3072 of whether or not the cooperative documents require the
3073 association or shareholders to maintain, repair, or replace
3074 hurricane shutters or other hurricane protection, a shareholder

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3075 who has previously installed hurricane shutters in accordance
3076 with s. 719.113(5), other hurricane protection, or laminated
3077 glass architecturally designed to function as hurricane
3078 protection, which hurricane shutters or other hurricane
3079 protection or laminated glass comply with the current applicable
3080 building code, shall receive a credit equal to the pro rata
3081 portion of the assessed installation cost assigned to each unit.
3082 However, such shareholder shall remain responsible for the pro
3083 rata share of expenses for hurricane shutters or other hurricane
3084 protection installed on common areas by the board pursuant to s.
3085 719.113(5), and shall remain responsible for a pro rata share of
3086 the expense of the replacement, operation, repair, and
3087 maintenance of such shutters or other hurricane protection.

3088 Section 20. Section 719.108, Florida Statutes, is amended
3089 to read:

3090 719.108 Rents and assessments; liability; lien and
3091 priority; interest; collection; cooperative ownership.—

3092 (1) A shareholder ~~unit owner~~, regardless of how title is
3093 acquired, including, without limitation, a purchaser at a
3094 judicial sale or by deed in lieu of foreclosure, shall be liable
3095 for all rents and assessments coming due while the shareholder
3096 ~~unit owner~~ is in exclusive possession of a unit. ~~In a voluntary~~
3097 ~~transfer,~~ The shareholder ~~unit owner~~ in exclusive possession
3098 shall be jointly and severally liable with the previous
3099 shareholder ~~unit owner~~ for all unpaid rents and assessments
3100 against the previous shareholder ~~unit owner~~ for his or her share
3101 of the common expenses up to the time of the transfer, without
3102 prejudice to the rights of the shareholder ~~unit owner~~ in
3103 exclusive possession to recover from a ~~the~~ previous shareholder

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3104 ~~unit owner~~ the amounts paid by the shareholder ~~unit owner~~ in
3105 exclusive possession therefor.

3106 (2) The liability for rents and assessments may not be
3107 avoided by waiver of the use or enjoyment of any common areas or
3108 by abandonment of the unit for which the rents and assessments
3109 are made.

3110 (3) Rents and assessments, and installments on them, not
3111 paid when due bear interest at the rate provided in the
3112 cooperative documents from the date due until paid. This rate
3113 may not exceed the rate allowed by law, and, if no rate is
3114 provided in the cooperative documents, then interest shall
3115 accrue at 18 percent per annum. Also, if the cooperative
3116 documents or bylaws so provide, the association may charge an
3117 administrative late fee in addition to such interest, in an
3118 amount not to exceed the greater of \$25 or 5 percent of each
3119 installment of the assessment for each delinquent installment
3120 that the payment is late. Any payment received by an association
3121 shall be applied first to any interest accrued by the
3122 association, then to any administrative late fee, then to any
3123 costs and reasonable attorney's fees incurred in collection, and
3124 then to the delinquent assessment. The foregoing shall be
3125 applicable notwithstanding any restrictive endorsement,
3126 designation, or instruction placed on or accompanying a payment.
3127 A late fee is not subject to chapter 687 or s. 719.303(3).

3128 (4) If the association is authorized by the cooperative
3129 documents or bylaws to approve or disapprove a proposed lease of
3130 a unit, the grounds for disapproval may include, but are not
3131 limited to, a shareholder being delinquent in the payment of an
3132 assessment at the time approval is sought.

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3133 (5) (a) ~~(4)~~ The association has ~~shall have~~ a lien on each
3134 cooperative parcel to secure the payment of ~~for~~ any unpaid rents
3135 and assessments, plus interest, against the shareholder who owns
3136 ~~unit owner of~~ the cooperative parcel. If authorized by the
3137 cooperative documents, said lien shall also secure reasonable
3138 attorney's fees incurred by the association incident to the
3139 collection of the rents and assessments or enforcement of such
3140 lien. The lien is effective from and shall relate back to and
3141 ~~after~~ the recording of the cooperative documents ~~a claim of lien~~
3142 ~~in the public records in the county in which the cooperative~~
3143 ~~parcel is located which states the description of the~~
3144 ~~cooperative parcel, the name of the unit owner, the amount due,~~
3145 ~~and the due dates.~~ Notwithstanding any provision in a mortgage
3146 instrument or in the cooperative documents, the lien of an
3147 association shall be prior in dignity to all others regardless
3148 of when such other liens are recorded; except that the lien of
3149 an association shall be subordinate to the ad valorem taxes.

3150 (b) To be valid, a claim of lien must state the description
3151 of the cooperative parcel, the name of the record owner, the
3152 name and address of the association, the amount due, and the due
3153 dates. The claim of lien must be executed and acknowledged by an
3154 officer or authorized agent of the association. The lien shall
3155 expire if a claim of lien is not filed within 1 year after the
3156 date the assessment was due, and no such lien shall continue for
3157 a longer period than 1 year after the claim of lien has been
3158 recorded unless, within that time, an action to enforce the lien
3159 is commenced in a court of competent jurisdiction. The 1-year
3160 period shall automatically be extended for any length of time
3161 during which the association is prevented from filing a

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3162 foreclosure action by an automatic stay resulting from a
 3163 bankruptcy petition filed by the shareholder or any other person
 3164 claiming an interest in the parcel. The claim of lien shall
 3165 secure all unpaid assessments which are due and which may accrue
 3166 subsequent to the recording of the claim of lien and prior to
 3167 the entry of a certificate of title, as well as interest and all
 3168 reasonable costs and attorney's fees incurred by the association
 3169 incident to the collection process. Upon payment in full, the
 3170 person making the payment is entitled to a satisfaction of the
 3171 lien. ~~No lien may be filed by the association against a~~
 3172 ~~cooperative parcel until 30 days after the date on which a~~
 3173 ~~notice of intent to file a lien has been served on the unit~~
 3174 ~~owner of the cooperative parcel by certified mail or by personal~~
 3175 ~~service in the manner authorized by chapter 48 and the Florida~~
 3176 ~~Rules of Civil Procedure.~~

3177 (c) By recording a notice in substantially the following
 3178 form, a shareholder or the shareholder's agent or attorney may
 3179 require the association to enforce a recorded claim of lien
 3180 against his or her cooperative parcel:

3181
 3182 NOTICE OF CONTEST OF LIEN

3183
 3184 TO: (Name and address of association) You are notified
 3185 that the undersigned contests the claim of lien filed by you on
 3186 _____, (year) , and recorded in Official Records Book _____ at
 3187 Page _____, of the public records of _____ County, Florida, and
 3188 that the time within which you may file suit to enforce your
 3189 lien is limited to 90 days after the date of service of this
 3190 notice. Executed this _____ day of _____, (year) .

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3191

3192 Signed: (Shareholder or Attorney)

3193

3194 After notice of contest of lien has been recorded, the clerk of
3195 the circuit court shall mail a copy of the recorded notice to
3196 the association by certified mail, return receipt requested, at
3197 the address shown in the claim of lien or most recent amendment
3198 to the claim of lien and shall certify to the service on the
3199 face of the notice. Service is complete upon mailing. After
3200 service, the association has 90 days in which to file an action
3201 to enforce the lien; and, if the action is not filed within the
3202 90-day period, the lien is void. However, the 90-day period
3203 shall be extended for any length of time that the association is
3204 prevented from filing its action because of an automatic stay
3205 resulting from the filing of a bankruptcy petition by the
3206 shareholder or by any other person claiming an interest in the
3207 parcel.

3208 (6) (a) ~~(5)~~ Liens for rents and assessments may be foreclosed
3209 by suit brought in the name of the association, in like manner
3210 as a foreclosure of a mortgage on real property. In any
3211 foreclosure, the shareholder ~~unit owner~~ shall pay a reasonable
3212 rental for the cooperative parcel, if so provided in the
3213 cooperative documents, and the plaintiff in the foreclosure is
3214 entitled to the appointment of a receiver to collect the rent.
3215 The association has the power, unless prohibited by the
3216 cooperative documents, to bid on the cooperative parcel at the
3217 foreclosure sale and to acquire and hold, lease, mortgage, or
3218 convey it. Suit to recover a money judgment for unpaid rents and
3219 assessments may be maintained without waiving the lien securing

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3220 them.

3221 (b) No foreclosure judgment may be entered until at least
3222 30 days after the association gives written notice to the
3223 shareholder of its intention to foreclose its lien to collect
3224 the unpaid rents and assessments. If this notice is not given at
3225 least 30 days before the foreclosure action is filed, and if the
3226 unpaid rents and assessments, including those coming due after
3227 the claim of lien is recorded, are paid before the entry of a
3228 final judgment of foreclosure, the association shall not recover
3229 attorney's fees or costs. The notice must be given by delivery
3230 of a copy of it to the shareholder or by certified or registered
3231 mail, return receipt requested, addressed to the shareholder at
3232 his or her last known address; and, upon such mailing, the
3233 notice shall be deemed to have been given, and the court shall
3234 proceed with the foreclosure action and may award attorney's
3235 fees and costs as permitted by law. The notice requirements of
3236 this paragraph are satisfied if the shareholder records a notice
3237 of contest of lien as provided in subsection (5). The notice
3238 requirements of this paragraph do not apply if an action to
3239 foreclose a mortgage on the cooperative unit is pending before
3240 any court; if the rights of the association would be affected by
3241 such foreclosure; and if actual, constructive, or substitute
3242 service of process has been made on the shareholder.

3243 (c) If the shareholder remains in possession of the unit
3244 after a foreclosure judgment has been entered, the court, in its
3245 discretion, may require the shareholder to pay a reasonable
3246 rental for the unit. If the unit is rented or leased during the
3247 pendency of the foreclosure action, the association is entitled
3248 to the appointment of a receiver to collect the rent. The

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3249 expenses of the receiver shall be paid by the party which does
3250 not prevail in the foreclosure action.

3251 (d) The association has the power to purchase the
3252 cooperative unit at the foreclosure sale and to hold, lease,
3253 mortgage, or convey it.

3254 (7) Within 15 days after receiving a written request
3255 therefor from a shareholder or his or her designee, or a unit
3256 mortgagee or his or her designee, the association shall provide
3257 a certificate signed by an officer or agent of the association
3258 stating all assessments and other moneys owed to the association
3259 by the shareholder with respect to the cooperative parcel.

3260 (a) Any person other than the shareholder who relies upon
3261 such certificate shall be protected thereby.

3262 (b) A summary proceeding pursuant to s. 51.011 may be
3263 brought to compel compliance with this subsection, and in any
3264 such action the prevailing party is entitled to recover
3265 reasonable attorney's fees.

3266 (c) Notwithstanding any limitation on transfer fees
3267 contained in s. 719.106(1)(i), the association or its authorized
3268 agent may charge a reasonable fee for the preparation of the
3269 certificate. The amount of the fee must be included on the
3270 certificate.

3271 (d) The authority to charge a fee for the certificate shall
3272 be established by a written resolution adopted by the board or
3273 provided by a written management, bookkeeping, or maintenance
3274 contract and is payable upon the preparation of the certificate.
3275 If the certificate is requested in conjunction with the sale or
3276 mortgage of a unit but the closing does not occur and no later
3277 than 30 days after the closing date for which the certificate

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3278 was sought the preparer receives a written request, accompanied
3279 by reasonable documentation, that the sale did not occur from a
3280 payor that is not the shareholder, the fee shall be refunded to
3281 that payor within 30 days after receipt of the request. The
3282 refund is the obligation of the shareholder, and the association
3283 may collect the refund from that shareholder in the same manner
3284 as an assessment as provided in this section.

3285 ~~(6) Within 15 days after request by a unit owner or~~
3286 ~~mortgagee, the association shall provide a certificate stating~~
3287 ~~all assessments and other moneys owed to the association by the~~
3288 ~~unit owner with respect to the cooperative parcel. Any person~~
3289 ~~other than the unit owner who relies upon such certificate shall~~
3290 ~~be protected thereby. Notwithstanding any limitation on transfer~~
3291 ~~fees contained in s. 719.106(1)(i), the association or its~~
3292 ~~authorized agent may charge a reasonable fee for the preparation~~
3293 ~~of the certificate.~~

3294 ~~(7) The remedies provided in this section do not exclude~~
3295 ~~other remedies provided by the cooperative documents and~~
3296 ~~permitted by law.~~

3297 (8) (a) No shareholder ~~unit owner~~ may be excused from the
3298 payment of his or her share of the rents or assessments of a
3299 cooperative unless all shareholders ~~unit owners~~ are likewise
3300 proportionately excused from payment, except ~~as provided in~~
3301 ~~subsection (6) and~~ in the following cases:

3302 1. If the cooperative documents so provide, a developer or
3303 other person owning cooperative units offered for sale may be
3304 excused from the payment of the share of the common expenses,
3305 assessments, and rents related to those units for a stated
3306 period of time. The period must terminate no later than the

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3307 first day of the fourth calendar month following the month in
3308 which the right of exclusive possession is first granted to a
3309 shareholder ~~unit owner~~. However, the developer must pay the
3310 portion of common expenses incurred during that period which
3311 exceed the amount assessed against other shareholders ~~unit~~
3312 ~~owners~~.

3313 2. A developer, or other person with an ownership interest
3314 in cooperative units or having an obligation to pay common
3315 expenses, may be excused from the payment of his or her share of
3316 the common expenses which would have been assessed against those
3317 units during the period of time that he or she shall have
3318 guaranteed to each purchaser in the purchase contract or in the
3319 cooperative documents, or by agreement between the developer and
3320 a majority of the shareholders ~~unit owners~~ other than the
3321 developer, that the assessment for common expenses of the
3322 cooperative imposed upon the shareholders ~~unit owners~~ would not
3323 increase over a stated dollar amount and shall have obligated
3324 himself or herself to pay any amount of common expenses incurred
3325 during that period and not produced by the assessments at the
3326 guaranteed level receivable from other shareholders ~~unit owners~~.

3327 (b) If the purchase contract, cooperative documents, or
3328 agreement between the developer and a majority of shareholders
3329 ~~unit owners~~ other than the developer provides for the developer
3330 or another person to be excused from the payment of assessments
3331 pursuant to paragraph (a), no funds receivable from shareholders
3332 ~~unit owners~~ payable to the association or collected by the
3333 developer on behalf of the association, other than regular
3334 periodic assessments for common expenses as provided in the
3335 cooperative documents and disclosed in the estimated operating

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3336 budget pursuant to s. 719.503(1)(b)6. or s. 719.504(20)(b), may
3337 be used for payment of common expenses prior to the expiration
3338 of the period during which the developer or other person is so
3339 excused. This restriction applies to funds including, but not
3340 limited to, capital contributions or startup funds collected
3341 from shareholders ~~unit purchasers~~ at closing.

3342 (9) The specific purposes of any special assessment,
3343 including any contingent special assessment levied in
3344 conjunction with the purchase of an insurance policy authorized
3345 by s. 719.104(3), approved in accordance with the cooperative
3346 documents shall be set forth in a written notice of such
3347 assessment sent or delivered to each shareholder ~~unit owner~~. The
3348 funds collected pursuant to a special assessment shall be used
3349 only for the specific purpose or purposes set forth in such
3350 notice or returned to the shareholders ~~unit owners~~. However,
3351 upon completion of such specific purposes, any excess funds
3352 shall be considered common surplus and may, at the discretion of
3353 the board, either be returned to the shareholders ~~unit owners~~ or
3354 applied as a credit toward future assessments.

3355 (10) During the pendency of any foreclosure action of a
3356 cooperative unit, if the unit is occupied by a tenant and the
3357 shareholder is delinquent in the payment of regular assessments,
3358 the association may demand that the tenant pay to the
3359 association the future regular assessments related to the
3360 cooperative unit. The demand shall be continuing in nature, and
3361 upon demand the tenant shall continue to pay the regular
3362 assessments to the association until the association releases
3363 the tenant or the tenant discontinues tenancy in the unit. The
3364 association shall mail written notice to the shareholder of the

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3365 association's demand that the tenant pay regular assessments to
3366 the association. The tenant shall not be liable for increases in
3367 the amount of the regular assessment due unless the tenant was
3368 reasonably notified of the increase prior to the day that the
3369 rent is due. The tenant shall be given a credit against rents
3370 due to the shareholder in the amount of assessments paid to the
3371 association. The association shall, upon request, provide the
3372 tenant with written receipts for payments made. The association
3373 may issue notices under s. 83.56 and may sue for eviction under
3374 ss. 83.59-83.625 as if the association were a landlord under
3375 part II of chapter 83 should the tenant fail to pay an
3376 assessment. However, the association shall not otherwise be
3377 considered a landlord under chapter 83 and shall specifically
3378 not have any duty under s. 83.51. The tenant shall not, by
3379 virtue of payment of assessments, have any of the rights of a
3380 shareholder to vote in any election or to examine the books and
3381 records of the association. A court may supersede the effect of
3382 this subsection by appointing a receiver.

3383 Section 21. Section 719.113, Florida Statutes, is created
3384 to read:

3385 719.113 Maintenance; limitation upon improvement; display
3386 of flag; hurricane shutters; display of religious decorations.-

3387 (1) Maintenance of the common areas is the responsibility
3388 of the association. The cooperative documents may provide that
3389 certain limited common areas shall be maintained by those
3390 entitled to use the limited common areas or that the association
3391 shall provide the maintenance, either as a common expense or
3392 with the cost shared only by those entitled to use the limited
3393 common areas. If the maintenance is to be provided by the

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3394 association at the expense of only those entitled to use the
3395 limited common areas, the cooperative documents shall describe
3396 in detail the method of apportioning such costs among those
3397 entitled to use the limited common areas. The association may
3398 use the provisions of s. 719.108 to enforce payment of the
3399 shares of such costs by the shareholders entitled to use the
3400 limited common areas.

3401 (2) Except as otherwise provided in this section, there
3402 shall be no material alteration or substantial additions to the
3403 common areas, except in a manner provided in the cooperative
3404 documents as originally recorded or as amended under the
3405 procedures provided therein. If the cooperative documents as
3406 originally recorded or as amended under the procedures provided
3407 therein do not specify the procedure for approval of material
3408 alterations or substantial additions, 75 percent of the total
3409 voting interests of the association must approve the alterations
3410 or additions. This subsection is intended to clarify existing
3411 law and applies to associations existing on July 1, 2009.

3412 (3) A shareholder shall not do anything within his or her
3413 unit or on the common areas which would adversely affect the
3414 safety or soundness of the common areas or any portion of the
3415 association property or cooperative property which is to be
3416 maintained by the association.

3417 (4) Any shareholder may display one portable, removable
3418 United States flag in a respectful way and, on Armed Forces Day,
3419 Memorial Day, Flag Day, Independence Day, and Veterans' Day, may
3420 display in a respectful way portable, removable official flags,
3421 not larger than 4 1/2 feet by 6 feet, that represent the United
3422 States Army, Navy, Air Force, Marine Corps, or Coast Guard,

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3423 regardless of any declaration rules or requirements dealing with
3424 flags or decorations.

3425 (5) Each board of directors shall adopt hurricane shutter
3426 specifications for each building within each cooperative which
3427 shall include color, style, and other factors deemed relevant by
3428 the board. All specifications adopted by the board shall comply
3429 with the applicable building code.

3430 (a) The board may, subject to the provisions of s. 719.3026
3431 and the approval of a majority of voting interests of the
3432 condominium, install hurricane shutters or hurricane protection
3433 that complies with or exceeds the applicable building code, or
3434 both, except that a vote of the shareholders is not required if
3435 the maintenance, repair, and replacement of hurricane shutters
3436 or other forms of hurricane protection are the responsibility of
3437 the association pursuant to the declaration of condominium.
3438 However, when hurricane protection or laminated glass or window
3439 film architecturally designed to function as hurricane
3440 protection which complies with or exceeds the current applicable
3441 building code has been previously installed, the board may not
3442 install hurricane shutters or other hurricane protection. Code-
3443 compliant impact glass may be installed by the association as
3444 hurricane protection if the area in which the glass is to be
3445 installed is an area that is the responsibility of the
3446 association. Notwithstanding s. 719.107(3), if a shareholder
3447 installed code-compliant impact glass prior to the association
3448 voting to install such glass, and such glass and the frame
3449 thereof complies with the current applicable building codes and
3450 is otherwise in good repair, the shareholder shall not be
3451 required to pay the shareholders' pro rata share of the cost of

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3452 installing code-compliant impact glass in the cooperative
3453 association.

3454 (b) The association shall be responsible for the
3455 maintenance, repair, and replacement of the hurricane shutters
3456 or other hurricane protection authorized by this subsection if
3457 such hurricane shutters or other hurricane protection is the
3458 responsibility of the association pursuant to the declaration of
3459 condominium. If the hurricane shutters or other hurricane
3460 protection authorized by this subsection are the responsibility
3461 of the shareholders pursuant to the cooperative documents, the
3462 responsibility for the maintenance, repair, and replacement of
3463 such items shall be the responsibility of the shareholder.

3464 (c) The board may operate hurricane shutters installed
3465 pursuant to this subsection without permission of the
3466 shareholders only when such operation is necessary to preserve
3467 and protect the cooperative property and association property.
3468 The installation, replacement, operation, repair, and
3469 maintenance of such shutters in accordance with the procedures
3470 set forth herein shall not be deemed a material alteration to
3471 the common elements or association property within the meaning
3472 of this section.

3473 (d) Notwithstanding any provision to the contrary in the
3474 cooperative documents, if approval is required by the documents,
3475 a board shall not refuse to approve the installation or
3476 replacement of hurricane shutters by a shareholder conforming to
3477 the specifications adopted by the board.

3478 (6) As to any cooperative building greater than three
3479 stories in height, at least every 5 years, and within 5 years if
3480 not available for inspection on July 1, 2009, the board shall

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3481 have the cooperative building inspected to provide a report
3482 under seal of an architect or engineer authorized to practice in
3483 this state attesting to required maintenance, useful life, and
3484 replacement costs of the common areas. However, if approved by a
3485 majority of the voting interests present at a properly called
3486 meeting of the association, an association may waive this
3487 requirement. Such meeting and approval must occur prior to the
3488 end of the 5-year period and is effective only for that 5-year
3489 period.

3490 (7) An association may not refuse the request of a
3491 shareholder for a reasonable accommodation for the attachment on
3492 the mantel or frame of the door of the shareholder of a
3493 religious object not to exceed 3 inches wide, 6 inches high, and
3494 1.5 inches deep.

3495 (8) Notwithstanding the provisions of this section or the
3496 governing documents of a cooperative association, the board of
3497 directors may, without any requirement for approval of the
3498 shareholders, install upon or within the common areas or
3499 association property solar collectors, clotheslines, or other
3500 energy-efficient devices based on renewable resources for the
3501 benefit of the shareholders.

3502 Section 22. Section 719.117, Florida Statutes, is created
3503 to read:

3504 719.117 Termination of cooperative.—

3505 (1) LEGISLATIVE FINDINGS.—The Legislature finds that
3506 cooperatives are created as authorized by statute. In
3507 circumstances that may create economic waste, areas of
3508 disrepair, or obsolescence of a cooperative property for its
3509 intended use and thereby lower property tax values, the

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3510 Legislature further finds that it is the public policy of this
3511 state to provide by statute a method to preserve the value of
3512 the property interests and the rights of alienation thereof that
3513 shareholders have in the cooperative property before and after
3514 termination. The Legislature further finds that it is contrary
3515 to the public policy of this state to require the continued
3516 operation of a cooperative when to do so constitutes economic
3517 waste or when the ability to do so is made impossible by law or
3518 regulation. This section applies to all cooperatives in this
3519 state in existence on or after July 1, 2009.

3520 (2) TERMINATION BECAUSE OF ECONOMIC WASTE OR
3521 IMPOSSIBILITY.—

3522 (a) Notwithstanding any provision to the contrary in the
3523 cooperative documents, the cooperative form of ownership of a
3524 property may be terminated by a plan of termination approved by
3525 the lesser of the lowest percentage of voting interests
3526 necessary to amend the articles of incorporation when:

3527 1. The total estimated cost of repairs necessary to restore
3528 the improvements to their former condition or bring them into
3529 compliance with applicable laws or regulations exceeds the
3530 combined fair market value of all units in the cooperative after
3531 completion of the repairs; or

3532 2. It becomes impossible to operate or reconstruct a
3533 cooperative in its prior physical configuration because of land
3534 use laws or regulations.

3535 (b) Notwithstanding paragraph (a), a cooperative in which
3536 75 percent or more of the units are timeshare units may be
3537 terminated only pursuant to a plan of termination approved by 80
3538 percent of the total voting interests of the association and the

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3539 holders of 80 percent of the original principal amount of
3540 outstanding recorded mortgage liens of timeshare estates in the
3541 cooperative, unless the declaration provides for a lower voting
3542 percentage.

3543 (3) OPTIONAL TERMINATION.—Except as provided in subsection
3544 (2) or unless the declaration provides for a lower percentage,
3545 the cooperative form of ownership of the property may be
3546 terminated pursuant to a plan of termination approved by at
3547 least 80 percent of the total voting interests of the
3548 cooperative if not more than 10 percent of the total voting
3549 interests of the cooperative have rejected the plan of
3550 termination by negative vote or by providing written objections
3551 thereto. This subsection does not apply to cooperatives in which
3552 75 percent or more of the units are timeshare units.

3553 (4) EXEMPTION.—A plan of termination is not an amendment
3554 subject to s. 719.1055(1).

3555 (5) MORTGAGE LIENHOLDERS.—Notwithstanding any provision to
3556 the contrary in the declaration or this chapter, approval of a
3557 plan of termination by the holder of a recorded mortgage lien
3558 affecting a cooperative parcel in which fewer than 75 percent of
3559 the units are timeshare units is not required unless the plan of
3560 termination will result in less than the full satisfaction of
3561 the mortgage lien affecting the cooperative parcel. If such
3562 approval is required and not given, a holder of a recorded
3563 mortgage lien who objects to the plan of termination may contest
3564 the plan as provided in subsection (16). At the time of sale,
3565 the lien shall be transferred to the proportionate share of the
3566 proceeds assigned to the cooperative parcel in the plan of
3567 termination or as subsequently modified by the court.

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3568 (6) POWERS IN CONNECTION WITH TERMINATION.—The approval of
3569 the plan of termination does not terminate the association. The
3570 association shall continue in existence following approval of
3571 the plan of termination with all powers and duties it had before
3572 approval of the plan. Notwithstanding any provision to the
3573 contrary in the declaration or bylaws, after approval of the
3574 plan the board shall:

3575 (a) Employ directors, agents, attorneys, and other
3576 professionals to liquidate or conclude its affairs.

3577 (b) Conduct the affairs of the association as necessary for
3578 the liquidation or termination.

3579 (c) Carry out contracts and collect, pay, and settle debts
3580 and claims for and against the association.

3581 (d) Defend suits brought against the association.

3582 (e) Sue in the name of the association for all sums due or
3583 owed to the association or to recover any of its property.

3584 (f) Perform any act necessary to maintain, repair, or
3585 demolish unsafe or uninhabitable improvements or other
3586 cooperative property in compliance with applicable codes.

3587 (g) Sell at public or private sale or exchange, convey, or
3588 otherwise dispose of assets of the association for an amount
3589 deemed to be in the best interests of the association, and
3590 execute bills of sale and deeds of conveyance in the name of the
3591 association.

3592 (h) Collect and receive rents, profits, accounts
3593 receivable, income, maintenance fees, special assessments, or
3594 insurance proceeds for the association.

3595 (i) Contract and do anything in the name of the association
3596 which is proper or convenient to terminate the affairs of the

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3597 association.

3598 (7) NATURAL DISASTERS.—

3599 (a) If, after a natural disaster, the identity of the
3600 directors or their right to hold office is in doubt, if they are
3601 deceased or unable to act, if they fail or refuse to act, or if
3602 they cannot be located, any interested person may petition the
3603 circuit court to determine the identity of the directors or, if
3604 found to be in the best interests of the shareholders, to
3605 appoint a receiver to conclude the affairs of the association
3606 after a hearing following notice to such persons as the court
3607 directs. Lienholders shall be given notice of the petition and
3608 have the right to propose persons for the consideration by the
3609 court as receiver. If a receiver is appointed, the court shall
3610 direct the receiver to provide to all shareholders written
3611 notice of his or her appointment as receiver. Such notice shall
3612 be mailed or delivered within 10 days after the appointment.
3613 Notice by mail to a shareholder shall be sent to the address
3614 used by the county property appraiser for notice to the
3615 shareholder.

3616 (b) The receiver shall have all powers given to the board
3617 pursuant to the declaration, bylaws, and subsection (6), and any
3618 other powers that are necessary to conclude the affairs of the
3619 association and are set forth in the order of appointment. The
3620 appointment of the receiver is subject to the bonding
3621 requirements of such order. The order shall also provide for the
3622 payment of a reasonable fee to the receiver from the sources
3623 identified in the order, which may include rents, profits,
3624 incomes, maintenance fees, or special assessments collected from
3625 the cooperative property.

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3626 (8) REPORTS AND REPLACEMENT OF RECEIVER.—

3627 (a) The association, receiver, or termination trustee shall
3628 prepare reports each quarter following the approval of the plan
3629 of termination setting forth the status and progress of the
3630 termination, the costs and fees incurred, the date the
3631 termination is expected to be completed, and the current
3632 financial condition of the association, receivership, or
3633 trusteeship and provide copies of the report by regular mail to
3634 the shareholders and lienors at the mailing address provided to
3635 the association by the shareholders and the lienors.

3636 (b) The shareholders of an association in termination may
3637 recall or remove members of the board of administration with or
3638 without cause at any time as provided in s. 718.106(1)(f).

3639 (c) The lienors of an association in termination
3640 representing at least 50 percent of the outstanding amount of
3641 liens may petition the court for the appointment of a
3642 termination trustee, which shall be granted upon good cause
3643 shown.

3644 (9) PLAN OF TERMINATION.—The plan of termination must be a
3645 written document executed in the same manner as a deed by
3646 shareholders having the requisite percentage of voting interests
3647 to approve the plan and by the termination trustee. A copy of
3648 the proposed plan of termination shall be given to all
3649 shareholders, in the same manner as provided for notice of an
3650 annual meeting, at least 14 days prior to the meeting at which
3651 the plan of termination is to be voted upon or prior to or
3652 simultaneously with the distribution of the solicitation seeking
3653 execution of the plan of termination or written consent to or
3654 joinder in the plan. A shareholder may document assent to the

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3655 plan by executing the plan or by consent to or joinder in the
3656 plan in the manner of a deed. A plan of termination and the
3657 consents or joinders of shareholders and, if required, consents
3658 or joinders of mortgagees must be recorded in the public records
3659 of each county in which any portion of the cooperative is
3660 located. The plan is effective only upon recordation or at a
3661 later date specified in the plan.

3662 (10) PLAN OF TERMINATION; REQUIRED PROVISIONS.—The plan of
3663 termination must specify:

3664 (a) The name, address, and powers of the termination
3665 trustee.

3666 (b) A date after which the plan of termination is void if
3667 it has not been recorded.

3668 (c) The interests of the respective shareholders in the
3669 association property, common surplus, and other assets of the
3670 association, which shall be the same as the respective interests
3671 of the shareholders in the common areas immediately before the
3672 termination, unless otherwise provided in the declaration.

3673 (d) The interests of the respective shareholders in any
3674 proceeds from the sale of the cooperative property. The plan of
3675 termination may apportion those proceeds pursuant to any method
3676 prescribed in subsection (12). If, pursuant to the plan of
3677 termination, cooperative property or real property owned by the
3678 association is to be sold following termination, the plan must
3679 provide for the sale and may establish any minimum sale terms.

3680 (e) Any interests of the respective shareholders in
3681 insurance proceeds or condemnation proceeds that are not used
3682 for repair or reconstruction at the time of termination. Unless
3683 the declaration expressly addresses the distribution of

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3684 insurance proceeds or condemnation proceeds, the plan of
3685 termination may apportion those proceeds pursuant to any method
3686 prescribed in subsection (12).

3687 (11) PLAN OF TERMINATION; OPTIONAL PROVISIONS; CONDITIONAL
3688 TERMINATION.—

3689 (a) The plan of termination may provide that each
3690 shareholder retains the exclusive right of possession to the
3691 portion of the real estate that formerly constituted the unit,
3692 in which case the plan must specify the conditions of
3693 possession.

3694 (b) In a conditional termination, the plan must specify the
3695 conditions for termination. A conditional plan does not vest
3696 title in the termination trustee until the plan and a
3697 certificate executed by the association with the formalities of
3698 a deed, confirming that the conditions in the conditional plan
3699 have been satisfied or waived by the requisite percentage of the
3700 voting interests, have been recorded.

3701 (12) ALLOCATION OF PROCEEDS OF SALE OF COOPERATIVE
3702 PROPERTY.—

3703 (a) Unless the declaration expressly provides for the
3704 allocation of the proceeds of sale of cooperative property, the
3705 plan of termination must first apportion the proceeds between
3706 the aggregate value of all units and the value of the common
3707 areas, based on their respective fair market values immediately
3708 before the termination, as determined by one or more independent
3709 appraisers selected by the association or termination trustee.

3710 (b) The portion of proceeds allocated to the units shall be
3711 further apportioned among the individual units. The
3712 apportionment is deemed fair and reasonable if it is so

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3713 determined by the shareholders, who may approve the plan of
3714 termination by any of the following methods:

3715 1. The respective values of the units based on the fair
3716 market values of the units immediately before the termination,
3717 as determined by one or more independent appraisers selected by
3718 the association or termination trustee;

3719 2. The respective values of the units based on the most
3720 recent market value of the units before the termination, as
3721 provided in the county property appraiser's records; or

3722 3. The respective interests of the units in the common
3723 elements specified in the cooperative documents immediately
3724 before the termination.

3725 (c) The methods of apportionment in paragraph (b) do not
3726 prohibit any other method of apportioning the proceeds of sale
3727 allocated to the units agreed upon in the plan of termination.
3728 The portion of the proceeds allocated to the common elements
3729 shall be apportioned among the units based upon their respective
3730 interests in the common areas as provided in the declaration.

3731 (d) Liens that encumber a unit shall be transferred to the
3732 proceeds of sale of the cooperative property and the proceeds of
3733 sale or other distribution of association property, common
3734 surplus, or other association assets attributable to such unit
3735 in their same priority. The proceeds of any sale of cooperative
3736 property pursuant to a plan of termination may not be deemed to
3737 be common surplus or association property.

3738 (13) TERMINATION TRUSTEE.—The association shall serve as
3739 termination trustee unless another person is appointed in the
3740 plan of termination. If the association is unable, unwilling, or
3741 fails to act as trustee, any shareholder may petition the court

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3742 to appoint a trustee. Upon the date of the recording or at a
3743 later date specified in the plan, title to the cooperative
3744 property vests in the trustee. Unless prohibited by the plan,
3745 the termination trustee shall be vested with the powers given to
3746 the board pursuant to the cooperative documents, bylaws, and
3747 subsection (6). If the association is not the termination
3748 trustee, the trustee's powers shall be coextensive with those of
3749 the association to the extent not prohibited in the plan of
3750 termination or the order of appointment. If the association is
3751 not the termination trustee, the association shall transfer any
3752 association property to the trustee. If the association is
3753 dissolved, the trustee shall also have such other powers
3754 necessary to conclude the affairs of the association.

3755 (14) TITLE VESTED IN TERMINATION TRUSTEE.—If termination is
3756 pursuant to a plan of termination under subsection (2) or
3757 subsection (3), the shareholders' rights and title as tenants in
3758 common in undivided interests in the cooperative property vest
3759 in the termination trustee when the plan is recorded or at a
3760 later date specified in the plan. The shareholders thereafter
3761 become the beneficiaries of the proceeds realized from the plan
3762 of termination. The termination trustee may deal with the
3763 cooperative property or any interest therein if the plan confers
3764 on the trustee the authority to protect, conserve, manage, sell,
3765 or dispose of the cooperative property. The trustee, on behalf
3766 of the shareholders, may contract for the sale of real property,
3767 but the contract is not binding on the shareholders until the
3768 plan is approved pursuant to subsection (2) or subsection (3).

3769 (15) NOTICE.—

3770 (a) Within 30 days after a plan of termination has been

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3771 recorded, the termination trustee shall deliver by certified
3772 mail, return receipt requested, notice to all shareholders,
3773 lienors of the cooperative property, and lienors of all units at
3774 their last known addresses that a plan of termination has been
3775 recorded. The notice must include the book and page number of
3776 the public records in which the plan was recorded, notice that a
3777 copy of the plan shall be furnished upon written request, and
3778 notice that the shareholder or lienor has the right to contest
3779 the fairness of the plan.

3780 (b) The trustee, within 90 days after the effective date of
3781 the plan, shall provide to the division a certified copy of the
3782 recorded plan, the date the plan was recorded, and the county,
3783 book, and page number of the public records in which the plan is
3784 recorded.

3785 (16) RIGHT TO CONTEST.—A shareholder or lienor may contest
3786 a plan of termination by initiating a summary procedure pursuant
3787 to s. 51.011 within 90 days after the date the plan is recorded.
3788 A shareholder or lienor who does not contest the plan within the
3789 90-day period is barred from asserting or prosecuting a claim
3790 against the association, the termination trustee, any
3791 shareholder, or any successor in interest to the cooperative
3792 property. In an action contesting a plan of termination, the
3793 person contesting the plan has the burden of pleading and
3794 proving that the apportionment of the proceeds from the sale
3795 among the shareholders was not fair and reasonable. The
3796 apportionment of sale proceeds is presumed fair and reasonable
3797 if it was determined pursuant to the methods prescribed in
3798 subsection (12). The court shall determine the rights and
3799 interests of the parties and order the plan of termination to be

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3800 implemented if it is fair and reasonable. If the court
3801 determines that the plan of termination is not fair and
3802 reasonable, the court may void the plan or may modify the plan
3803 to apportion the proceeds in a fair and reasonable manner
3804 pursuant to this section based upon the proceedings and order
3805 the modified plan of termination to be implemented. In such
3806 action, the prevailing party shall recover reasonable attorney's
3807 fees and costs.

3808 (17) DISTRIBUTION.—

3809 (a) Following termination of the cooperative, the
3810 cooperative property, association property, common surplus, and
3811 other assets of the association shall be held by the termination
3812 trustee, as trustee for shareholders and holders of liens on the
3813 units, in their order of priority.

3814 (b) Not less than 30 days before the first distribution,
3815 the termination trustee shall deliver by certified mail, return
3816 receipt requested, a notice of the estimated distribution to all
3817 shareholders, lienors of the cooperative property, and lienors
3818 of each unit at their last known addresses stating a good faith
3819 estimate of the amount of the distributions to each class and
3820 the procedures and deadline for notifying the termination
3821 trustee of any objections to the amount. The deadline must be at
3822 least 15 days after the date the notice was mailed. The notice
3823 may be sent with or after the notice required by subsection
3824 (15). If a shareholder or lienor files a timely objection with
3825 the termination trustee, the trustee need not distribute the
3826 funds and property allocated to the respective shareholder or
3827 lienor until the trustee has had a reasonable time to determine
3828 the validity of the adverse claim. In the alternative, the

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3829 trustee may interplead the shareholder, lienor, and any other
3830 person claiming an interest in the unit and deposit the funds
3831 allocated to the unit in the court registry, at which time the
3832 cooperative property, association property, common surplus, and
3833 other assets of the association are free of all claims and liens
3834 of the parties to the suit. In an interpleader action, the
3835 trustee and prevailing party may recover reasonable attorney's
3836 fees and costs.

3837 (c) The proceeds from any sale of cooperative property or
3838 association property and any remaining cooperative property or
3839 association property, common surplus, and other assets shall be
3840 distributed in the following priority:

3841 1. To pay the reasonable termination trustee's fees and
3842 costs and accounting fees and costs.

3843 2. To lienholders of liens recorded prior to the recording
3844 of the cooperative documents.

3845 3. To purchase-money lienholders on units to the extent
3846 necessary to satisfy their liens; however, the distribution may
3847 not exceed a shareholder's share of the proceeds.

3848 4. To creditors of the association, as their interests
3849 appear.

3850 5. To shareholders, the proceeds of any sale of cooperative
3851 property subject to satisfaction of liens on each unit in their
3852 order of priority, in shares specified in the plan of
3853 termination, unless objected to by a shareholder or lienor as
3854 provided in paragraph (b).

3855 6. To shareholders, the remaining cooperative property,
3856 subject to satisfaction of liens on each unit in their order of
3857 priority, in shares specified in the plan of termination, unless

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3858 objected to by a shareholder or a lienor as provided in
3859 paragraph (b).

3860 7. To shareholders, the proceeds of any sale of association
3861 property, the remaining association property, common surplus,
3862 and other assets of the association, subject to satisfaction of
3863 liens on each unit in their order of priority, in shares
3864 specified in the plan of termination, unless objected to by a
3865 shareholder or a lienor as provided in paragraph (b).

3866 (d) After determining that all known debts and liabilities
3867 of an association in the process of termination have been paid
3868 or adequately provided for, the termination trustee shall
3869 distribute the remaining assets pursuant to the plan of
3870 termination. If the termination is by court proceeding or
3871 subject to court supervision, the distribution may not be made
3872 until any period for the presentation of claims ordered by the
3873 court has elapsed.

3874 (e) Assets held by an association upon a valid condition
3875 requiring return, transfer, or conveyance, which condition has
3876 occurred or will occur, shall be returned, transferred, or
3877 conveyed in accordance with the condition. The remaining
3878 association assets shall be distributed pursuant to paragraph
3879 (c).

3880 (f) Distribution may be made in money, property, or
3881 securities and in installments or as a lump sum, if it can be
3882 done fairly and ratably and in conformity with the plan of
3883 termination. Distribution shall be made as soon as is reasonably
3884 consistent with the beneficial liquidation of the assets.

3885 (18) ASSOCIATION STATUS.—The termination of a cooperative
3886 does not change the corporate status of the association that

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3887 operated the cooperative property. The association continues to
3888 exist to conclude its affairs, prosecute and defend actions by
3889 or against it, collect and discharge obligations, dispose of and
3890 convey its property, and collect and divide its assets, but not
3891 to act except as necessary to conclude its affairs.

3892 (19) CREATION OF ANOTHER COOPERATIVE.—The termination of a
3893 cooperative does not bar the creation by the termination trustee
3894 of another cooperative affecting any portion of the same
3895 property.

3896 Section 23. Section 719.1224, Florida Statutes, is created
3897 to read:

3898 719.1224 Prohibition against SLAPP suits.—

3899 (1) It is the intent of the Legislature to protect the
3900 right of cooperative shareholders to exercise their rights to
3901 instruct their representatives and petition for redress of
3902 grievances before the various governmental entities of this
3903 state as protected by the First Amendment to the United States
3904 Constitution and s. 5, Art. I of the State Constitution. The
3905 Legislature recognizes that strategic lawsuits against public
3906 participation, or "SLAPP suits," as they are typically referred
3907 to, have occurred when association members are sued by
3908 individuals, business entities, or governmental entities arising
3909 out of a cooperative shareholder's appearance and presentation
3910 before a governmental entity on matters related to the
3911 cooperative association. However, it is the public policy of
3912 this state that governmental entities, business organizations,
3913 and individuals not engage in SLAPP suits because such actions
3914 are inconsistent with the right of cooperative shareholders to
3915 participate in the state's institutions of government.

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3916 Therefore, the Legislature finds and declares that prohibiting
3917 such lawsuits by governmental entities, business entities, and
3918 individuals against cooperative shareholders who address matters
3919 concerning their cooperative association will preserve this
3920 fundamental state policy, preserve the constitutional rights of
3921 cooperative shareholders, and ensure the continuation of
3922 representative government in this state. It is the intent of the
3923 Legislature that such lawsuits be expeditiously disposed of by
3924 the courts. As used in this subsection, the term "governmental
3925 entity" means the state, including the executive, legislative,
3926 and judicial branches of government; the independent
3927 establishments of the state, counties, municipalities,
3928 districts, authorities, boards, or commissions; or any agencies
3929 of these branches that are subject to chapter 286.

3930 (2) A governmental entity, business organization, or
3931 individual in this state may not file or cause to be filed
3932 through its employees or agents any lawsuit, cause of action,
3933 claim, cross-claim, or counterclaim against a cooperative
3934 shareholder without merit and solely because such cooperative
3935 shareholder has exercised the right to instruct his or her
3936 representatives or the right to petition for redress of
3937 grievances before the various governmental entities of this
3938 state, as protected by the First Amendment to the United States
3939 Constitution and s. 5, Art. I of the State Constitution.

3940 (3) A cooperative shareholder sued by a governmental
3941 entity, business organization, or individual in violation of
3942 this section has a right to an expeditious resolution of a claim
3943 that the suit is in violation of this section. A cooperative
3944 shareholder may petition the court for an order dismissing the

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3945 action or granting final judgment in favor of that cooperative
3946 shareholder. The petitioner may file a motion for summary
3947 judgment, together with supplemental affidavits, seeking a
3948 determination that the governmental entity's, business
3949 organization's, or individual's lawsuit has been brought in
3950 violation of this section. The governmental entity, business
3951 organization, or individual shall thereafter file its response
3952 and any supplemental affidavits. As soon as practicable, the
3953 court shall set a hearing on the petitioner's motion, which
3954 shall be held at the earliest possible time after the filing of
3955 the governmental entity's, business organization's, or
3956 individual's response. The court may award the cooperative
3957 shareholder sued by the governmental entity, business
3958 organization, or individual actual damages arising from the
3959 governmental entity's, individual's, or business organization's
3960 violation of this section. A court may treble the damages
3961 awarded to a prevailing cooperative shareholder and shall state
3962 the basis for the treble damages award in its judgment. The
3963 court shall award the prevailing party reasonable attorney's
3964 fees and costs incurred in connection with a claim that an
3965 action was filed in violation of this section.

3966 (4) Cooperative associations may not expend association
3967 funds in prosecuting a SLAPP suit against a cooperative
3968 shareholder.

3969 Section 24. Section 719.1255, Florida Statutes, is amended
3970 to read:

3971 719.1255 Alternative resolution of disputes.—The Division
3972 of Florida Condominiums, Timeshares, and Mobile Homes of the
3973 Department of Business and Professional Regulation shall provide

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3974 for alternative dispute resolution of matters related to
3975 cooperative associations and shareholders in a manner like that
3976 provided to condominium associations and unit owners in
3977 accordance with s. 718.1255.

3978 Section 25. Section 719.1265, Florida Statutes, is created
3979 to read:

3980 719.1265 Association emergency powers.-

3981 (1) To the extent allowed by law and unless specifically
3982 prohibited by the cooperative documents or the bylaws of an
3983 association, and consistent with the provisions of s. 617.0830,
3984 the board of directors, in response to damage caused by an event
3985 for which a state of emergency is declared pursuant to s. 252.36
3986 in the locale in which the cooperative is located, may, but is
3987 not required to, exercise the following powers:

3988 (a) Conduct board meetings and shareholder meetings with
3989 notice given as is practicable. Such notice may be given in any
3990 practicable manner, including publication, radio, United States
3991 mail, the Internet, public service announcements, and
3992 conspicuous posting on the cooperative property or any other
3993 means the board deems reasonable under the circumstances. Notice
3994 of board decisions may be communicated as provided in this
3995 paragraph.

3996 (b) Cancel and reschedule any association meeting.

3997 (c) Name as assistant officers persons who are not
3998 directors, which assistant officers shall have the same
3999 authority as the executive officers to whom they are assistants
4000 for during the state of emergency to accommodate the incapacity
4001 or unavailability of any officer of the association.

4002 (d) Relocate the association's principal office or

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4003 designate alternative principal offices.

4004 (e) Enter into agreements with local counties and
4005 municipalities to assist counties and municipalities with debris
4006 removal.

4007 (f) Implement a disaster plan before or immediately
4008 following the event for which a state of emergency is declared
4009 which may include, but is not limited to, shutting down or off
4010 elevators; electricity; water, sewer, or security systems; or
4011 air conditioners.

4012 (g) Based upon advice of emergency management officials or
4013 upon the advice of licensed professionals retained by the board,
4014 determine any portion of the cooperative property unavailable
4015 for entry or occupancy by shareholders, family members, tenants,
4016 guests, agents, or invitees to protect the health, safety, or
4017 welfare of such persons.

4018 (h) Require the evacuation of the cooperative property in
4019 the event of a mandatory evacuation order in the locale in which
4020 the cooperative is located. Should any shareholder or other
4021 occupant of a cooperative fail or refuse to evacuate the
4022 cooperative property when the board has required evacuation, the
4023 association shall be immune from liability or injury to persons
4024 or property arising from such failure or refusal.

4025 (i) Based upon advice of emergency management officials or
4026 upon the advice of licensed professionals retained by the board,
4027 determine whether the cooperative property can be safely
4028 inhabited or occupied. However, such determination is not
4029 conclusive as to any determination of habitability pursuant to
4030 the declaration.

4031 (j) Mitigate further damage, including taking action to

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4032 contract for the removal of debris and to prevent or mitigate
4033 the spread of fungus, including, but not limited to, mold or
4034 mildew, by removing and disposing of wet drywall, insulation,
4035 carpet, cabinetry, or other fixtures on or within the
4036 cooperative property, even if the shareholder is obligated by
4037 the cooperative documents or law to insure or replace those
4038 fixtures and to remove personal property from a unit.

4039 (k) Contract, on behalf of any shareholder or shareholders,
4040 for items or services for which the shareholder or shareholders
4041 are otherwise individually responsible, but which are necessary
4042 to prevent further damage to the cooperative property. In such
4043 event, the shareholder or shareholders on whose behalf the board
4044 has contracted are responsible for reimbursing the association
4045 for the actual costs of the items or services, and the
4046 association may use its lien authority provided by s. 719.108 to
4047 enforce collection of the charges. Without limitation, such
4048 items or services may include the drying of units, the boarding
4049 of broken windows or doors, and the replacement of damaged air
4050 conditioners or air handlers to provide climate control in the
4051 units or other portions of the property.

4052 (l) Regardless of any provision to the contrary and even if
4053 such authority does not specifically appear in the cooperative
4054 documents or bylaws of the association, levy special assessments
4055 without a vote of the shareholders.

4056 (m) Without shareholders' approval, borrow money and pledge
4057 association assets as collateral to fund emergency repairs and
4058 carry out the duties of the association when operating funds are
4059 insufficient. This paragraph does not limit the general
4060 authority of the association to borrow money, subject to such

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4061 restrictions as are contained in the cooperative documents or
4062 bylaws of the association.

4063 (2) The special powers authorized under subsection (1)
4064 shall be limited to the time reasonably necessary to protect the
4065 health, safety, and welfare of the association and the
4066 shareholders and the shareholders' family members, tenants,
4067 guests, agents, or invitees and the time reasonably necessary to
4068 mitigate further damage and make emergency repairs.

4069 Additionally, unless 20 percent or more of the units are made
4070 uninhabitable by the emergency, the special powers authorized
4071 under subsection (1) shall only be exercised during the term of
4072 the Governor's executive order or proclamation declaring the
4073 state of emergency in the locale in which the condominium is
4074 located.

4075 Section 26. Subsections (1) and (4) of section 719.301,
4076 Florida Statutes, are amended to read:

4077 719.301 Transfer of association control.—

4078 (1) When shareholders ~~unit owners~~ other than the developer
4079 own 15 percent or more of the units in a cooperative that will
4080 be operated ultimately by an association, the shareholders ~~unit~~
4081 ~~owners~~ other than the developer shall be entitled to elect not
4082 less than one-third of the members of the board of
4083 administration of the association. Shareholders ~~Unit owners~~
4084 other than the developer are entitled to elect not less than a
4085 majority of the members of the board of administration of an
4086 association:

4087 (a) Three years after 50 percent of the units that will be
4088 operated ultimately by the association have been conveyed to
4089 purchasers;

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4090 (b) Three months after 90 percent of the units that will be
4091 operated ultimately by the association have been conveyed to
4092 purchasers;

4093 (c) When all the units that will be operated ultimately by
4094 the association have been completed, some have been conveyed to
4095 purchasers, and none of the others are being offered for sale by
4096 the developer in the ordinary course of business;

4097 (d) When some of the units have been conveyed to purchasers
4098 and none of the others are being constructed or offered for sale
4099 by the developer in the ordinary course of business; ~~or~~

4100 (e) When the developer files a petition seeking protection
4101 in bankruptcy;

4102 (f) When a receiver for the developer is appointed by a
4103 circuit court and is not discharged within 30 days after such
4104 appointment; or

4105 (g) ~~(e)~~ Seven years after creation of the cooperative
4106 association,

4107
4108 whichever occurs first. The developer is entitled to elect at
4109 least one member of the board of administration of an
4110 association as long as the developer holds for sale in the
4111 ordinary course of business at least 5 percent in cooperatives
4112 with fewer than 500 units and 2 percent in cooperatives with 500
4113 or more units in a cooperative operated by the association.
4114 After the developer relinquishes control of the association, the
4115 developer may exercise the right to vote any developer-owned
4116 units in the same manner as any other shareholder ~~unit owner~~
4117 except for purposes of reacquiring control of the association or
4118 selecting the majority of the members of the board.

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4119 (4) When shareholders ~~unit-owners~~ other than the developer
4120 elect a majority of the members of the board of administration
4121 of an association, the developer shall relinquish control of the
4122 association, and the shareholders ~~unit-owners~~ shall accept
4123 control. Simultaneously, or for the purpose of paragraph (c) not
4124 more than 90 days thereafter, the developer shall deliver to the
4125 association, at the developer's expense, all property of the
4126 shareholders ~~unit-owners~~ and of the association held or
4127 controlled by the developer, including, but not limited to, the
4128 following items, if applicable, as to each cooperative operated
4129 by the association:

4130 (a)1. The original or a photocopy of the recorded
4131 cooperative documents and all amendments thereto. If a photocopy
4132 is provided, it shall be certified by affidavit of the
4133 developer, or an officer or agent of the developer, as being a
4134 complete copy of the actual recorded cooperative documents.

4135 2. A certified copy of the association's articles of
4136 incorporation, or if it is not incorporated, then copies of the
4137 documents creating the association.

4138 3. A copy of the bylaws.

4139 4. The minute books, including all minutes, and other books
4140 and records of the association, if any.

4141 5. Any house rules and regulations which have been
4142 promulgated.

4143 (b) Resignations of officers and members of the board of
4144 administration who are required to resign because the developer
4145 is required to relinquish control of the association.

4146 (c) The financial records, including financial statements
4147 of the association, and source documents since the incorporation

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4148 of the association through the date of turnover. The records
4149 shall be audited for the period of the incorporation of the
4150 association or for the period covered by the last audit, if an
4151 audit has been performed for each fiscal year since
4152 incorporation, by an independent certified public accountant.
4153 All financial statements shall be prepared in accordance with
4154 generally accepted accounting standards and shall be audited in
4155 accordance with generally accepted auditing standards as
4156 prescribed by the Board of Accountancy. The accountant
4157 performing the review shall examine to the extent necessary
4158 supporting documents and records, including the cash
4159 disbursements and related paid invoices to determine if
4160 expenditures were for association purposes and the billings,
4161 cash receipts, and related records to determine that the
4162 developer was charged and paid the proper amounts of
4163 assessments.

4164 (d) Association funds or control thereof.

4165 (e) All tangible personal property that is property of the
4166 association, represented by the developer to be part of the
4167 common areas or ostensibly part of the common areas, and an
4168 inventory of that property.

4169 (f) A copy of the plans and specifications utilized in the
4170 construction or remodeling of improvements and the supplying of
4171 equipment to the cooperative and in the construction and
4172 installation of all mechanical components serving the
4173 improvements and the site, with a certificate in affidavit form
4174 of the developer, the developer's agent, or an architect or
4175 engineer authorized to practice in this state that such plans
4176 and specifications represent, to the best of their knowledge and

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4177 belief, the actual plans and specifications utilized in the
4178 construction and improvement of the cooperative property and for
4179 the construction and installation of the mechanical components
4180 serving the improvements. If the cooperative property has been
4181 organized as a cooperative more than 3 years after the
4182 completion of construction or remodeling of the improvements,
4183 the requirements of this paragraph shall not apply.

4184 (g) A list of the names and addresses, of which the
4185 developer had knowledge at any time in the development of the
4186 cooperative, of all contractors, subcontractors, and suppliers
4187 utilized in the construction or remodeling of the improvements
4188 and in the landscaping.

4189 (h) Insurance policies.

4190 (i) Copies of any certificates of occupancy which may have
4191 been issued for the cooperative property.

4192 (j) Any other permits issued by governmental bodies
4193 applicable to the cooperative property in force or issued within
4194 1 year prior to the date the shareholders ~~unit owners~~ other than
4195 the developer take control of the association.

4196 (k) All written warranties of the contractor,
4197 subcontractors, suppliers, and manufacturers, if any, that are
4198 still effective.

4199 (l) A roster of shareholders ~~unit owners~~ and their
4200 addresses and telephone numbers, if known, as shown on the
4201 developer's records.

4202 (m) Leases of the common areas and other leases to which
4203 the association is a party.

4204 (n) Employment contracts or service contracts in which the
4205 association is one of the contracting parties or service

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4206 contracts in which the association or the shareholders ~~unit~~
4207 ~~owners~~ have an obligation or responsibility, directly or
4208 indirectly, to pay some or all of the fee or charge of the
4209 person or persons performing the service.

4210 (o) All other contracts to which the association is a
4211 party.

4212 (p) A turnover inspection report included in the official
4213 records, under seal of an architect or engineer authorized to
4214 practice in this state, attesting to required maintenance,
4215 useful life, and replacement costs of the following applicable
4216 common areas:

4217 1. Roof.

4218 2. Structure.

4219 3. Fireproofing and fire protection systems.

4220 4. Elevators.

4221 5. Heating and cooling systems.

4222 6. Plumbing.

4223 7. Electrical systems.

4224 8. Swimming pool or spa and equipment.

4225 9. Seawalls.

4226 10. Pavement and parking areas.

4227 11. Drainage systems.

4228 12. Painting.

4229 13. Irrigation systems.

4230 Section 27. Section 719.3025, Florida Statutes, is created
4231 to read:

4232 719.3025 Agreements for operation, maintenance, or
4233 management of cooperatives; specific requirements.—

4234 (1) No written contract between a party contracting to

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4235 provide maintenance or management services and an association
4236 which contract provides for operation, maintenance, or
4237 management of a cooperative association or property serving the
4238 shareholders of a cooperative shall be valid or enforceable
4239 unless the contract:

4240 (a) Specifies the services, obligations, and
4241 responsibilities of the party contracting to provide maintenance
4242 or management services to the shareholders.

4243 (b) Specifies those costs incurred in the performance of
4244 those services, obligations, or responsibilities which are to be
4245 reimbursed by the association to the party contracting to
4246 provide maintenance or management services.

4247 (c) Provides an indication of how often each service,
4248 obligation, or responsibility is to be performed, whether stated
4249 for each service, obligation, or responsibility or in categories
4250 thereof.

4251 (d) Specifies a minimum number of personnel to be employed
4252 by the party contracting to provide maintenance or management
4253 services for the purpose of providing service to the
4254 association.

4255 (e) Discloses any financial or ownership interest which the
4256 developer, if the developer is in control of the association,
4257 holds with regard to the party contracting to provide
4258 maintenance or management services.

4259 (f) Discloses any financial or ownership interest a board
4260 member or any party providing maintenance or management services
4261 to the association holds with the contracting party.

4262 (2) In any case in which the party contracting to provide
4263 maintenance or management services fails to provide such

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4264 services in accordance with the contract, the association is
4265 authorized to procure such services from some other party and
4266 shall be entitled to collect any fees or charges paid for
4267 services performed by another party from the party contracting
4268 to provide maintenance or management services.

4269 (3) Any services or obligations not stated on the face of
4270 the contract shall be unenforceable.

4271 (4) Notwithstanding the fact that certain vendors contract
4272 with associations to maintain equipment or property which is
4273 made available to serve shareholders, it is the intent of the
4274 Legislature that this section applies to contracts for
4275 maintenance or management services for which the association
4276 pays compensation. This section does not apply to contracts for
4277 services or property made available for the convenience of
4278 shareholders by lessees or licensees of the association, such as
4279 coin-operated laundry, food, soft drink, or telephone vendors;
4280 cable television operators; retail store operators; businesses;
4281 restaurants; or similar vendors.

4282 Section 28. Section 719.3026, Florida Statutes, is amended
4283 to read:

4284 719.3026 Contracts for products and services; in writing;
4285 bids; exceptions.—Associations with 10 or fewer ~~less than 100~~
4286 units may opt out of the provisions of this section if two-
4287 thirds of the shareholders ~~unit owners~~ vote to do so, which opt-
4288 out may be accomplished by a proxy specifically setting forth
4289 the exception from this section.

4290 (1) All contracts as further described herein or any
4291 contract that is not to be fully performed within 1 year after
4292 the making thereof, for the purchase, lease, or renting of

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4293 materials or equipment to be used by the association in
4294 accomplishing its purposes under this chapter, and all contracts
4295 for the provision of services, shall be in writing. If a
4296 contract for the purchase, lease, or renting of materials or
4297 equipment, or for the provision of services, requires payment by
4298 the association in an amount which in the aggregate exceeds 5
4299 percent of the association's budget, including reserves, the
4300 association shall obtain competitive bids for the materials,
4301 equipment, or services. Nothing contained herein shall be
4302 construed to require the association to accept the lowest bid.

4303 (2) (a) ~~1.~~ Notwithstanding the foregoing, contracts with
4304 employees of the association, and contracts for attorney,
4305 accountant, architect, community association manager, timeshare
4306 management firm, engineering, and landscape architect services
4307 shall not be subject to the provisions of this section.

4308 ~~2. A contract executed before January 1, 1992, and any~~
4309 ~~renewal thereof, is not subject to the competitive bid~~
4310 ~~requirements of this section. If a contract was awarded under~~
4311 ~~the competitive bid procedures of this section, any renewal of~~
4312 ~~that contract is not subject to such competitive bid~~
4313 ~~requirements if the contract contains a provision that allows~~
4314 ~~the board to cancel the contract on 30 days' notice. Materials,~~
4315 ~~equipment, or services provided to a cooperative pursuant to a~~
4316 ~~local government franchise agreement by a franchise holder are~~
4317 ~~not subject to the competitive bid requirement. A contract with~~
4318 ~~a manager, if made by a competitive bid, may be made for up to 3~~
4319 ~~years. A condominium whose declaration or bylaws provides for~~
4320 ~~competitive bidding for services may operate under the~~
4321 ~~provisions of that declaration or bylaws in lieu of this section~~

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4322 ~~if these provisions are not less stringent than the requirements~~
4323 ~~of this section.~~

4324 (b) This section does not limit the ability of an
4325 association to obtain needed products and services in an
4326 emergency.

4327 (c) This section does not apply if the business entity with
4328 which the association desires to enter into a contract is the
4329 only source of supply within the county serving the association.

4330 (d) Nothing contained in this subsection shall excuse a
4331 party contracting to provide maintenance or management services
4332 from compliance with s. 719.3025.

4333 (3) As to any contract or other transaction between an
4334 association and one or more of its directors or any other
4335 corporation, firm, association, or entity in which one or more
4336 of its directors are directors or officers or are financially
4337 interested:

4338 (a) The association shall comply with the requirements of
4339 s. 617.0832.

4340 (b) The disclosures required by s. 617.0832 shall be
4341 entered into the written minutes of the meeting.

4342 (c) Approval of the contract or other transaction shall
4343 require an affirmative vote of two-thirds of the directors
4344 present.

4345 (d) At the next regular or special meeting of the
4346 shareholders, the existence of the contract or other transaction
4347 shall be disclosed to the shareholders. Upon motion of any
4348 shareholder, the contract or transaction shall be brought up for
4349 a vote and may be canceled by a majority vote of the
4350 shareholders present. Should the shareholders cancel the

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4351 contract, the association shall only be liable for the
 4352 reasonable value of goods and services provided up to the time
 4353 of cancellation and shall not be liable for any termination fee,
 4354 liquidated damages, or other form of penalty for such
 4355 cancellation.

4356 Section 29. Section 719.303, Florida Statutes, is amended
 4357 to read:

4358 719.303 Obligations of shareholders ~~owners~~.—

4359 (1) Each shareholder ~~unit owner~~, each tenant and other
 4360 invitee, and each association shall be governed by, and shall
 4361 comply with the provisions of, this chapter, the cooperative
 4362 documents, the documents creating the association, and the
 4363 association bylaws, and the provisions thereof shall be deemed
 4364 expressly incorporated into any lease of a unit. Actions for
 4365 damages or for injunctive relief, or both, for failure to comply
 4366 with these provisions may be brought by the association or by a
 4367 shareholder ~~unit owner~~ against:

4368 (a) The association.

4369 (b) A shareholder ~~unit owner~~.

4370 (c) Directors designated by the developer, for actions
 4371 taken by them prior to the time control of the association is
 4372 assumed by shareholders ~~unit owners~~ other than the developer.

4373 (d) Any director who willfully and knowingly fails to
 4374 comply with these provisions.

4375 (e) Any tenant leasing a unit, and any other invitee
 4376 occupying a unit.

4377

4378 The prevailing party in any such action or in any action in
 4379 which the purchaser claims a right of voidability based upon

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4380 contractual provisions as required in s. 719.503(1)(a) is
4381 entitled to recover reasonable attorney's fees. A shareholder
4382 ~~unit owner~~ prevailing in an action between the association and
4383 the shareholder ~~unit owner~~ under this section, in addition to
4384 recovering his or her reasonable attorney's fees, may recover
4385 additional amounts as determined by the court to be necessary to
4386 reimburse the shareholder ~~unit owner~~ for his or her share of
4387 assessments levied by the association to fund its expenses of
4388 the litigation. This relief does not exclude other remedies
4389 provided by law. Actions arising under this subsection shall not
4390 be deemed to be actions for specific performance.

4391 (2) A provision of this chapter may not be waived if the
4392 waiver would adversely affect the rights of a shareholder ~~unit~~
4393 ~~owner~~ or the purpose of the provision, except that shareholders
4394 ~~unit owners~~ or members of a board of administration may waive
4395 notice of specific meetings in writing if provided by the
4396 bylaws. Any instrument given in writing by the shareholder ~~unit~~
4397 ~~owner~~ or purchaser to an escrow agent may be relied upon by an
4398 escrow agent, whether or not such instruction and the payment of
4399 funds thereunder might constitute a waiver of any provision of
4400 this chapter.

4401 (3) If the cooperative documents so provide, the
4402 association may levy reasonable fines against a shareholder ~~unit~~
4403 ~~owner~~ for failure of the shareholder ~~unit owner~~ or his or her
4404 licensee or invitee or the unit's occupant to comply with any
4405 provision of the cooperative documents or reasonable rules of
4406 the association. No fine shall become a lien against a unit. No
4407 fine shall exceed \$100 per violation. However, a fine may be
4408 levied on the basis of each day of a continuing violation, with

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4409 a single notice and opportunity for hearing, provided that no
4410 such fine shall in the aggregate exceed \$1,000. No fine may be
4411 levied except after giving reasonable notice and opportunity for
4412 a hearing to the shareholder ~~unit owner~~ and, if applicable, his
4413 or her licensee or invitee. The hearing shall be held before a
4414 committee of other shareholders who are neither board members
4415 nor persons residing in a board member's household ~~unit owners~~.
4416 If the committee does not agree with the fine, it shall not be
4417 levied. This subsection does not apply to unoccupied units.

4418 Section 30. Section 719.501, Florida Statutes, is amended
4419 to read:

4420 719.501 Authority, responsibilities, ~~Powers~~ and duties of
4421 Division of Florida Condominiums, Timeshares, and Mobile Homes.-

4422 (1) The Division of Florida Condominiums, Timeshares, and
4423 Mobile Homes of the Department of Business and Professional
4424 Regulation, referred to as the "division" in this part, in
4425 addition to other powers and duties prescribed by chapter 718,
4426 has the power to enforce and ensure compliance with this chapter
4427 and adopted rules relating to the development, construction,
4428 sale, lease, ownership, operation, and management of residential
4429 cooperative units. In performing its duties, the division has
4430 complete jurisdiction to investigate complaints and enforce
4431 compliance with the provisions of this chapter. ~~shall have the~~
4432 ~~following powers and duties:-~~

4433 (a) The division may make necessary public or private
4434 investigations within or outside this state to determine whether
4435 any person has violated this chapter or any rule or order
4436 hereunder, to aid in the enforcement of this chapter, or to aid
4437 in the adoption of rules or forms hereunder.

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4438 (b) The division may require or permit any person to file a
4439 statement in writing, under oath or otherwise, as the division
4440 determines, as to the facts and circumstances concerning a
4441 matter to be investigated.

4442 (c) For the purpose of any investigation under this
4443 chapter, the division director or any officer or employee
4444 designated by the division director may administer oaths or
4445 affirmations, subpoena witnesses and compel their attendance,
4446 take evidence, and require the production of any matter which is
4447 relevant to the investigation, including the existence,
4448 description, nature, custody, condition, and location of any
4449 books, documents, or other tangible things and the identity and
4450 location of persons having knowledge of relevant facts or any
4451 other matter reasonably calculated to lead to the discovery of
4452 material evidence. Upon failure by a person to obey a subpoena
4453 or to answer questions propounded by the investigating officer
4454 and upon reasonable notice to all persons affected thereby, the
4455 division may apply to the circuit court for an order compelling
4456 compliance.

4457 (d) Notwithstanding any remedies available to shareholders
4458 ~~unit owners~~ and associations, if the division has reasonable
4459 cause to believe that a violation of any provision of this
4460 chapter or related rule has occurred, the division may institute
4461 enforcement proceedings in its own name against a developer,
4462 association, officer, or member of the board, or its assignees
4463 or agents, as follows:

4464 1. The division may permit a person whose conduct or
4465 actions may be under investigation to waive formal proceedings
4466 and enter into a consent proceeding whereby orders, rules, or

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4467 letters of censure or warning, whether formal or informal, may
4468 be entered against the person.

4469 2. The division may issue an order requiring the developer,
4470 association, officer, or member of the board, or its assignees
4471 or agents, or any community association manager or community
4472 association management firm to cease and desist from the
4473 unlawful practice and take such affirmative action as in the
4474 judgment of the division will carry out the purposes of this
4475 chapter. If the division finds that a developer, association,
4476 officer, or member of the board of directors, or its assignees
4477 or agents, or any community association manager or community
4478 association management firm is violating or is about to violate
4479 any provision of this chapter, any rule adopted or order issued
4480 by the division, or any written agreement entered into with the
4481 division, and presents an immediate danger to the public
4482 requiring an immediate final order, it may issue an emergency
4483 cease and desist order reciting with particularity the facts
4484 underlying such findings. The emergency cease and desist order
4485 is effective for 90 days. If the division begins nonemergency
4486 cease and desist proceedings, the emergency cease and desist
4487 order remains effective until the conclusion of the proceedings
4488 under ss. 120.569 and 120.57. ~~Such affirmative action may~~
4489 ~~include, but is not limited to, an order requiring a developer~~
4490 ~~to pay moneys determined to be owed to a condominium~~
4491 ~~association.~~

4492 3. If a developer fails to pay any restitution determined
4493 by the division to be owed, plus any accrued interest at the
4494 highest rate permitted by law, within 30 days after expiration
4495 of any appellate time period of a final order requiring payment

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4496 of restitution or the conclusion of any appeal thereof,
4497 whichever is later, the division shall bring an action in
4498 circuit or county court on behalf of any association, class of
4499 shareholders, lessees, or purchasers for restitution,
4500 declaratory relief, injunctive relief, or any other available
4501 remedy. The division may also temporarily revoke its acceptance
4502 of the filing for the developer to which the restitution relates
4503 until payment of restitution is made. ~~The division may bring an~~
4504 ~~action in circuit court on behalf of a class of unit owners,~~
4505 ~~lessees, or purchasers for declaratory relief, injunctive~~
4506 ~~relief, or restitution.~~

4507 4. The division may petition the court for the appointment
4508 of a receiver or conservator. If appointed, the receiver or
4509 conservator may take action to implement the court order to
4510 ensure the performance of the order and to remedy any breach
4511 thereof. In addition to all other means provided by law for the
4512 enforcement of an injunction or temporary restraining order, the
4513 circuit court may impound or sequester the property of a party
4514 defendant, including books, papers, documents, and related
4515 records, and allow the examination and use of the property by
4516 the division and a court-appointed receiver or conservator.

4517 5. The division may apply to the circuit court for an order
4518 of restitution in which the defendant in an action brought
4519 pursuant to subparagraph 4. shall be ordered to make restitution
4520 of those sums shown by the division to have been obtained by the
4521 defendant in violation of this chapter. Such restitution shall,
4522 at the option of the court, be payable to the conservator or
4523 receiver appointed pursuant to subparagraph 4. or directly to
4524 the persons whose funds or assets were obtained in violation of

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4525 this chapter.

4526 ~~6.4.~~ The division may impose a civil penalty against a
4527 developer or association, or its assignees or agents, for any
4528 violation of this chapter or ~~related~~ rule adopted under this
4529 chapter. The division may impose a civil penalty individually
4530 against any officer or board member who willfully and knowingly
4531 violates a provision of this chapter, a rule adopted pursuant to
4532 this chapter, or a final order of the division, may order the
4533 removal of such individual as an officer or from the board of
4534 directors or as an officer of the association; and may prohibit
4535 such individual from serving as an officer or on the board of a
4536 community association for a stated period of time. The term
4537 "willfully and knowingly" means that the division informed the
4538 officer or board member that his or her action or intended
4539 action violates this chapter, a rule adopted under this chapter,
4540 or a final order of the division, and that the officer or board
4541 member refused to comply with the requirements of this chapter,
4542 a rule adopted under this chapter, or a final order of the
4543 division. The division, prior to initiating formal agency action
4544 under chapter 120, shall afford the officer or board member an
4545 opportunity to voluntarily comply with this chapter, a rule
4546 adopted under this chapter, or a final order of the division. An
4547 officer or board member who complies within 10 days is not
4548 subject to a civil penalty. A penalty may be imposed on the
4549 basis of each day of continuing violation, but in no event shall
4550 the penalty for any offense exceed \$5,000. By January 1, 1998,
4551 the division shall adopt, by rule, penalty guidelines applicable
4552 to possible violations or to categories of violations of this
4553 chapter or rules adopted by the division. The guidelines must

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4554 specify a meaningful range of civil penalties for each such
4555 violation of the statute and rules and must be based upon the
4556 harm caused by the violation, the repetition of the violation,
4557 and upon such other factors deemed relevant by the division. For
4558 example, the division may consider whether the violations were
4559 committed by a developer or shareholder-controlled ~~owner-~~
4560 ~~controlled~~ association, the size of the association, and other
4561 factors. The guidelines must designate the possible mitigating
4562 or aggravating circumstances that justify a departure from the
4563 range of penalties provided by the rules. It is the legislative
4564 intent that minor violations be distinguished from those which
4565 endanger the health, safety, or welfare of the cooperative
4566 residents or other persons and that such guidelines provide
4567 reasonable and meaningful notice to the public of likely
4568 penalties that may be imposed for proscribed conduct. This
4569 subsection does not limit the ability of the division to
4570 informally dispose of administrative actions or complaints by
4571 stipulation, agreed settlement, or consent order. All amounts
4572 collected shall be deposited with the Chief Financial Officer to
4573 the credit of the Division of Florida Condominiums, Timeshares,
4574 and Mobile Homes Trust Fund. If a developer fails to pay the
4575 civil penalty and the amount deemed to be owed to the
4576 association, the division shall thereupon issue an order
4577 directing that such developer cease and desist from further
4578 operation until such time as the civil penalty is paid or may
4579 pursue enforcement of the penalty in a court of competent
4580 jurisdiction. If an association fails to pay the civil penalty,
4581 the division shall thereupon pursue enforcement in a court of
4582 competent jurisdiction, and the order imposing the civil penalty

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4583 or the cease and desist order shall not become effective until
4584 20 days after the date of such order. Any action commenced by
4585 the division shall be brought in the county in which the
4586 division has its executive offices or in the county where the
4587 violation occurred.

4588 7. If a shareholder presents the division with proof that
4589 the shareholder has requested access to official records in
4590 writing by certified mail, and that after 10 days the
4591 shareholder again made the same request for access to official
4592 records in writing by certified mail, and that more than 10 days
4593 has elapsed since the second request and the association has
4594 still failed or refused to provide access to official records as
4595 required by this chapter, the division shall issue a subpoena
4596 requiring production of the requested records where the records
4597 are kept pursuant to s. 719.104.

4598 8. In addition to subparagraph 6., the division may seek
4599 the imposition of a civil penalty through the circuit court for
4600 any violation for which the division may issue a notice to show
4601 cause under paragraph (r). The civil penalty shall be at least
4602 \$500 but no more than \$5,000 for each violation. The court may
4603 also award to the prevailing party court costs and reasonable
4604 attorney's fees and, if the division prevails, may also award
4605 reasonable costs of investigation.

4606 9. When the division finds that any person has derived an
4607 improper personal benefit from a cooperative association, the
4608 division shall order the person to pay restitution to the
4609 association and shall order the person to pay to the division
4610 the costs of investigation and prosecution.

4611 (e) The division may prepare and disseminate a prospectus

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4612 and other information to assist prospective shareholders ~~owners,~~
4613 purchasers, lessees, and developers of residential cooperatives
4614 in assessing the rights, privileges, and duties pertaining
4615 thereto.

4616 (f) The division has authority to adopt rules pursuant to
4617 ss. 120.536(1) and 120.54 to implement and enforce the
4618 provisions of this chapter.

4619 (g) The division shall establish procedures for providing
4620 notice to an association and the developer during the period
4621 when the developer controls the association when the division is
4622 considering the issuance of a declaratory statement with respect
4623 to the cooperative documents governing such cooperative
4624 community.

4625 (h) The division shall furnish each association which pays
4626 the fees required by paragraph (2) (a) a copy of this chapter
4627 ~~act, subsequent changes to this act~~ on an annual basis, as an
4628 ~~amended version of this act as it becomes available from the~~
4629 ~~Secretary of State's office on a biennial basis,~~ and the rules
4630 adopted thereto on an annual basis.

4631 (i) The division shall annually provide each association
4632 with a summary of declaratory statements and formal legal
4633 opinions relating to the operations of cooperatives which were
4634 rendered by the division during the previous year.

4635 ~~(j) The division shall adopt uniform accounting principles,~~
4636 ~~policies, and standards to be used by all associations in the~~
4637 ~~preparation and presentation of all financial statements~~
4638 ~~required by this chapter. The principles, policies, and~~
4639 ~~standards shall take into consideration the size of the~~
4640 ~~association and the total revenue collected by the association.~~

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4641 (j)~~(k)~~ The division shall provide training and educational
4642 programs for cooperative association board members and
4643 shareholders ~~unit owners~~. The training may, in the division's
4644 discretion, include web-based electronic media and live training
4645 and seminars in various locations throughout the state. The
4646 division shall have the authority to review and approve
4647 educational and training programs for board members and
4648 shareholders offered by providers and shall maintain a current
4649 list of approved programs and providers and shall make such list
4650 available to board members and shareholders in a reasonable and
4651 cost-effective manner.

4652 (k)~~(l)~~ The division shall maintain a toll-free telephone
4653 number accessible to cooperative shareholders ~~unit owners~~.

4654 (l) The division shall develop a program to certify both
4655 volunteer and paid mediators to provide mediation of cooperative
4656 disputes. The division shall provide, upon request, a list of
4657 such mediators to any association, shareholder, or other
4658 participant in arbitration proceedings under s. 719.1255
4659 requesting a copy of the list. The division shall include on the
4660 list of volunteer mediators only the names of persons who have
4661 received at least 20 hours of training in mediation techniques
4662 or who have mediated at least 20 disputes. In order to become
4663 initially certified by the division, paid mediators must be
4664 certified by the Supreme Court to mediate court cases in county
4665 or circuit courts. However, the division may adopt, by rule,
4666 additional factors for the certification of paid mediators,
4667 which factors must be related to experience, education, or
4668 background. Any person initially certified as a paid mediator by
4669 the division must, in order to continue to be certified, comply

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4670 with the factors or requirements imposed by rules adopted by the
4671 division.

4672 (m) When a complaint is made to the division, the division
4673 shall conduct its inquiry with reasonable dispatch and with due
4674 regard to the interests of the affected parties. Within 30 days
4675 after receipt of a complaint, the division shall acknowledge the
4676 complaint in writing and notify the complainant whether the
4677 complaint is within the jurisdiction of the division and whether
4678 additional information is needed by the division from the
4679 complainant. The division shall conduct its investigation and
4680 shall, within 90 days after receipt of the original complaint or
4681 timely requested additional information, take action upon the
4682 complaint. However, the failure to complete the investigation
4683 within 90 days does not prevent the division from continuing the
4684 investigation, accepting or considering evidence obtained or
4685 received after 90 days, or taking administrative action if
4686 reasonable cause exists to believe that a violation of this
4687 chapter or a rule of the division has occurred. If an
4688 investigation is not completed within the time limits
4689 established in this paragraph, the division shall, on a monthly
4690 basis, notify the complainant in writing of the status of the
4691 investigation. When reporting its action to the complainant, the
4692 division shall inform the complainant of any right to a hearing
4693 pursuant to ss. 120.569 and 120.57.

4694 (n) Cooperative association directors, officers, and
4695 employees; cooperative developers; community association
4696 managers; and community association management firms have an
4697 ongoing duty to reasonably cooperate with the division in any
4698 investigation pursuant to this section. The division shall refer

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4699 to local law enforcement authorities any person whom the
4700 division believes has altered, destroyed, concealed, or removed
4701 any record, document, or thing required to be kept or maintained
4702 by this chapter with the purpose to impair its verity or
4703 availability in the department's investigation.

4704 (o) The division may:

- 4705 1. Contract with agencies in this state or other
4706 jurisdictions to perform investigative functions; or
4707 2. Accept grants-in-aid from any source.

4708 (p) The division shall cooperate with similar agencies in
4709 other jurisdictions to establish uniform filing procedures and
4710 forms, public offering statements, advertising standards, and
4711 rules and common administrative practices.

4712 (q) The division shall consider notice to a developer to be
4713 complete when it is delivered to the developer's address
4714 currently on file with the division.

4715 (r) In addition to its enforcement authority, the division
4716 may issue a notice to show cause, which shall provide for a
4717 hearing, upon written request, in accordance with chapter 120.

4718 (s) In the reports required by s. 718.501(1)(s), the
4719 division shall also report the same information for cooperative
4720 associations. The division may combine figures and issues into
4721 one report covering both condominiums and cooperatives. The
4722 division shall develop a program to certify both volunteer and
4723 paid mediators to provide mediation of cooperative disputes. The
4724 division shall provide, upon request, a list of such mediators
4725 to any association, unit owner, or other participant in
4726 arbitration proceedings under s. 718.1255 requesting a copy of
4727 the list. The division shall include on the list of voluntary

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4728 ~~mediators only persons who have received at least 20 hours of~~
4729 ~~training in mediation techniques or have mediated at least 20~~
4730 ~~disputes. In order to become initially certified by the~~
4731 ~~division, paid mediators must be certified by the Supreme Court~~
4732 ~~to mediate court cases in county or circuit courts. However, the~~
4733 ~~division may adopt, by rule, additional factors for the~~
4734 ~~certification of paid mediators, which factors must be related~~
4735 ~~to experience, education, or background. Any person initially~~
4736 ~~certified as a paid mediator by the division must, in order to~~
4737 ~~continue to be certified, comply with the factors or~~
4738 ~~requirements imposed by rules adopted by the division.~~

4739 (2) (a) Each cooperative association shall pay to the
4740 division, on or before January 1 of each year, an annual fee in
4741 the amount of \$4 for each residential unit in cooperatives
4742 operated by the association. If the fee is not paid by March 1,
4743 then the association shall be assessed a penalty of 10 percent
4744 of the amount due, and the association shall not have the
4745 standing to maintain or defend any action in the courts of this
4746 state until the amount due, plus any penalty, is paid.

4747 (b) All fees shall be deposited in the Division of Florida
4748 Condominiums, Timeshares, and Mobile Homes Trust Fund as
4749 provided by law.

4750 Section 31. Section 719.5011, Florida Statutes, is created
4751 to read:

4752 719.5011 Ombudsman.—The Office of the Condominium
4753 Ombudsman, created in s. 718.5011, shall assist cooperative
4754 associations and cooperative shareholders and have the powers
4755 and duties related to cooperative associations and cooperative
4756 shareholders as if such associations and shareholders were

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4757 condominium associations and condominium shareholders.

4758 Section 32. Paragraph (b) of subsection (1) and paragraph
4759 (a) of subsection (2) of section 719.503, Florida Statutes, are
4760 amended to read:

4761 719.503 Disclosure prior to sale.—

4762 (1) DEVELOPER DISCLOSURE.—

4763 (b) *Copies of documents to be furnished to prospective*
4764 *buyer or lessee.*—Until such time as the developer has furnished
4765 the documents listed below to a person who has entered into a
4766 contract to purchase a unit or lease it for more than 5 years,
4767 the contract may be voided by that person, entitling the person
4768 to a refund of any deposit together with interest thereon as
4769 provided in s. 719.202. The contract may be terminated by
4770 written notice from the proposed buyer or lessee delivered to
4771 the developer within 15 days after the buyer or lessee receives
4772 all of the documents required by this section. The developer
4773 shall not close for 15 days following the execution of the
4774 agreement and delivery of the documents to the buyer as
4775 evidenced by a receipt for documents signed by the buyer unless
4776 the buyer is informed in the 15-day voidability period and
4777 agrees to close prior to the expiration of the 15 days. The
4778 developer shall retain in his or her records a separate signed
4779 agreement as proof of the buyer's agreement to close prior to
4780 the expiration of said voidability period. Said proof shall be
4781 retained for a period of 5 years after the date of the closing
4782 transaction. The documents to be delivered to the prospective
4783 buyer are the prospectus or disclosure statement with all
4784 exhibits, if the development is subject to the provisions of s.
4785 719.504, or, if not, then copies of the following which are

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4786 applicable:

4787 1. The question and answer sheet described in s. 719.504,
4788 and cooperative documents, or the proposed cooperative documents
4789 if the documents have not been recorded, which shall include the
4790 certificate of a surveyor approximately representing the
4791 locations required by s. 719.104.

4792 2. The documents creating the association.

4793 3. The bylaws.

4794 4. The ground lease or other underlying lease of the
4795 cooperative.

4796 5. The management contract, maintenance contract, and other
4797 contracts for management of the association and operation of the
4798 cooperative and facilities used by the shareholders ~~unit-owners~~
4799 having a service term in excess of 1 year, and any management
4800 contracts that are renewable.

4801 6. The estimated operating budget for the cooperative and a
4802 schedule of expenses for each type of unit, including fees
4803 assessed to a shareholder who has exclusive use of limited
4804 common areas, where such costs are shared only by those entitled
4805 to use such limited common areas.

4806 7. The lease of recreational and other facilities that will
4807 be used only by shareholders ~~unit-owners~~ of the subject
4808 cooperative.

4809 8. The lease of recreational and other common areas that
4810 will be used by shareholders ~~unit-owners~~ in common with
4811 shareholders ~~unit-owners~~ of other cooperatives.

4812 9. The form of unit lease if the offer is of a leasehold.

4813 10. Any declaration of servitude of properties serving the
4814 cooperative but not owned by shareholders ~~unit-owners~~ or leased

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4815 to them or the association.

4816 11. If the development is to be built in phases or if the
4817 association is to manage more than one cooperative, a
4818 description of the plan of phase development or the arrangements
4819 for the association to manage two or more cooperatives.

4820 12. If the cooperative is a conversion of existing
4821 improvements, the statements and disclosure required by s.
4822 719.616.

4823 13. The form of agreement for sale or lease of units.

4824 14. A copy of the floor plan of the unit and the plot plan
4825 showing the location of the residential buildings and the
4826 recreation and other common areas.

4827 15. A copy of all covenants and restrictions which will
4828 affect the use of the property and which are not contained in
4829 the foregoing.

4830 16. If the developer is required by state or local
4831 authorities to obtain acceptance or approval of any dock or
4832 marina facilities intended to serve the cooperative, a copy of
4833 any such acceptance or approval acquired by the time of filing
4834 with the division pursuant to s. 719.502(1) or a statement that
4835 such acceptance or approval has not been acquired or received.

4836 17. Evidence demonstrating that the developer has an
4837 ownership, leasehold, or contractual interest in the land upon
4838 which the cooperative is to be developed.

4839 (2) NONDEVELOPER DISCLOSURE.—

4840 (a) Each shareholder ~~unit owner~~ who is not a developer as
4841 defined by this chapter must comply with the provisions of this
4842 subsection prior to the sale of his or her interest in the
4843 association. Each prospective purchaser who has entered into a

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4844 contract for the purchase of an interest in a cooperative is
4845 entitled, at the seller's expense, to a current copy of the
4846 articles of incorporation of the association, the bylaws, and
4847 rules of the association, as well as a copy of the question and
4848 answer sheet as provided in s. 719.504. On and after July 1,
4849 2009, the prospective purchaser shall also be entitled to
4850 receive from the seller a copy of a governance form. Such form
4851 shall be provided by the division summarizing governance of
4852 cooperative associations. In addition to such other information
4853 as the division considers helpful to a prospective purchaser in
4854 understanding association governance, the governance form shall
4855 address the following subjects:

4856 1. The role of the board in conducting the day-to-day
4857 affairs of the association on behalf of, and in the best
4858 interests of, the shareholders.

4859 2. The board's responsibility to provide advance notice of
4860 board and shareholder meetings.

4861 3. The rights of shareholders to attend and speak at board
4862 and shareholder meetings.

4863 4. The responsibility of the board and shareholders with
4864 respect to maintenance of the cooperative property.

4865 5. The responsibility of the board and shareholders to
4866 abide by the cooperative documents, this chapter, rules adopted
4867 by the division, and reasonable rules adopted by the board.

4868 6. Shareholders' rights to inspect and copy association
4869 records and the limitations on such rights.

4870 7. Remedies available to shareholders with respect to
4871 actions by the board which may be abusive or beyond the board's
4872 power and authority.

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4873 8. The right of the board to hire a property management
4874 firm, subject to its own primary responsibility for such
4875 management.

4876 9. The responsibility of shareholders with regard to
4877 payment of regular or special assessments necessary for the
4878 operation of the property and the potential consequences of
4879 failure to pay such assessments.

4880 10. The voting rights of shareholders.

4881 11. Rights and obligations of the board in enforcement of
4882 rules in the cooperative documents and rules adopted by the
4883 board.

4884
4885 The governance form shall also include the following statement
4886 in conspicuous type: "This publication is intended as an
4887 informal educational overview of cooperative governance. In the
4888 event of a conflict, the provisions of chapter 719, Florida
4889 Statutes, rules adopted by the Division of Florida Condominiums,
4890 Timeshares, and Mobile Homes of the Department of Business and
4891 Professional Regulation, the provisions of the cooperative
4892 documents, and reasonable rules adopted by the cooperative
4893 association's board of directors prevail over the contents of
4894 this publication."

4895 Section 33. Subsection (2) of section 720.302, Florida
4896 Statutes, is amended to read:

4897 720.302 Purposes, scope, and application.—

4898 (2) The Legislature recognizes that it is not in the best
4899 interest of homeowners' associations or the individual
4900 association members thereof to create or impose a bureau or
4901 other agency of state government to regulate the affairs of

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4902 homeowners' associations. ~~However, in accordance with s.~~
4903 ~~720.311, the Legislature finds that homeowners' associations and~~
4904 ~~their individual members will benefit from an expedited~~
4905 ~~alternative process for resolution of election and recall~~
4906 ~~disputes and presuit mediation of other disputes involving~~
4907 ~~covenant enforcement and authorizes the department to hear,~~
4908 ~~administer, and determine these disputes as more fully set forth~~
4909 ~~in this chapter.~~ Further, the Legislature recognizes that
4910 certain contract rights have been created for the benefit of
4911 homeowners' associations and members thereof before the
4912 effective date of this act and that ss. 720.301-720.407 are not
4913 intended to impair such contract rights, including, but not
4914 limited to, the rights of the developer to complete the
4915 community as initially contemplated.

4916 Section 34. Subsections (1) and (2) of section 720.3085,
4917 Florida Statutes, are amended to read:

4918 720.3085 Payment for assessments; lien claims.—

4919 (1) When authorized by the governing documents, the
4920 association has a lien on each parcel to secure the payment of
4921 assessments and other amounts provided for by this section.
4922 Except as otherwise set forth in this section, the lien is
4923 effective from and shall relate back to the date on which the
4924 original declaration of the community was recorded. ~~However, as~~
4925 ~~to first mortgages of record, the lien is effective from and~~
4926 ~~after recording of a claim of lien in the public records of the~~
4927 ~~county in which the parcel is located. This subsection does not~~
4928 ~~bestow upon any lien, mortgage, or certified judgment of record~~
4929 ~~on July 1, 2008, including the lien for unpaid assessments~~
4930 ~~created in this section, a priority that, by law, the lien,~~

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4931 ~~mortgage, or judgment did not have before July 1, 2008.~~

4932 (a) To be valid, a claim of lien must state the description
4933 of the parcel, the name of the record owner, the name and
4934 address of the association, the assessment amount due, and the
4935 due date. The claim of lien shall secure all unpaid assessments
4936 that are due and that may accrue subsequent to the recording of
4937 the claim of lien and before entry of a certificate of title, as
4938 well as interest, late charges, and reasonable costs and
4939 attorney's fees incurred by the association incident to the
4940 collection process. The person making the payment is entitled to
4941 a satisfaction of the lien upon payment in full.

4942 (b) By recording a notice in substantially the following
4943 form, a parcel owner or the parcel owner's agent or attorney may
4944 require the association to enforce a recorded claim of lien
4945 against his or her parcel:

4946 NOTICE OF CONTEST OF LIEN

4947
4948 TO: ...(Name and address of association)...

4949 You are notified that the undersigned contests the claim of lien
4950 filed by you on, ...(year)...., and recorded in Official
4951 Records Book at page, of the public records of
4952 County, Florida, and that the time within which you may file
4953 suit to enforce your lien is limited to 90 days following the
4954 date of service of this notice. Executed this day of,
4955 ...(year)....

4956 Signed: ...(Owner or Attorney)...

4957 After the notice of a contest of lien has been recorded, the
4958 clerk of the circuit court shall mail a copy of the recorded
4959 notice to the association by certified mail, return receipt

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4960 requested, at the address shown in the claim of lien or the most
4961 recent amendment to it and shall certify to the service on the
4962 face of the notice. Service is complete upon mailing. After
4963 service, the association has 90 days in which to file an action
4964 to enforce the lien and, if the action is not filed within the
4965 90-day period, the lien is void. However, the 90-day period
4966 shall be extended for any length of time that the association is
4967 prevented from filing its action because of an automatic stay
4968 resulting from the filing of a bankruptcy petition by the parcel
4969 owner or by any other person claiming an interest in the parcel.

4970 (c) The association may bring an action in its name to
4971 foreclose a lien for assessments in the same manner in which a
4972 mortgage of real property is foreclosed and may also bring an
4973 action to recover a money judgment for the unpaid assessments
4974 without waiving any claim of lien. The association is entitled
4975 to recover its reasonable attorney's fees incurred in an action
4976 to foreclose a lien or an action to recover a money judgment for
4977 unpaid assessments.

4978 (d) If the parcel owner remains in possession of the parcel
4979 after a foreclosure judgment has been entered, the court may
4980 require the parcel owner to pay a reasonable rent for the
4981 parcel. If the parcel is rented or leased during the pendency of
4982 the foreclosure action, the association is entitled to the
4983 appointment of a receiver to collect the rent. The expenses of
4984 the receiver must be paid by the party who does not prevail in
4985 the foreclosure action.

4986 (e) The association may purchase the parcel at the
4987 foreclosure sale and hold, lease, mortgage, or convey the
4988 parcel.

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4989 (2) (a) A parcel owner, regardless of how his or her title
4990 to property has been acquired, including by purchase at a
4991 foreclosure sale or by deed in lieu of foreclosure, is liable
4992 for all assessments that come due while he or she is the parcel
4993 owner. The parcel owner's liability for assessments may not be
4994 avoided by waiver or suspension of the use or enjoyment of any
4995 common area or by abandonment of the parcel upon which the
4996 assessments are made.

4997 (b) A parcel owner is jointly and severally liable with the
4998 previous parcel owner for all unpaid assessments that came due
4999 up to the time of transfer of title. This liability is without
5000 prejudice to any right the present parcel owner may have to
5001 recover any amounts paid by the present owner from the previous
5002 owner.

5003 (c) Notwithstanding any provision in a mortgage instrument
5004 or in the covenants of the association, the lien for unpaid
5005 assessments shall be prior in dignity to all other liens
5006 regardless of when such other liens are recorded, except that
5007 the lien of an association shall be subordinate to the ad
5008 valorem taxes. ~~anything to the contrary contained in this~~
5009 ~~section, the liability of a first mortgagee, or its successor or~~
5010 ~~assignee as a subsequent holder of the first mortgage who~~
5011 ~~acquires title to a parcel by foreclosure or by deed in lieu of~~
5012 ~~foreclosure for the unpaid assessments that became due before~~
5013 ~~the mortgagee's acquisition of title, shall be the lesser of:~~
5014 1. ~~The parcel's unpaid common expenses and regular periodic~~
5015 ~~or special assessments that accrued or came due during the 12~~
5016 ~~months immediately preceding the acquisition of title and for~~
5017 ~~which payment in full has not been received by the association;~~

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5018 ~~or~~5019 ~~2. One percent of the original mortgage debt.~~

5020
5021 ~~The limitations on first mortgagee liability provided by this~~
5022 ~~paragraph apply only if the first mortgagee filed suit against~~
5023 ~~the parcel owner and initially joined the association as a~~
5024 ~~defendant in the mortgagee foreclosure action. Joinder of the~~
5025 ~~association is not required if, on the date the complaint is~~
5026 ~~filed, the association was dissolved or did not maintain an~~
5027 ~~office or agent for service of process at a location that was~~
5028 ~~known to or reasonably discoverable by the mortgagee.~~

5029 Section 35. Section 720.311, Florida Statutes, is repealed.

5030 Section 36. Subsection (3) of section 721.16, Florida
5031 Statutes, is amended to read:

5032 721.16 Liens for overdue assessments; liens for labor
5033 performed on, or materials furnished to, a timeshare unit.—

5034 (3) The lien is effective from the date of recording a
5035 claim of lien in the public records of the county or counties in
5036 which the accommodations and facilities constituting the
5037 timeshare plan are located. The claim of lien shall state the
5038 name of the timeshare plan and identify the timeshare interest
5039 for which the lien is effective, state the name of the
5040 purchaser, state the assessment amount due, and state the due
5041 dates. Notwithstanding any provision of s. 718.116(5)(a) or s.
5042 719.108 (5) ~~(4)~~ to the contrary, the lien is effective until
5043 satisfied or until 5 years have expired after the date the claim
5044 of lien is recorded unless, within that time, an action to
5045 enforce the lien is commenced pursuant to subsection (2). A
5046 claim of lien for assessments may include only assessments which

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5047 are due when the claim is recorded. A claim of lien shall be
5048 signed and acknowledged by an officer or agent of the managing
5049 entity. Upon full payment, the person making the payment is
5050 entitled to receive a satisfaction of the lien.

5051 Section 37. The Office of Program Policy Analysis and
5052 Government Accountability shall conduct a study to evaluate
5053 whether the state should regulate homeowners' associations in a
5054 manner similar to the regulation of condominiums and
5055 cooperatives. The study's scope shall include, but need not be
5056 limited to, estimating the number of homeowners' associations
5057 and the number of homes that are members of a homeowners'
5058 association. The office shall submit its report to the President
5059 of the Senate and the Speaker of the House of Representatives by
5060 January 1, 2010.

5061 Section 38. This act shall take effect July 1, 2009.

5062